

## IV. El Salvador

### 1. Freedom of association, trade unions and labor relations

Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize (1948) and Convention No. 98 concerning the Right to Organize and Collective Bargaining (1949) are fundamental tools for guaranteeing full enjoyment of the rights to organize, to trade union membership, and to collective bargaining of workers and employers. To ensure their application, the States must adopt measures to harmonize their legal framework with these international instruments, and also provide the institutions responsible for promoting the effective enforcement of labor laws with the required human, material and financial resources.

Regarding El Salvador, the White Paper challenges and recommendations on this issue refer to the need to take action to deal with the “concerns regarding the legal remedies in cases of the illegal dismissal of trade union leaders and anti-union hiring, or ‘blacklisting,’ practices”,<sup>121</sup> by holding public forums “so that employers and workers will understand the laws and policies” for the protection of trade union leaders, and also by enforcing “the existing fines for employers who illegally dismiss trade union leaders directly, or indirectly by refusing them entry to their workplace”. In addition, it mentions the need to improve the procedures for registering trade unions by “fully evaluating the administrative procedures for union registration”, implementing the recommendations emerging from such a process, and also “reforming Article 211 of the Labor Code<sup>122</sup> to reduce the minimum number of workers required to form a trade union” and “reforming Article 248 of the Labor Code to reduce the six-month time period required before reapplying to register a trade union with the Ministry of Labor if the initial application has been rejected because it did not meet the necessary legal criteria”. Furthermore, they indicate the need to “establish the Special Commission announced under the new dialogue process to consider possible changes to national laws to improve labor standards in the public sector”.

Over the period August–December 2010, the MTPS organized a training workshop for 88 officials from the inspection and administrative areas of the Salvadoran Social Security Institute during which issues such as the way to deal with the special protection regimes for pregnant women and trade union representatives were discussed. For its part, the employer sector organized a 2-day training event on freedom of association and collective bargaining with the participation of 30 company lawyers and human resource managers. In addition, a tripartite workshop sponsored by the ILO was held to discuss successful experiences of collective bargaining.

In 2010, 114 complaints were filed before the UEGP/MTPS concerning trade union incidents (29 more than in 2009); of these, 60 were decided (14 less than in 2009). The cases processed to impose fines increased by more than 100% in 2010 compared to the previous year.

The MTPS Social Organizations Department provided advisory services on different labor-related issues in response to 268 requests, and handled 3 cases relating to the dismissal of trade union leaders.

The MTPS consulted the worker and employer sectors, within the framework of the CST, about the proposal for the reform of articles 211 and 248 of the Labor Code, without achieving their consensus.

121. The White paper, p. 36.

122. Legislative Decree No. 15, dated June 23, 1972. Published in Official Gazette 142, Volume 236, on July 31, 1972.

Between August and December 2010, the MTPS granted legal status to 6 public sector labor unions and the first federation of public servant labor unions and, during 2010, the MTPS registered 55 public sector labor unions. No measures were taken to evaluate the trade/labor union registration procedure.

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

- Prepare and implement (the MTPS) a regular awareness-raising and dissemination program for workers, employers and the organizations that represent them on topics related to freedom of association, collective bargaining and alternative dispute resolution. The program should be designed with the participation of the social sectors, following an evaluation of the impact of previous training and awareness-raising activities, and of this population's awareness of and attitude towards these issues.
- Take the necessary measures with the corresponding authorities to obtain an increase in the budget for training on labor rights and their dissemination.
- Improve and expedite the existing trade union registration system in order to streamline the procedures and provide information to employers' and workers' organization and to public officials on the legal characteristics of the system.
- Promote and facilitate discussions in order to achieve the necessary consensus between the employer and worker sectors within the CST on the proposals for the reform of articles 211 and 248 of the Labor Code that remain pending.
- Continue measures to ensure a prompt and appropriate procedure for public sector labor unions to obtain legal status, providing comprehensive information about the procedure to workers in the sector, as well as training the officials in charge of this task.
- Increase efforts to implement the legal reforms that permit full exercise of freedom of association in the public sector, in keeping with the ILO conventions and recommendations.

## I. Union trade protections: Dismissals and anti-union discrimination

**Challenges:**

- There are concerns regarding legal remedies covering the illegal dismissal of trade union leaders and anti-union hiring, or “blacklisting”, practices.

**Recommendations:**

- Hold a series of public fora to publicize the recently published circulars regarding reinstatement and blacklisting, so that employers and workers will understand the laws and policies regarding these issues. Institute a task force in charge of compliance related to these matters.
- Hold a series of public fora, including in the free trade zones, so that employers and workers will understand the law and policy regarding the protections for trade union leaders.
- Enforce the existing fines for employers who illegally dismiss trade union leaders directly or indirectly, by refusing them entry to their workplace.

**Promotion and dissemination of rights**

I.1. Number of public forums or other information and training events to distribute the circulars on reinstatement and the law and policies for protection of trade union leaders (include the number of participants in the activities of the public institutions, the trade unions and employers and, if available, the results of the participants' evaluation of the pertinent training event or program).

- The Ministry of Labor and Social Welfare (MTPS) organized a training workshop for 88 officials from the Salvadoran Social Security Institute (ISSS), from the inspection area and the Administrative Department. During the event, held on August 23, 2010, a segment was included to discuss the special protection regimes for pregnant women and trade union representatives established in the Labor Code.<sup>123</sup>
- During this period, the employer sector, through the Business Sector Labor Committee (CLE) of the National Association of Private Enterprise of El Salvador (ANEP), continued to publicize the issues of freedom of association and collective bargaining among its members. On October 18 and 19, 2010, it organized a training workshop with the participation of 30 company lawyers and heads of human resource departments.<sup>124</sup>
- In October 2010, the ILO<sup>125</sup> organized a tripartite workshop to discuss successful experiences of collective bargaining in companies from different sectors.

123. The workshop was held on August 23, 2010, and 88 ISSS officials participated.

124. The activity was held with the support of the ILO Verification Project.

125. The activity took place on October 14, 2010, and was sponsored by the ILO social Dialogue Project.

Challenges and Recommendations	Indicators	August - December 2010																																																	
	<p><b>Protection of the right to organize</b></p> <p>1.2. Number of complaints received for illegal dismissal of trade union leaders (indicate the percentage of complaints handled, the number of advisory services provided and settlements of trade union cases, and the number of fines for illegal dismissal of union leaders).</p>	<ul style="list-style-type: none"> <li>In 2010, the number of complaints of union-related incidents increased in relation to 2009, as well as the number of cases processed to impose fines.</li> </ul> <p><b>Number of complaints based on union-related incidents handled by the Special Unit on Gender and Prevention of other Workplace Discrimination (UEGP). Period 2005 – 2010.</b></p> <table border="1" data-bbox="1010 443 1892 704"> <thead> <tr> <th></th> <th>2005</th> <th>2006</th> <th>2007</th> <th>2008</th> <th>2009</th> <th>2010</th> </tr> </thead> <tbody> <tr> <td>Complaints based on trade union issues*</td> <td>26</td> <td>43</td> <td>45</td> <td>59</td> <td>26</td> <td>13</td> </tr> <tr> <td>Dismissal of trade union founders</td> <td>3</td> <td>2</td> <td>11</td> <td>7</td> <td>11</td> <td>25</td> </tr> <tr> <td>Dismissal of trade union leaders</td> <td>15</td> <td>37</td> <td>21</td> <td>52</td> <td>48</td> <td>76</td> </tr> <tr> <td>Total number of complaints handled</td> <td>44</td> <td>82</td> <td>77</td> <td>118</td> <td>85</td> <td>114</td> </tr> <tr> <td>Total number of complaints settled</td> <td>n.d.</td> <td>n.d.</td> <td>n.d.</td> <td>n.d.</td> <td>74</td> <td>60</td> </tr> <tr> <td>Cases settled by imposing fines</td> <td>11</td> <td>27</td> <td>21</td> <td>26</td> <td>26</td> <td>55</td> </tr> </tbody> </table> <p>* Includes arbitrary transfer of trade union leaders, founders or members; discrimination based on establishment of trade unions; mistreatment of trade union members, and suspension of trade union leaders or members, and discrimination based on trade union matters.</p> <p>Source: MTPS. Office of Labor Statistics and Information. Biannual report January–June 2010, and Biannual report July–December 2010.</p> <ul style="list-style-type: none"> <li>The National Department of Social Organizations, of the Labor Directorate General (DGT) offered advisory services in response to 268 requests and dealt with 3 cases of the dismissal of trade union leaders, in 2 of which it was not possible to obtain any kind of conciliatory agreement, while in the third case, a fine was ordered owing to the employer's failure to attend the conciliation meetings.</li> </ul>		2005	2006	2007	2008	2009	2010	Complaints based on trade union issues*	26	43	45	59	26	13	Dismissal of trade union founders	3	2	11	7	11	25	Dismissal of trade union leaders	15	37	21	52	48	76	Total number of complaints handled	44	82	77	118	85	114	Total number of complaints settled	n.d.	n.d.	n.d.	n.d.	74	60	Cases settled by imposing fines	11	27	21	26	26	55
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Challenges and Recommendations	Indicators	August - December 2010
<b>2. Registration procedures</b>		
<p><b>Challenge:</b></p> <ul style="list-style-type: none"> <li>Despite various reforms made to the Ministry's procedures in recent years, questions remain about the transparency and functioning of the trade union registration procedures implemented by the Labor Ministry.</li> </ul> <p><b>Recommendations:</b></p> <ul style="list-style-type: none"> <li>To clarify any remaining concerns undertake an open process of national consultation with the participation of the ILO to fully evaluate the administrative procedures for union registration. Any recommendations for administrative changes that emerge from such process should be implemented without delay by the Labor Ministry.</li> <li>Reform Article 211 of the Labor Code to reduce the minimum number of workers required to form a trade union.</li> <li>Reform Article 248 of the Labor Code to reduce the time period from six months to reapply for the legal registration of a trade union with the Labor Ministry if the initial application has been rejected as not meeting the necessary legal criteria.</li> </ul>	<b>Administrative procedures for union registration</b>	
	1.3. Execution of a complete evaluation of the registration procedure and the status of implementation of the recommendations arising from this evaluation (indicate the number and type of changes implemented in the procedures in relation to requirements, deadlines, training of officials and sectors involved, and informative material).	<ul style="list-style-type: none"> <li>No relevant actions were recorded over the period.</li> </ul>
	<b>Labor Code reforms concerning freedom of association</b>	
	1.4. Existence of a proposal for the reform of articles 211 and 248 of the Labor Code, endorsed by the Superior Labor Council.	<ul style="list-style-type: none"> <li>The MTPS carried out a series of consultations within the Superior Labor Council (CST) related to the proposal to reform articles 211 and 248 of the               <ol style="list-style-type: none"> <li>In a bilateral meeting with both the employer and the worker sectors, during which the proposed decree containing the reform was presented to them. The worker sector requested the complete revision of the Labor Code rather than just the said articles.</li> <li>In a plenary meeting of the CST, during which no agreement was reached on the matter.<sup>126</sup></li> </ol> </li> </ul>
	1.5. Number and type of consultation activities to promote the reform of articles 211 and 248 of the Labor Code.	
	1.6. Existence of a consensual draft bill that has been submitted to the Executive Branch.	<ul style="list-style-type: none"> <li>No relevant actions were recorded over the period.</li> </ul>
	1.7. Existence of a draft bill presented to the Legislative Assembly.	
	1.8. Number and type of activities carried out to promote the draft bill.	
	1.9. Status of the draft bill within the Legislature (report of the commissions, place on the agenda, position of the employer and worker sectors with regard to the draft bill).	

<sup>126</sup> The plenary meeting of the Superior Labor Council was held on November 15, 2010

Challenges and Recommendations	Indicators	August - December 2010
<b>3. Labor standards in the public sector</b>		
<p><b>Challenge:</b></p> <ul style="list-style-type: none"> <li>The government has initiated a new national dialogue process, the "Armonía Laboral-Progreso para Todos", which will consider the issue of public sector trade union rights and current constitutional interpretations.</li> </ul> <p><b>Recommendations:</b></p> <ul style="list-style-type: none"> <li>Establish the Special Commission announced under the new dialogue process to consider the possible changes to national laws to strengthen labor standards in the public sector</li> </ul>	<p><b>Reforms to the law to strengthen public sector standards</b></p> <p>I.10. Existence and functioning of the Special Commission to consider changes in the law.</p> <p>I.11. Number and type of draft bills submitted to the Executive Branch.</p> <p>I.12. Number and type of informative activities on the reforms.</p> <p>I.13. Status of the draft bills in the Legislature (reports of commissions, place on the agenda, and position of the employer and worker sectors with regard to the draft bill).</p> <p>I.14. Number and type of reforms to the law approved in order to strengthen public sector norms.</p>	<ul style="list-style-type: none"> <li>Over the verification period, the MTPS granted legal status to 6 public sector labor unions. In addition, during 2010, the MTPS registered 100 labor/trade unions, of which 55 belonged to the public sector and 45 to the private sector.</li> <li>Finally, in October 2010 the MTPS granted legal status to the first federation of public sector labor unions.</li> </ul>



## 2. Ministry of Labor and Social Welfare

An essential function of the Labor Ministries is prevention, and monitoring compliance with labor laws. 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.

The White Paper underscores the need to “increase the baseline budget for 2006 and subsequent years”, and to “establish additional regional labor offices and local tripartite fora to maximize labor law coverage in the country and assure the effective operation of such regional offices”.<sup>127</sup> In addition, at the level of regional commitments, all the Governments undertook to increase the resources destined to provide the Labor Ministries with trained personnel, infrastructure and equipment to enable them to fully execute their functions, principally with regard to inspection and conciliation.<sup>128</sup>

Over the period August–December 2010, the MTPS organized 12 training events for delegates and inspectors, with the participation of 242 officials. The topics covered included: labor inspection, occupational health and safety, the law on the integral protection of children and adolescents, the reform of the LOFT, and procedural legislation. In addition, the MTPS made investments to improve the infrastructure of its offices and to open a new departmental office in Cuscatlán, so that it now has 12 offices countrywide.

The MTPS continued drafting the bill to reform the LOFT, and drew up proposals for occupational health and safety regulations; also, implementation of the pilot plan for integrated labor inspection in 3 departments began with the participation of 40 inspectors, occupational health and safety officials, and supervisors.

Between 2009 and 2010, the initial MTPS budget subject to verification increased by 18.2% in current terms, while the modified budget increased by 5% and the executed budget by 4%. The initial 2010 MTPS budget represented 0.24% of the national budget (0.21% in 2009).

The initial MTPS budget dedicated to the application of labor law in 2010, increased in current terms by 22.3%, rising from US\$3.5 million in 2009 to US\$4.3 in 2010.

The percentage of budget execution in 2010 was lower than in 2009, at the level of both the initial budget (97.8% in 2009 and 86% in 2010) and the modified budget (99.8% and 98.8% respectively).

The number of inspectors increased by 32%: from 159 (since 2007) to 210 in 2010. The number of occupational health and safety officials also increased from 66 (in 2009) to 77. The total number of personnel involved in inspection and conciliation work increased from 266 in 2008 to 364 in 2010.

In 2010, 20,643 inspections were made; of these, 69% (14,165) corresponded to scheduled inspections and 31% (6,478) to inspections based on complaints. The inspections included 1,757 in the agricultural sector, 94.8% of which were scheduled. The preventive tendency of inspections has been maintained over the last 4 years. In 2010 the

<sup>127</sup>. The White Paper, p. 42.

<sup>128</sup>. Ibid., p. 72.

number of visits decreased by 11.2% in relation to 2009, despite the increase in the number of inspectors.

In 2010, 512 collective disputes were handled (compared to 623 in 2009), with 27.7% of cases conciliated. The percentage of individual cases conciliated was 35.4% of the 6,160 requests handled.

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

- Continue efforts to obtain an increased budget for the MTPS, and to improve the level of budget execution.
- Monitor the 2009-2014 Five-year Strategic Plan and ensure that its fundamental elements are implemented, in consultation with the social sectors.
- Proceed, in consultation with the social sectors, with the process of reorganizing the MTPS; with the establishment of a comprehensive and unified system of labor inspection, and with the study on the reforms to the LOFT. Also, deal with all complaints and provide advisory services on labor issues (UEGP), making use of the available technology and means of communication.
- Keep up a continuous and systematic training program for the Labor Inspectorate that helps streamline and improve the quality of its services.
- Analyze the possibility of unifying the systems of alternative labor dispute resolution, avoiding the dispersion and duplication of these services.
- Evaluate the results of the pilot plan for integrated inspection in 3 departments in order to implement the best practices and lessons learned that will improve the public service model of the MTPS Inspectorate.



### I. Modernization and resources

**Challenge:**

- The Labor Ministry still has significant resource and personnel constraints that need to be addressed. In 2003, a supplemental budget was provided to increase the enforcement capacity of the Ministry, and an additional supplemental was provided for in fiscal year 2004. A supplemental is pending final approval for 2005.
- As a reflection of the government's commitment to modernize and improve the operations of the Labor Ministry, a reorganization assessment was made with the assistance of the ILO, and various recommendations to redesign the operational structure of the ministry, rationalize the services provided by the ministry, and reformulate the personnel system within the ministry.

**Recommendations:**

- Increase baseline budget for 2006 and subsequent years.
- Establish additional regional labor offices and local tripartite fora to maximize labor law coverage in the country and assure the effective operation of such regional offices.
- Implement the results of the ILO reorganization assessment.

**Core budget of the Labor Ministry**

2.1. Amount of the annual budget of the Labor Ministry.

- The MTPS budget is composed of 4 main programs (Institutional administration and management; Labor services; Support for institutions attached to other entities, and Physical infrastructure), with 9 specific subprograms.
- For the effects of the verification process, only the budget items directly related to the labor area will be taken into consideration; namely:
  - o Institutional administration and management:
    - Senior management
    - Administrative Department
  - o Labor services:
    - Labor assistance
    - Supervision of compliance with labor laws
    - Social welfare and employment management
    - Regionalization
- The following programs and subprograms are excluded from the budget subject to verification:
  - o Support for institutions attached to other entities:
    - Salvadoran Institute for Promotion of the Cooperative Movement
    - Fund for the protection of those injured or disabled as a result of the armed conflict
  - o Physical infrastructure:
    - Reparations to basic equipment and infrastructure in recreation centers for workers. Regional Offices.
    - Reparations of infrastructure and basic equipment in Regional Offices (this line item should form part of the institutional budget subject to verification; however, since it is not possible to disaggregate the amount of the modified and executed budget, this heading had to be excluded from the amount subject to verification).
- The following table shows the evolution of the MTPS initial budget over the period 2005–2010, taking into account both the subprograms subject to verification and those that are excluded.

Challenges and Recommendations	Indicators	August - December 2010						
		MTPS initial budget, by programs and subprograms (in US dollars). Period 2005-2010.						
		<b>Programs</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
		<b>Total MTPS budget</b>	<b>7,025,245</b>	<b>8,585,245</b>	<b>8,930,135</b>	<b>8,950,585</b>	<b>10,356,620</b>	<b>11,734,740</b>
		<b>Programs included for effects of the verification:</b>						
		+Institutional administration and management	1,912,350	4,131,325	2,541,085	2,563,240	3,045,645	3,070,380
		- Senior management	905,055	1,017,915	1,328,755	1,342,045	1,668,920	1,595,860
		- Administrative department	1,007,295	3,113,410	1,212,330	1,221,195	1,376,725	1,474,520
		+Labor services	2,098,065	2,379,090	4,186,795	4,180,480	4,533,760	5,884,850
		- Labor assistance	472,175	492,085	729,770	757,485	812,710	814,655
		- Supervision of compliance with labor laws	577,320	610,050	1,312,870	1,307,500	1,412,315	1,641,045
		- Social welfare and employment management	639,945	803,335	977,740	949,795	1,035,850	1,608,140
		- Regionalization	408,625	473,620	1,166,415	1,165,700	1,272,885	1,821,010
		<b>Total for effects of the verification</b>	<b>4,010,415</b>	<b>6,510,415</b>	<b>6,727,880</b>	<b>6,743,720</b>	<b>7,579,405</b>	<b>8,955,230</b>
		<b>Programs excluded for effects of the verification:</b>						
		+Support to institutions attached to other entities	3,014,830	2,074,830	2,202,255	2,206,865	2,277,215	2,279,510
		- Salvadoran Institute to Promote the Cooperative Movement	1,127,210	1,127,210	1,179,635	1,182,020	1,252,370	1,254,665
		- Fund for protection of those injured or disabled as a result of the armed conflict	1,887,620	947,620	947,620	1,024,845	1,024,845	1,024,845
		- San Salvador social projection committee	0	0	75,000	0	0	0
		+Physical infrastructure	0	0	0	0	500,000	500,000
		- Reparations to basic equipment and infrastructure in recreation centers for workers	0	0	0	0	500,000	0
		- Reparations to basic equipment and infrastructure in regional offices	0	0	0	0	0	500,000
		<b>Total excluded from the verification</b>	<b>3,014,830</b>	<b>2,074,830</b>	<b>2,202,255</b>	<b>2,206,865</b>	<b>2,777,215</b>	<b>2,779,510</b>
		Source: Prepared by the authors based on the State's General Budget Laws for 2005, 2006, 2007, 2008, 2009 and 2010. February 2011.						
		<ul style="list-style-type: none"> <li>In order to define the growth in the MTPS budget more precisely, the following table describes the rates of growth of the initial, modified and executed budget subject to verification, in both current and real terms; in other words, eliminating the effects of inflation.</li> </ul>						

Challenges and Recommendations	Indicators	August - December 2010																																																																																														
		<ul style="list-style-type: none"> <li>In 2010, in current terms, both the initial, and the modified and executed budgets increased in relation to 2009.</li> </ul>																																																																																														
		<b>MTPS annual budget subject to verification (in US dollars). Period 2005–2010.</b>																																																																																														
		<table border="1"> <thead> <tr> <th rowspan="3">Year</th> <th colspan="3">Initial budget</th> <th colspan="3">Modified budget</th> <th colspan="3">Budget executed</th> </tr> <tr> <th rowspan="2">US\$</th> <th colspan="2">% annual increase</th> <th rowspan="2">US\$</th> <th colspan="2">% annual increase</th> <th rowspan="2">US\$</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> </thead> <tbody> <tr> <td>2005</td> <td>4,010,415</td> <td>-</td> <td>-</td> <td>3,979,762</td> <td>-</td> <td>-</td> <td>3,975,730</td> <td>-</td> <td>-</td> </tr> <tr> <td>2006</td> <td>6,510,415</td> <td>62.3</td> <td>56.0</td> <td>5,692,369</td> <td>43.0</td> <td>37.5</td> <td>5,557,567</td> <td>39.8</td> <td>34.4</td> </tr> <tr> <td>2007</td> <td>6,727,880</td> <td>3.3</td> <td>-1.2</td> <td>7,092,525</td> <td>24.6</td> <td>19.1</td> <td>7,092,414</td> <td>27.6</td> <td>22.0</td> </tr> <tr> <td>2008</td> <td>6,743,720</td> <td>0.2</td> <td>-6.5</td> <td>7,189,935</td> <td>1.4</td> <td>-5.5</td> <td>7,189,891</td> <td>1.4</td> <td>-5.5</td> </tr> <tr> <td>2009</td> <td>7,579,405</td> <td>12.4</td> <td>11.8</td> <td>7,424,852</td> <td>3.3</td> <td>2.7</td> <td>7,409,211</td> <td>3.1</td> <td>2.5</td> </tr> <tr> <td>2010</td> <td>8,955,230</td> <td>18.2</td> <td>n.d.</td> <td>7,794,506</td> <td>5.0</td> <td>n.d.</td> <td>7,703,480</td> <td>4.0</td> <td>n.d.</td> </tr> </tbody> </table>										Year	Initial budget			Modified budget			Budget executed			US\$	% annual increase		US\$	% annual increase		US\$	% annual increase		current	real*	current	real*	current	real*	2005	4,010,415	-	-	3,979,762	-	-	3,975,730	-	-	2006	6,510,415	62.3	56.0	5,692,369	43.0	37.5	5,557,567	39.8	34.4	2007	6,727,880	3.3	-1.2	7,092,525	24.6	19.1	7,092,414	27.6	22.0	2008	6,743,720	0.2	-6.5	7,189,935	1.4	-5.5	7,189,891	1.4	-5.5	2009	7,579,405	12.4	11.8	7,424,852	3.3	2.7	7,409,211	3.1	2.5	2010	8,955,230	18.2	n.d.	7,794,506	5.0	n.d.	7,703,480	4.0	n.d.
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2005	4,010,415	-	-	3,979,762	-	-	3,975,730	-	-																																																																																							
2006	6,510,415	62.3	56.0	5,692,369	43.0	37.5	5,557,567	39.8	34.4																																																																																							
2007	6,727,880	3.3	-1.2	7,092,525	24.6	19.1	7,092,414	27.6	22.0																																																																																							
2008	6,743,720	0.2	-6.5	7,189,935	1.4	-5.5	7,189,891	1.4	-5.5																																																																																							
2009	7,579,405	12.4	11.8	7,424,852	3.3	2.7	7,409,211	3.1	2.5																																																																																							
2010	8,955,230	18.2	n.d.	7,794,506	5.0	n.d.	7,703,480	4.0	n.d.																																																																																							
		<p>* In order to calculate this increase, the inflation measured by the Consumer Price Index (baseline December 1992) was deducted using the annual average rate for each year. Source: Prepared by the authors based on the State's General Budget Acts for 2005, 2006, 2007, 2008, 2009 and 2010. February 2011.</p>																																																																																														
		<ul style="list-style-type: none"> <li>In 2010 the percentage of budget execution was lower than in 2009, at the level of both the initial and the modified budget.</li> </ul>																																																																																														
		<b>Percentage of the initial budget subject to verification executed. Period 2005 – 2010.</b>																																																																																														
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Challenges and Recommendations	Indicators	August - December 2010																																																																																														
	2.2. Percentage of annual institutional budget dedicated to labor law enforcement.	<b>MTPS budget for labor law enforcement and rates of growth. Period 2005 – 2010.</b>																																																																																														
		<table border="1"> <thead> <tr> <th rowspan="3">Year</th> <th colspan="3">Initial budget</th> <th colspan="3">Modified budget</th> <th colspan="3">Budget executed</th> </tr> <tr> <th rowspan="2">US\$</th> <th colspan="2">% annual increase</th> <th rowspan="2">US\$</th> <th colspan="2">% annual increase</th> <th rowspan="2">US\$</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> </thead> <tbody> <tr> <td>2005</td> <td>1,458,120</td> <td>-</td> <td>-</td> <td>1,337,708</td> <td>-</td> <td>-</td> <td>1,337,645</td> <td>-</td> <td>-</td> </tr> <tr> <td>2006</td> <td>1,575,755</td> <td>8.1</td> <td>3.9</td> <td>2,442,770</td> <td>82.6</td> <td>75.5</td> <td>2,405,121</td> <td>79.8</td> <td>72.8</td> </tr> <tr> <td>2007</td> <td>3,209,055</td> <td>103.7</td> <td>94.7</td> <td>3,138,672</td> <td>28.5</td> <td>22.9</td> <td>3,138,661</td> <td>30.5</td> <td>24.8</td> </tr> <tr> <td>2008</td> <td>3,230,685</td> <td>0.7</td> <td>-6.1</td> <td>3,333,513</td> <td>6.2</td> <td>-1.0</td> <td>3,333,502</td> <td>6.2</td> <td>-1.0</td> </tr> <tr> <td>2009</td> <td>3,497,910</td> <td>8.3</td> <td>7.7</td> <td>3,452,571</td> <td>3.6</td> <td>3.0</td> <td>3,448,165</td> <td>3.4</td> <td>2.9</td> </tr> <tr> <td>2010</td> <td>4,276,710</td> <td>22.3</td> <td>n.d.</td> <td>n.d.</td> <td>n.d.</td> <td>n.d.</td> <td>n.d.</td> <td>n.d.</td> <td>n.d.</td> </tr> </tbody> </table>										Year	Initial budget			Modified budget			Budget executed			US\$	% annual increase		US\$	% annual increase		US\$	% annual increase		current	real*	current	real*	current	real*	2005	1,458,120	-	-	1,337,708	-	-	1,337,645	-	-	2006	1,575,755	8.1	3.9	2,442,770	82.6	75.5	2,405,121	79.8	72.8	2007	3,209,055	103.7	94.7	3,138,672	28.5	22.9	3,138,661	30.5	24.8	2008	3,230,685	0.7	-6.1	3,333,513	6.2	-1.0	3,333,502	6.2	-1.0	2009	3,497,910	8.3	7.7	3,452,571	3.6	3.0	3,448,165	3.4	2.9	2010	4,276,710	22.3	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.
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		<ul style="list-style-type: none"> <li>In 2010, the initial MTPS budget for the enforcement of labor law increased by 22% in relation to 2009, partly owing to the hiring of 154 new officials most of whom have been posted to the Labor Inspection Department (DGIT) and the Social Welfare Directorate General (DGPS).</li> </ul>																																																																																														
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Budget	2005	2006	2007	2008	2009	2010																																																																																										
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	2.3. Percentage of the MTPS budget in relation to the national budget.	<ul style="list-style-type: none"> <li>The percentage of the MTPS budget subject to verification in relation to the General Budget of the State rose from 0.21% in 2009 to 0.24% in 2010; this is explained by the 18.2% increase in the initial budget subject to verification.</li> </ul>																																																																																														
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Challenges and Recommendations	Indicators	August - December 2010
<b>Expansion of coverage of Ministry services through the regional offices and tripartite forums</b>		
	2.4. Number of existing and new regional offices.	<p>During this period, the MTPS expanded the coverage of its services and its presence at the local level by opening a new departmental office in Cuscatlán. With the inauguration of this new office, the MTPS now has 12 offices throughout the country. The following officials have been assigned to the new office:</p> <ul style="list-style-type: none"> <li>• 1 Departmental Head, 5 employment agents, 2 labor inspectors, 1 occupational health and safety official, and 1 driver.</li> </ul>
	2.5. Number, type and amount of budget for improvements in infrastructure, information technology, vehicles and training in inspection and conciliation case management in the regional offices and in the central office. (Disaggregate the information by inspection or conciliation service, and indicate the amount of the institutional budget for the maintenance of these items.)	<ul style="list-style-type: none"> <li>• Over the verification period, the MTPS made a series of investments to improve the infrastructure of its central offices, as follows: <ul style="list-style-type: none"> <li>- Remodeling the second floor of Building 4, to include new offices for the Social Welfare Directorate General and the migrant workers inspection area: US\$101,263.</li> <li>- Changing the roof of Buildings 3 and 4: US\$71,387.</li> <li>- Construction of access ramps for people with disabilities: US\$13,582.<sup>129</sup></li> </ul> </li> </ul>
	2.6. Number of local tripartite forums functioning.	<ul style="list-style-type: none"> <li>• No actions were recorded concerning the establishment and functioning of these local tripartite forums.</li> </ul>
	2.7. Status of progress in reorganization actions suggested by the ILO evaluation.	<ul style="list-style-type: none"> <li>• No relevant actions were recorded over the period.</li> </ul>
	2.8. Number of inspections (scheduled, unscheduled and re-inspections) and number of cases sanctioned. Include details of inspections by size and by the sector to which the companies inspected belong.	<ul style="list-style-type: none"> <li>• During 2010, the MTPS made 20,643 inspections, of which 69% corresponded to scheduled inspections and 31% to inspections based on complaints; this continues the preventive tendency of labor inspections observed over the last 4 years.</li> <li>• When analyzing the figures by sector of the economy, the preventive tendency is high in the agricultural sector, where only 5% of inspections are unscheduled.</li> <li>• Furthermore, 91% of inspections are made in the sector of industry, commerce and services, while 9% are made in the agricultural sector.</li> </ul>

129. Information provided by the MTPS Administrative and Financial Directorate. Report of March 10, 2011.

Challenges and Recommendations	Indicators	August - December 2010																																																																																																																																																																																								
	2.8. Number of inspections (scheduled, unscheduled and re-inspections) and number of cases sanctioned. Include details of inspections by size and by the sector to which the companies inspected belong.	<b>Number of inspections and re-inspections made by MTPS, by sector. Period 2006 – 2010.</b>																																																																																																																																																																																								
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<td>19,206</td> <td>27,679</td> <td>28,394</td> <td>27,919</td> <td>24,561</td> </tr> <tr> <td>Workers covered</td> <td>132,993</td> <td>228,354</td> <td>264,403</td> <td>160,526</td> <td>157,804</td> </tr> <tr> <td>Fines imposed</td> <td>541</td> <td>601</td> <td>842</td> <td>2,076</td> <td>3,115</td> </tr> <tr> <td>Total amount from fines imposed (in US\$)</td> <td>132,628</td> <td>104,276</td> <td>184,949</td> <td>613,404</td> <td>711,680</td> </tr> <tr> <td colspan="6" data-bbox="753 609 1860 641"><b>Inspections in the agricultural sector</b></td> </tr> <tr> <td>Scheduled inspections</td> <td>741</td> <td>1,555</td> <td>1,456</td> <td>1,671</td> <td>1,665</td> </tr> <tr> <td>Unscheduled inspections</td> <td>146</td> <td>108</td> <td>49</td> <td>93</td> <td>92</td> </tr> <tr> <td>Total inspections</td> <td>887</td> <td>1,663</td> <td>1,505</td> <td>1,764</td> <td>1,757</td> </tr> <tr> <td>Percentage of scheduled inspections</td> <td>83.5%</td> <td>93.5%</td> <td>96.7%</td> 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<td>21,626</td> <td>20,643</td> </tr> <tr> <td>Percentage of scheduled inspections</td> <td>61.1%</td> <td>84.1%</td> <td>77.9%</td> <td>68.5%</td> <td>68.6%</td> </tr> <tr> <td>Re-inspections</td> <td>7,715</td> <td>7,014</td> <td>6,868</td> <td>8,140</td> <td>5,751</td> </tr> <tr> <td>Total visits</td> <td>20,239</td> <td>29,450</td> <td>29,948</td> <td>29,766</td> <td>26,394</td> </tr> <tr> <td>Workers covered</td> <td>158,894</td> <td>258,444</td> <td>287,988</td> <td>187,683</td> <td>195,165</td> </tr> <tr> <td>Fines imposed</td> <td>545</td> <td>602</td> <td>845</td> <td>2,088</td> <td>3,133</td> </tr> <tr> <td>Total amount from fines imposed (in US\$)</td> <td>135,838</td> <td>104,346</td> <td>185,816</td> <td>616,954</td> <td>716,463</td> </tr> </tbody> </table>					Inspection of industry, commerce and services	2006	2007	2008	2009	2010	Scheduled inspections	6,908	17,303	16,530	13,143	12,500	Unscheduled inspections	4,729	3,470	5,045	6,717	6,386	Total inspections	11,637	20,773	21,575	19,862	18,886	Percentage of scheduled inspections	59.4%	83.3%	76.6%	66.2%	66.2%	Re-inspections	7,569	6,906	6,819	8,057	5,675	Total visits	19,206	27,679	28,394	27,919	24,561	Workers covered	132,993	228,354	264,403	160,526	157,804	Fines imposed	541	601	842	2,076	3,115	Total amount from fines imposed (in US\$)	132,628	104,276	184,949	613,404	711,680	<b>Inspections in the agricultural sector</b>						Scheduled inspections	741	1,555	1,456	1,671	1,665	Unscheduled inspections	146	108	49	93	92	Total inspections	887	1,663	1,505	1,764	1,757	Percentage of scheduled inspections	83.5%	93.5%	96.7%	94.7%	94.8%	Re-inspections	146	108	49	83	76	Total visits	1,033	1,771	1,554	1,847	1,833	Workers covered	25,901	30,090	23,585	27,157	37,361	Fines imposed	4	1	3	12	18	Total amount from fines imposed (in US\$)	3,210	70	867	3,550	4,784	<b>Total Inspections</b>						Scheduled inspections	7,649	18,858	17,986	14,814	14,165	Unscheduled inspections	4,875	3,578	5,094	6,812	6,478	Total inspections	12,524	22,436	23,080	21,626	20,643	Percentage of scheduled inspections	61.1%	84.1%	77.9%	68.5%	68.6%	Re-inspections	7,715	7,014	6,868	8,140	5,751	Total visits	20,239	29,450	29,948	29,766	26,394	Workers covered	158,894	258,444	287,988	187,683	195,165	Fines imposed	545	602	845	2,088	3,133	Total amount from fines imposed (in US\$)	135,838	104,346	185,816	616,954	716,463
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Re-inspections	146	108	49	83	76																																																																																																																																																																																					
Total visits	1,033	1,771	1,554	1,847	1,833																																																																																																																																																																																					
Workers covered	25,901	30,090	23,585	27,157	37,361																																																																																																																																																																																					
Fines imposed	4	1	3	12	18																																																																																																																																																																																					
Total amount from fines imposed (in US\$)	3,210	70	867	3,550	4,784																																																																																																																																																																																					
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Scheduled inspections	7,649	18,858	17,986	14,814	14,165																																																																																																																																																																																					
Unscheduled inspections	4,875	3,578	5,094	6,812	6,478																																																																																																																																																																																					
Total inspections	12,524	22,436	23,080	21,626	20,643																																																																																																																																																																																					
Percentage of scheduled inspections	61.1%	84.1%	77.9%	68.5%	68.6%																																																																																																																																																																																					
Re-inspections	7,715	7,014	6,868	8,140	5,751																																																																																																																																																																																					
Total visits	20,239	29,450	29,948	29,766	26,394																																																																																																																																																																																					
Workers covered	158,894	258,444	287,988	187,683	195,165																																																																																																																																																																																					
Fines imposed	545	602	845	2,088	3,133																																																																																																																																																																																					
Total amount from fines imposed (in US\$)	135,838	104,346	185,816	616,954	716,463																																																																																																																																																																																					
		Source: Office of Labor Statistics and Information. Biannual statistical reports 2006, 2007, 2008, 2009 and 2010. MTPS Labor Inspectorate General. Report of March 10, 2011.																																																																																																																																																																																								

Challenges and Recommendations	Indicators	August - December 2010																												
	<p>2.9. Ratio of inspectors / working population.</p>	<ul style="list-style-type: none"> <li>The ratio of inspectors to the working population has improved over the last 5 years, decreasing from an average of 40,443 workers per inspector in 2005 to 16,048 workers per inspector in 2009. This is a natural consequence of the increase in the number of inspectors that rose from 64 in 2005 to 159 in 2009.</li> <li>In 2010, it was reported that there were 51 more inspectors, and it was hoped that this would reduce the average number of workers covered by each inspector.</li> </ul> <p style="text-align: center;"><b>Proportion or ratio of inspectors to working population. Period 2005 – 2010.</b></p> <table border="1" data-bbox="873 488 1738 748"> <thead> <tr> <th>Year</th> <th>Labor inspectors</th> <th>Working population</th> <th>Ratio</th> </tr> </thead> <tbody> <tr> <td>2005</td> <td>64</td> <td>2,591,562</td> <td>40,443</td> </tr> <tr> <td>2006</td> <td>64</td> <td>2,685,862</td> <td>41,966</td> </tr> <tr> <td>2007</td> <td>159</td> <td>2,173,963</td> <td>13,672</td> </tr> <tr> <td>2008</td> <td>159</td> <td>2,349,050</td> <td>14,774</td> </tr> <tr> <td>2009</td> <td>159</td> <td>2,551,667</td> <td>16,048</td> </tr> <tr> <td>2010*</td> <td>210</td> <td>n.d.</td> <td>n.d.</td> </tr> </tbody> </table> <p>* The results of the EHPM 2010 are not yet available. Source: DIGESTIC, EHM 2005, EHM 2006, EHM 2007, EHM 2008; EHM 2009. MTPS. Labor Statistics and Information Office. Biannual statistical reports 2006, 2007, 2008, 2009 and 2010. March 2011.</p>	Year	Labor inspectors	Working population	Ratio	2005	64	2,591,562	40,443	2006	64	2,685,862	41,966	2007	159	2,173,963	13,672	2008	159	2,349,050	14,774	2009	159	2,551,667	16,048	2010*	210	n.d.	n.d.
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2010*	210	n.d.	n.d.																											
	<p>2.10. Percentage of working population covered by inspections.</p>	<ul style="list-style-type: none"> <li>The percentage of the working population covered by labor inspections has varied greatly over these 5 years (2005 to 2009). Thus, while 2005 and 2006 saw the lowest percentages (2.5% and 5.9% respectively), in 2007 and 2008 an increase of approximately 60% was reported in relation to the preceding year (11.9% and 12.3% respectively).</li> <li>However, a decrease of 4.9 percentage points was recorded for 2009 in relation to the figure for 2008.</li> </ul> <p style="text-align: center;"><b>Percentage of the working population covered by inspections. Period 2005 – 2010.</b></p> <table border="1" data-bbox="751 1110 1827 1404"> <thead> <tr> <th>Year</th> <th>Working population (WP)</th> <th>Workers covered by inspections</th> <th>Percentage of the WP covered</th> </tr> </thead> <tbody> <tr> <td>2005</td> <td>2,591,562</td> <td>65,737</td> <td>2.54%</td> </tr> <tr> <td>2006</td> <td>2,685,862</td> <td>158,894</td> <td>5.92%</td> </tr> <tr> <td>2007</td> <td>2,173,963</td> <td>258,444</td> <td>11.89%</td> </tr> <tr> <td>2008</td> <td>2,349,050</td> <td>287,988</td> <td>12.26%</td> </tr> <tr> <td>2009</td> <td>2,551,667</td> <td>187,683</td> <td>7.36%</td> </tr> <tr> <td>2010</td> <td>n.d.</td> <td>195,165</td> <td>n.d.</td> </tr> </tbody> </table> <p>Source: DIGESTIC, EHM 2005, EHM 2006, EHM 2007, EHM 2008; EHM 2009. MTPS. Labor Statistics and Information Office. Biannual statistical reports 2006, 2007, 2008, 2009 and 2010. March 2011.</p>	Year	Working population (WP)	Workers covered by inspections	Percentage of the WP covered	2005	2,591,562	65,737	2.54%	2006	2,685,862	158,894	5.92%	2007	2,173,963	258,444	11.89%	2008	2,349,050	287,988	12.26%	2009	2,551,667	187,683	7.36%	2010	n.d.	195,165	n.d.
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Challenges and Recommendations	Indicators	August - December 2010																																																																																																	
	2.11. Number of requests and cases resolved by MTPS using individual and collective conciliation.	<ul style="list-style-type: none"> <li>The percentage of cases of collective disputes that were conciliated in 2010, decreased by 1.9 percentage points in relation to 2009, declining from 29.2% to 27.3%.</li> <li>In 2010, a fine was imposed in 17.4% of cases while, in 2009, the percentage was 16.8%; which signifies an increase of 0.6 percentage points.</li> </ul>																																																																																																	
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		<ul style="list-style-type: none"> <li>In 2010, the percentage of individual conciliations achieved was 35.4%, which equaled the percentage reported for 2009. When making a general analysis of the 5 years covered in the following table, a gradual but sustained decrease can be observed in the percentage of cases conciliated; they declined from 40.3% in 2006 to 35.4% in 2010, which translates into a reduction of 4.9 points.</li> <li>Regarding the cases that are discontinued or withdrawn, there has been an upward trend. They increased from 11.0% in 2006 to 14.7% in 2010.</li> </ul>																																																																																																	
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## 2. Regional recommendations

- Increase resources for key compliance functions, including inspectorates, and mediation and conciliation services.
- Improve training of compliance personnel.
- 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

## Human resources

2.12. Number of MTPS inspectors, mediators and conciliators. (Indicate the number of inspectors who exclusively visit places of work; those who carry out both inspection and conciliation, and those who carry out other types of functions, such as notifications, advisory services, and customer service.

- The number of inspectors increased from 159 to 210 between 2009 and 2010; in addition, the number of occupational health and safety officials increased from 66 to 77 over the same period.
- The number of personnel involved in inspection and conciliation tasks increased from 266 in 2008 to 364 in 2010.

**MTPS personnel who perform inspection and conciliation functions.  
Period 2005 – 2010.**

Posts	2006	2007	2008	2009	2010
Labor inspectors*	64	159	159	159	210
Occupational health and safety officials**	28	63	63	66	73
Delegates***	n.d.	n.d.	31	70	69
Writ servers	n.d.	n.d.	13	13	13
	92	222	266	308	365

\* According to the law on MTPS Organization and Functions (art. 33), at the central level, the labor inspectors are located in two Directorates: Inspection and Social Security. Those that perform their functions under the Inspection Directorate are divided into two technical departments: industry and commerce, and agriculture

\*\* According to the law on MTPS Organization and Functions (art. 62), personnel working in the area of occupational health and safety are attached to the Social Security Directorate. According to this law, they are inspectors but, in the practice, based on a restrictive interpretation of the law, they do not have the authority to impose sanctions. They carry out scheduled inspections exclusively.

\*\*\* The delegates are officials to whom the Director General of Labor delegates the functions of conciliation and mediation for both individual and collective conflicts.

Source: Administrative and Financial Unit. March 2011.

**Geographical location of inspection and conciliation personnel. Period 2009 – 2010.**

MTPS offices	Labor inspectors		Delegates		Occupational health and safety officials		Writ servers		Total	
	2009	2010	2009	2010	2009	2010	2009	2010	2009	2010
San Salvador	110	120	42	43	n.d.	47	10	9	162	219
La Unión	7	8	2	2	n.d.	3	0	0	9	13
San Miguel	12	19	5	5	n.d.	2	1	1	18	27
Santa Ana	14	17	7	7	n.d.	8	1	1	22	33
Sonsonate	9	9	4	2	n.d.	1	0	0	13	12
Usulután	2	5	5	5	n.d.	3	1	1	8	14
Zacatecoluca	5	6	5	4	n.d.	3	0	1	10	14
Ahuachapán	0	6	0	1	n.d.	0	0	0	0	7
Cabañas	0	4	0	0	n.d.	1	0	0	0	5
Chalatenango	0	5	0	0	n.d.	1	0	0	0	6
La Libertad	0	9	0	0	n.d.	2	0	0	0	11
Cuscatlán	0	2	0	0	0	2	0	0	0	4
Total	159	210	70	69	66	73	13	203	308*	365

\* For 2009 there are no details of the occupational health and safety officials in each office, so that the 66 have been added to the total.

Source: Information provided by the Administrative and Financial Unit. March 2011.

Challenges and Recommendations	Indicators	August - December 2010																																											
	2.13. Number of training activities for inspectors, mediators and conciliators a year (number of officials trained and include, if available, the results of the participants' evaluation of the pertinent training events).	<ul style="list-style-type: none"> <li>Over this period, the MTPS organized 12 training and educational activities for delegates and inspectors, for a total of 152 hours, with the participation of 242 officials.</li> </ul>	<b>Training for MTPS inspectors and conciliators. Period August – December 2010.</b>																																										
		<table border="1"> <thead> <tr> <th data-bbox="800 381 1346 423">Name of activity</th> <th data-bbox="1346 381 1505 423">Duration</th> <th data-bbox="1505 381 1680 423">Participants</th> <th data-bbox="1680 381 1822 423">Date</th> </tr> </thead> <tbody> <tr> <td data-bbox="800 423 1346 508">1. Module on labor and occupational health and safety inspection (in the context of the pilot project on integrated inspection)*</td> <td data-bbox="1346 423 1505 508">48 hours</td> <td data-bbox="1505 423 1680 508">96</td> <td data-bbox="1680 423 1822 618" rowspan="3">August</td> </tr> <tr> <td data-bbox="800 508 1346 592">2. Workshops to provide information on the role of the MTPS under the law for the integral protection of children and adolescents (LEPINA)</td> <td data-bbox="1346 508 1505 592">40 hours</td> <td data-bbox="1505 508 1680 592">137</td> </tr> <tr> <td data-bbox="800 592 1346 618">3. Revision and updating of the delegate's manual</td> <td data-bbox="1346 592 1505 618">4 hours</td> <td data-bbox="1505 592 1680 618">15</td> </tr> <tr> <td data-bbox="800 618 1346 732">4. Consultation workshop for preparation of the proposed reforms to the Law on the Organization and Functions of the Ministry of Labor and Social Welfare (LOFT)*</td> <td data-bbox="1346 618 1505 732">8 hours</td> <td data-bbox="1505 618 1680 732">13*</td> <td data-bbox="1680 618 1822 732">October</td> </tr> <tr> <td data-bbox="800 732 1346 846">5. Two consultation workshop for preparation of the proposed reforms to the Law on the Organization and Functions of the Ministry of Labor and Social Welfare (LOFT)*</td> <td data-bbox="1346 732 1505 846">16 hours</td> <td data-bbox="1505 732 1680 846">13</td> <td data-bbox="1680 732 1822 927" rowspan="2">November</td> </tr> <tr> <td data-bbox="800 846 1346 930">6. Module on labor and occupational health and safety inspection (in the context of the pilot project on integrated inspection)*</td> <td data-bbox="1346 846 1505 930">42 hours</td> <td data-bbox="1505 846 1680 930">48</td> </tr> <tr> <td data-bbox="800 930 1346 956">7. Training on the issue of gender**</td> <td data-bbox="1346 930 1505 956">4 hours</td> <td data-bbox="1505 930 1680 956">8</td> <td data-bbox="1680 930 1822 1219" rowspan="4">December</td> </tr> <tr> <td data-bbox="800 956 1346 1015">8. Two workshops on good practices in the workplace**</td> <td data-bbox="1346 956 1505 1015">8 hours</td> <td data-bbox="1505 956 1680 1015">16</td> </tr> <tr> <td data-bbox="800 1015 1346 1073">9. Two training workshops on civil and mercantile procedural law**</td> <td data-bbox="1346 1015 1505 1073">16 hours</td> <td data-bbox="1505 1015 1680 1073">20</td> </tr> <tr> <td data-bbox="800 1073 1346 1187">10. Consultation workshop for preparation of the proposed reforms to the Law on the Organization and Functions of the Ministry of Labor and Social Welfare (LOFT)*</td> <td data-bbox="1346 1073 1505 1187">8 hours</td> <td data-bbox="1505 1073 1680 1187">13</td> </tr> <tr> <td colspan="2"></td> <td data-bbox="1346 1187 1505 1219">194 hours</td> <td data-bbox="1505 1187 1680 1219">379</td> <td></td> </tr> </tbody> </table>	Name of activity	Duration	Participants	Date	1. Module on labor and occupational health and safety inspection (in the context of the pilot project on integrated inspection)*	48 hours	96	August	2. Workshops to provide information on the role of the MTPS under the law for the integral protection of children and adolescents (LEPINA)	40 hours	137	3. Revision and updating of the delegate's manual	4 hours	15	4. Consultation workshop for preparation of the proposed reforms to the Law on the Organization and Functions of the Ministry of Labor and Social Welfare (LOFT)*	8 hours	13*	October	5. Two consultation workshop for preparation of the proposed reforms to the Law on the Organization and Functions of the Ministry of Labor and Social Welfare (LOFT)*	16 hours	13	November	6. Module on labor and occupational health and safety inspection (in the context of the pilot project on integrated inspection)*	42 hours	48	7. Training on the issue of gender**	4 hours	8	December	8. Two workshops on good practices in the workplace**	8 hours	16	9. Two training workshops on civil and mercantile procedural law**	16 hours	20	10. Consultation workshop for preparation of the proposed reforms to the Law on the Organization and Functions of the Ministry of Labor and Social Welfare (LOFT)*	8 hours	13			194 hours	379	
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Challenges and Recommendations	Indicators	August - December 2010
	<p><b>Law enforcement procedures</b></p> <p>2.14. Number and type of actions for improving the procedures for enforcing labor laws. Include:</p> <ul style="list-style-type: none"> <li>- Existence and approval of laws and regulations for improving the enforcement of labor laws.</li> <li>- Design of policies, plans, procedures and protocols.</li> <li>- Dissemination of policies, plans, procedures and protocols via manuals or training.</li> </ul>	<ul style="list-style-type: none"> <li>• During this period, the MTPS, with the ILO's support, continued to prepare the bill for the reform of the Law on the Organization and Functions of the Ministry of Labor and Social Welfare (LOFT), which includes various changes in the Ministry's operating structure and in the inspection procedure.<sup>130</sup></li> <li>• The MTPS prepared proposals for occupational health and safety regulations<sup>131</sup> in order to facilitate and ensure the application of the General Law on Risk Prevention in the Workplace (LGPR).<sup>132</sup></li> <li>• On August 30, the MTPS began implementing the pilot plan for integrated labor inspection in the departments of San Salvador, Santa Ana and San Miguel. 40 labor inspectors, occupational health and safety officials, and supervisors took part in the event. This initiative includes a series of activities that seek to implement a new inspection model based on integrated inspections.<sup>133</sup></li> </ul>

130. In this regard, the Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 1A), 100th session of the International Labour Conference, 2011, p. 528 and 529, recommends that the MTPS "bring the legislation into line with the Convention as requested by the Committee by (i) giving labour inspectors public official status and assuring them of stability of employment, as well as career prospects (category I inspectors, category II inspectors, supervisors) (Article 6); (ii) providing for the recruitment of labour inspectors by competition (Article 7); (iii) empowering inspectors to enter at any hour of the day or night workplaces liable to inspection (Article 12(1)(a)); (iv) abolishing the requirement for the employer, the workers or their representatives to be present during the inspection (Article 12(c)(i)); and (v) allowing labour inspectors the discretion to give warning and advice to offenders before envisaging the initiation of proceedings (Article 17(2))." In addition, it asked the Government, when drawing up the proposal to amend the LOFT, to take all necessary steps to bring the law and practice into line with the abovementioned provisions and with Article 12(2), which allows inspectors not to notify the employer or his representative of their presence if they consider that such notification may be prejudicial to the performance of their duties. In addition, the Committee requests the Government to ensure both in law and in practice that labour inspectors are not assigned any further duties – for example tasks relating to dispute settlement – that are liable to interfere with or obstruct the effective discharge of their primary duties (Article 3(2) and Part III of Recommendation No. 81)."

131. In its 2011 Report, the CEACR mentioned, that this normative "meets the Convention's requirements on the following points: (i) establishment of an obligation to notify the labour inspectorate within 72 hours of any industrial accident and, immediately and without delay, of any serious or lethal accident (Article 14 of the Convention); (ii) classification of offences (minor, serious, very serious) and establishment of penalties calculated on the basis of the minimum wage for the various categories of offence (Article 18); and (iii) establishment of an occupational safety and health committee (composed of workers' and employers' representatives) in enterprises employing 15 or more workers and enterprises engaging in activities of a kind requiring such a body (Article 5 of the Convention and Part II of the Labour Inspection Recommendation, 1947 (No. 81). In addition, it recommends that the Government "take the necessary steps to ensure that the legislation is likewise brought into conformity with Article 14 of the Convention as concerns notification to the labour inspectorate of cases of occupational disease." ILO. Report of the Committee of Experts on the Application of Conventions and Recommendations.

132. Legislative Decree 254 of January 21, 2010, published in Diario Oficial No. 82, Tome 387, of May 5, 2010.

133. This initiative is implemented with the technical and financial support of ILO/PROFIL in El Salvador.

### 3. 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 recognizes that *“labor courts in El Salvador require additional resources, technical expertise and training”* and therefore proposes the establishment of an ongoing program to train judges, Labor Ministry officials, lawyers and others involved in the administration of labor justice and also the development of an alternative dispute resolution system in order to *“expedite the process and ensure compliance with agreed resolutions”*, among other measures. It also mentions the need to *“establish a public awareness campaign that will make the legal options to assert work place rights more broadly understood and accessible to workers and employers”*. The country undertook to *“develop a program to unify the legal decisions issued by the different competent institutions”* on labor law issues and to publish an annotated edition of the Labor Code citing such decisions.<sup>134</sup> Lastly, all the Governments undertook to increase resources destined to provide the Labor Courts with trained personnel, infrastructure and equipment to enable them to fully execute their functions.<sup>135</sup>

Over the period August–December 2010, la CSJ organized training activities with the participation of 150 judges and judicial personnel who handle labor matters in the different courts. The topics were: oral proceedings in labor cases; awareness of change, and new management models.

During this period, the ENJ offered 10 basic courses on labor matters. The topics covered included: the Labor Code, principles and sources of labor law, the individual employment contract, and employment benefits. In addition, the PGR completed the module for public defenders of the diploma course on enhancing labor justice, in which 82 officials participated. The course included the topics of oral proceedings and evidentiary law; administrative law, and labor conciliation.

The CSJ Civil Chamber prepared a document on the impact of the Code of Civil and Mercantile Procedure on labor trials, in relation to the technique of oral proceedings, and the ECJ organized 3 workshops to discuss the same issue.

In addition, the CSJ Civil Chamber prepared a study on the workload of the labor court of Nueva San Salvador, which determined that 57% of the cases heard by this court bore no relation to labor matters; the study could justify the specialization of this court. It also disseminated a study (2009) on the need to create a Social Chamber to comply with the constitutional mandate to establish the specialized labor jurisdiction. Furthermore, the CSJ prepared an assessment of the procedure for execution of judgments and conciliatory arrangements in labor matters and made the corresponding recommendations.

The number of judges with regular posts in the courts of first instance with single jurisdiction in labor matters grew from 5 to 9 in 2010 while the number of courts remained unchanged.

134. The White Paper, p. 42.

135. Ibid., pp. 72 and 73.

Regarding the promotion of labor rights, the campaign organized by the CSJ, the PGR and the MTPS, *Tu trabajo vale. Infórmate*, circulated information on the procedures to claim labor rights and obtain legal assistance. The campaign includes legal advice and the dissemination of information by means of a web site and a call center, among other ways. In addition, the CSJ Civil Chamber presented the play “La Maquila” to raise awareness about rights and legal options in cases of labor rights violations.

The total cost of human resources and miscellaneous expenses in the courts with single jurisdiction was 2,097,603, which represented 1.09% of the Judiciary’s budget (0.94% in 2009).

There were 7,030 active cases in first instance at the end of 2010 (an increase of 2.4%, in relation to 2009). Of all the active case files, 75.6% were being heard by courts with combined jurisdiction. In 2010, fewer cases were decided in first instance than in 2009 (-5.2%). In second instance, the active cases increased from 116 in 2009 to 241 in 2010, while the Civil Chamber reported 124 case files at the end of 2010, 41 less than the previous year.

During 2010, the courts of first instance heard 2,764 conciliation cases, and an agreement between the parties was achieved in 24% of them.

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

- Continue the specific training efforts on labor matters for judges and others who hear labor matters, and other agents of justice, including representatives of the trade unions and employers.
- Establish mechanisms for collaboration with academia to try to create a group of trainers on labor matters.
- Increase inter-institutional cooperation between the CNJ, the CSJ and the PGR to establish priority actions in the field of labor justice, and to coordinate the request to international cooperation for technical support, as well as the request for an increased institutional budget for the same purpose.
- Encourage the CSJ, the CNJ, the PGR and the MTPS to assess the possibility of creating a unified alternative dispute resolution mechanism, as the White Paper suggests.
- Update and disseminate the collection of judgments on labor matters of the CSJ Civil Chamber.
- Validate the assessment of execution of judgments and conciliatory arrangements and implement its conclusions effectively.

Challenges and Recommendations	Indicators	August - December 2010
<b>I. Resources</b>		
<p><b>Challenge:</b></p> <ul style="list-style-type: none"> <li>The labor courts in El Salvador require additional resources, technical expertise and training.</li> </ul> <p><b>Recommendations:</b></p> <ul style="list-style-type: none"> <li>Establish a permanent capacity building program for judges, Labor Ministry officials, lawyers and other persons involved in the administration of labor law justice.</li> <li>Undertake a diagnostic to evaluate the possibility of the establishment of a unified alternative dispute resolution mechanism for all labor disputes under a single authority to expedite the process and ensure compliance with agreed resolutions.</li> <li>Undertake a needs assessment for more labor courts in those areas of the country with the highest concentrations of the labor force.</li> </ul>	<p><b>Capacity-building for administrators of labor justice</b></p> <p>3.1. Existence of a permanent training program for administrators of labor justice that includes:</p> <ul style="list-style-type: none"> <li>Number and type of training activities on the subject each year.</li> <li>Number of participants in the training activities.</li> <li>Existence of a permanent monitoring and assessment of training needs (indicate the results of the monitoring and assessment of activities).</li> <li>Number and type of training and dissemination workshops, forums and activities each year.</li> <li>Number of judicial officials who take part in the training events.</li> <li>Number of academic establishments that take part in training initiatives for administrators of labor justice.</li> </ul>	<ul style="list-style-type: none"> <li>Under the "Training program to modernize the labor courts",<sup>136</sup> training activities were held for 150 agents of justice from throughout the country.<sup>137</sup> Topics, such as the following, were covered: oral proceedings in labor case; receptiveness to change; teamwork and the new judicial management model.<sup>138</sup> In addition, a document was prepared on the influence of the Civil and Mercantile Procedural Code on labor actions, with reference to the technique of oral proceedings applicable in the production of testimonial evidence by the two parties".<sup>139</sup></li> <li>During this period the Judicial Training School (ECJ) offered 10 basic courses concerning the labor sphere; which covered topics such as the following: the substantive part of the Labor Code; principles, sources of labor law, the individual employment contract, and employment benefits. In addition, the School organized 3 workshops to discuss the complementary nature of the Code of Civil and Mercantile Procedure in labor proceedings, and the preparation of labor hearings.<sup>140</sup></li> <li>For its part, the PGR, with technical and financial assistance from the USAID program to strengthen labor justice for DR-CAFTA, completed the diploma course entitled "Strengthening labor justice: module for public defenders," which trained 82 officials on topics such as oral proceedings and evidentiary law; administrative law and labor conciliation.</li> </ul>

136. Initiative designed by the Central Technical Unit of the Supreme Court of Justice with the support of the Civil Chamber, funded by the World Bank.

137. The participants in the program (judges, justices, secretaries, assistants, judicial and legal assistants of the labor and combined courts) were selected from among the judicial personnel who handle labor proceedings and from the different types of court – first and second instance – in order to maximize the specialization of the subject matter. These activities were the result of the implementation of one of the recommendations of the diagnosis of the labor jurisdiction prepared by the CSJ in 2009.

138. CSJ. Report of March 2011.

139. Civil Chamber. CSJ. "Incidencia del Código Procesal Civil y Mercantil en los juicios laborales, con referencia a la técnica de oralidad aplicable en la producción de las pruebas testimonial y declaración de propia parte y contraparte." 2010.

140. A total of 385 people who took part in both the discussion workshops and the basic courses; they were from the Judiciary, the Attorney General's office and the MTPS.



Challenges and Recommendations	Indicators	August - December 2010																																																																																						
	<b>Alternative dispute resolution</b>																																																																																							
	3.2. Existence of an assessment of the possibility of establishing a unified alternative dispute resolution mechanism and status of implementation of the recommendations made by the assessment.	<ul style="list-style-type: none"> <li>• No relevant activities were recorded during this period.</li> </ul>																																																																																						
	3.3. Number of cases handled and resolved by conciliation or mediation in court.	<p style="text-align: center;"><b>Conciliatory agreements reached in the courts of first instance. Period 2005 – 2010.</b></p> <table border="1" data-bbox="919 607 1927 896"> <thead> <tr> <th rowspan="2">Year</th> <th colspan="5">Courts with single competence</th> <th colspan="5">Courts with combined competence</th> </tr> <tr> <th>Total</th> <th>No agreement</th> <th>%</th> <th>Agreement</th> <th>%</th> <th>Total</th> <th>No agreement</th> <th>%</th> <th>Agreement</th> <th>%</th> </tr> </thead> <tbody> <tr> <td>2005</td> <td>3,897</td> <td>3,578</td> <td>91.8</td> <td>319</td> <td>8.2</td> <td>1,112</td> <td>871</td> <td>78.3</td> <td>241</td> <td>21.7</td> </tr> <tr> <td>2006</td> <td>2,820</td> <td>2,618</td> <td>92.8</td> <td>202</td> <td>7.2</td> <td>1,202</td> <td>950</td> <td>79.0</td> <td>252</td> <td>21.0</td> </tr> <tr> <td>2007</td> <td>2,165</td> <td>1,944</td> <td>89.8</td> <td>221</td> <td>10.2</td> <td>1,186</td> <td>933</td> <td>78.7</td> <td>253</td> <td>21.3</td> </tr> <tr> <td>2008</td> <td>1,746</td> <td>1,474</td> <td>84.4</td> <td>272</td> <td>15.6</td> <td>1,285</td> <td>999</td> <td>77.7</td> <td>286</td> <td>22.3</td> </tr> <tr> <td>2009</td> <td>2,229</td> <td>1,732</td> <td>77.7</td> <td>497</td> <td>22.3</td> <td>415</td> <td>304</td> <td>73.3</td> <td>111</td> <td>26.7</td> </tr> <tr> <td>2010</td> <td>1,746</td> <td>1,347</td> <td>77.1</td> <td>399</td> <td>22.9</td> <td>1,018</td> <td>757</td> <td>74.4</td> <td>261</td> <td>25.6</td> </tr> </tbody> </table> <p data-bbox="911 914 1940 958">Source: Prepared by the authors based on information provided by the Statistics and Information Unit of the Institutional Planning Directorate. CSJ, March 2011.</p>	Year	Courts with single competence					Courts with combined competence					Total	No agreement	%	Agreement	%	Total	No agreement	%	Agreement	%	2005	3,897	3,578	91.8	319	8.2	1,112	871	78.3	241	21.7	2006	2,820	2,618	92.8	202	7.2	1,202	950	79.0	252	21.0	2007	2,165	1,944	89.8	221	10.2	1,186	933	78.7	253	21.3	2008	1,746	1,474	84.4	272	15.6	1,285	999	77.7	286	22.3	2009	2,229	1,732	77.7	497	22.3	415	304	73.3	111	26.7	2010	1,746	1,347	77.1	399	22.9	1,018	757	74.4	261
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Challenges and Recommendations	Indicators	August - December 2010
	<b>Expanding labor court coverage</b>	
	3.4. Existence of an evaluation of the need to install more labor courts and the status of implementation of the recommendations of the assessment.	<ul style="list-style-type: none"> <li>• During this period, the Civil Chamber prepared a study on the workload of the Nueva San Salvador Labor Court, in which it determined that, of all the active case files in this court, approximately 7,000 corresponded to civil, mercantile, and tenancy matters, and 3,000 to labor matters. Based on the results of this study, a legislative decree can be prepared to obtain the specialization of this court which, in practice, functions as a combined court.</li> <li>• Also during this period, the Civil Chamber circulated a study prepared in 2009 on the need to create a Social Chamber in order to comply with the constitutional mandate to establish the specialized labor jurisdiction.<sup>141</sup></li> </ul>
	3.5. Number of judges dedicated exclusively to hearing and deciding labor cases.	<ul style="list-style-type: none"> <li>• The number of courts of first instance with jurisdiction in labor matters has remained at 43 since 2005. They are distributed as follows: 9 labor courts,<sup>142</sup> 21 courts of first instance, and 13 civil courts.</li> <li>• In second instance, there are 2 labor chambers with single jurisdiction, while at the level of cassation, the CSJ Civil Chamber hears labor matters.</li> <li>• The number of regular posts in the courts with single jurisdiction in labor matters has remained unchanged since the previous verification period: 9 judges in the courts of first instance and 4 in the second instance chambers, for a total of 13 judges dedicated to hearing and deciding labor matters exclusively.</li> </ul>
	3.6. Number of active case files being processed and executed in the different courts.	<ul style="list-style-type: none"> <li>• According to the data presented in the following table, at the end of 2010, there were 7,030 active case files, which represents an increase of 2.4% compared to the number reported for 2009. Of all the active case files in first instance, 75.6% were being heard by courts with combined jurisdiction, which means that the tendency reported under this indicator in 2009 has continued.</li> </ul>

141. The document is available (in Spanish) at: [www.csj.gob.sv:88/upload.../Hacia%20la%20Sala%20de%20lo%20Social.pdf](http://www.csj.gob.sv:88/upload.../Hacia%20la%20Sala%20de%20lo%20Social.pdf)

142. According to information provided recently by judicial officials, specifically from the CSJ Civil Chamber, in practice, only the 5 labor courts in San Salvador enjoy single jurisdiction. The other 4 so-called labor courts, continue to hear civil, mercantile and tenancy matters.

Number of new cases, cases being processed and cases concluded at the end of the year  
Period January 2005 – 2010.

Court and jurisdiction	Year 2005			Year 2006			Year 2007			Year 2008			Year 2009			Year 2010		
	New cases	Cases concluded	Active at the end of the period	New cases	Cases concluded	Active at the end of the period	New cases	Cases concluded	Active at the end of the period	New cases	Cases concluded	Active at the end of the period	New cases	Cases concluded	Active at the end of the period	New cases	Cases concluded	Active at the end of the period
<b>First instance</b>																		
Single jurisdiction*	4362	7498	6012	2459	6990	2873	2521	3436	1958	3049	2836	1429	5212	5103	1673	4773	4834	1716
Combined jurisdiction **	2349	3964	5920	2384	3813	4846	2180	3004	4061	2627	1951	4227	3671	2708	5193	2515	2572	5314
Total	6711	11462	11932	4843	10803	7719	4701	6440	6019	5676	4787	5656	8883	7811	6866	7288	7406	7030
<b>Second instance</b>																		
Single jurisdiction chambers	769	759	81	906	833	154	894	826	222	905	897	241	1089	1107	83	1425	1431	161
Combined jurisdiction chambers	115	104	27	125	121	31	111	107	35	105	103	37	169	150	33	316	274	80
Total	884	863	108	1031	954	185	1005	933	257	1010	1000	278	1258	1257	116	1741	1705	241
<b>Civil Chamber</b>																		
Cassations	80	79	44	38	36	46	69	33	82	74	52	104	67	66	96	93	128	61
Appeals	28	25	14	34	19	29	60	13	76	18	30	64	45	27	69	214	220	63
Total	108	104	58	72	55	75	129	46	158	92	82	168	112	93	165	307	348	124

\* This refers to the four San Salvador labor courts, which are the only courts of first instance that hear labor matters exclusively.

\*\* Includes the 4 so-called labor courts, which, in practice, continue deciding other matters; the 13 "civil" courts whose jurisdiction includes labor matters, *ratione materiae*, and the 21 "courts of first instance" that also exercise jurisdiction in labor matters. This adds up to 38 courts of first instance with combined jurisdiction that, among their responsibilities, hear labor cases.

Source: Prepared by the authors based on information provided by the Information and Statistics Unit of the Institutional Planning Office, Supreme Court of Justice. March 2011.

Challenges and Recommendations	Indicators	August - December 2010																																																																																											
	<p>3.7. Percentage of labor cases decided (decision rate).<sup>143</sup> Include rate of pending cases,<sup>144</sup> backlog rate<sup>145</sup> and the average duration, in months, by type of court.</p>	<p style="text-align: center;"><b>Labor case backlog, decision and pending rates, by court. Period 2005 – 2010.</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Courts and rates</th> <th>2005</th> <th>2006</th> <th>2007</th> <th>2008</th> <th>2009</th> <th>2010</th> </tr> </thead> <tbody> <tr> <td colspan="7"><b>First instance</b></td> </tr> <tr> <td>Backlog rate</td> <td>2.0</td> <td>1.6</td> <td>1.9</td> <td>2.4</td> <td>1.9</td> <td>1.9</td> </tr> <tr> <td>Decision rate</td> <td>49.0</td> <td>64.4</td> <td>51.9</td> <td>40.9</td> <td>54.0</td> <td>52.3</td> </tr> <tr> <td>Pending rate</td> <td>51.0</td> <td>46.0</td> <td>48.5</td> <td>48.4</td> <td>41.1</td> <td>47.8</td> </tr> <tr> <td colspan="7"><b>Second instance</b></td> </tr> <tr> <td>Backlog rate</td> <td>1.1</td> <td>1.2</td> <td>1.3</td> <td>1.3</td> <td>1.1</td> <td>1.1</td> </tr> <tr> <td>Decision rate</td> <td>88.9</td> <td>83.8</td> <td>78.4</td> <td>78.9</td> <td>95.1</td> <td>91.8</td> </tr> <tr> <td>Pending rate</td> <td>11.1</td> <td>16.2</td> <td>21.6</td> <td>21.9</td> <td>4.6</td> <td>7.0</td> </tr> <tr> <td colspan="7"><b>Cassation</b></td> </tr> <tr> <td>Backlog rate</td> <td>1.6</td> <td>2.4</td> <td>4.4</td> <td>3.0</td> <td>2.8</td> <td>1.4</td> </tr> <tr> <td>Decision rate</td> <td>64.2</td> <td>42.3</td> <td>22.5</td> <td>32.8</td> <td>36.0</td> <td>73.7</td> </tr> <tr> <td>Pending rate</td> <td>35.8</td> <td>57.7</td> <td>77.5</td> <td>67.2</td> <td>64.0</td> <td>18.9</td> </tr> </tbody> </table> <p style="text-align: center; font-size: small;">Source: Prepared by the authors based on information provided by the Information and Statistics Unit of the Institutional Planning Office, Supreme Court of Justice. March 2011.</p>	Courts and rates	2005	2006	2007	2008	2009	2010	<b>First instance</b>							Backlog rate	2.0	1.6	1.9	2.4	1.9	1.9	Decision rate	49.0	64.4	51.9	40.9	54.0	52.3	Pending rate	51.0	46.0	48.5	48.4	41.1	47.8	<b>Second instance</b>							Backlog rate	1.1	1.2	1.3	1.3	1.1	1.1	Decision rate	88.9	83.8	78.4	78.9	95.1	91.8	Pending rate	11.1	16.2	21.6	21.9	4.6	7.0	<b>Cassation</b>							Backlog rate	1.6	2.4	4.4	3.0	2.8	1.4	Decision rate	64.2	42.3	22.5	32.8	36.0	73.7	Pending rate	35.8	57.7	77.5	67.2	64.0	18.9
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143. Calculated as follows: Decision Rate = Total cases completed during the period / Total work load of the period X 100. This indicates the proportion between pending and concluded files.

144. Pending rate: Indicates the percentage of case files that are awaiting processing and those that the courts have begun to process, but that have not been concluded.

145. Case backlog rate: determines the existing degree of backlog or delay. If the backlog rate exceeds 1, there is a backlog in the court, if it is 1 there is no backlog. In this case, if the backlog is 2.2, it indicates that the court must process 2.2 times as many cases as they have been processing in order to eliminate the delay.

Challenges and Recommendations	Indicators	August - December 2010
<b>2. Training on labor law remedies</b>		
<p><b>Challenge:</b></p> <ul style="list-style-type: none"> <li>Workers are not fully aware of the different judicial and administrative procedures that have to be followed to protect their rights. There is also a lack of knowledge regarding the different public institutions that offer free legal advice on labor issues.</li> </ul> <p><b>Recommendations:</b></p> <ul style="list-style-type: none"> <li>Establish a public awareness campaign program that will make the legal options to assert work place rights more broadly understood and accessible to workers and employers.</li> <li>Seek to evaluate the procedure for mandatory compliance with judicial orders to achieve more expedited processes. As a corollary of this initiative, the Supreme Court in coordination with the National Board of Judiciary Appointment and Review (National Council of the Judicature) should establish a training program for labor judges and others involved in the administration of labor justice on compliance with judicial orders.</li> <li>Develop a program to unify the legal decisions issued by the different</li> </ul>	<p><b>Dissemination and awareness-raising for workers and employers</b></p> <p>3.8. Number and type of dissemination and awareness raising activities for employers and workers on administrative and judicial procedures to protect their rights (include the number of participants in the activities and, if available, the results of the participants' evaluation of the pertinent training event or program).</p>	<ul style="list-style-type: none"> <li>In the context of the inter-institutional dissemination campaign entitled Tu trabajo Vale. Infórmate, officials of the CSJ, the PGR and the MTPS visited shopping centers and different places of work to deliver the information material for the campaign (labor folder, posters, flyers, etc.) and provide legal assistance to the workers.</li> <li>Legal assistance and relevant information were provided by telephone and through the web site.<sup>146</sup></li> <li>The CSJ Civil Chamber, in coordination with the Asociación Mujeres Transformando, presented the play La Maquila, to raise awareness of the situation of those who work in the customs-free (maquila) industries, their rights and the legal options available to them if their fundamental labor rights are violated.<sup>147</sup></li> </ul>
	<p><b>Execution of judgments</b></p> <p>3.9. Existence of an evaluation of the procedure for executing judgments and status of implementation of the recommendations of this evaluation (indicate the number and type of measures taken to improve the procedures for execution of judgments).</p>	<ul style="list-style-type: none"> <li>Over the verification period, the assessment of the procedure for judicial execution of labor judgments and conciliatory arrangements was prepared, together with the corresponding recommendations.</li> <li>The recommendations made by this study included, in particular, amending the law in order to permit a request for and the application of precautionary measures, among other possible actions to ensure execution of judgment.</li> </ul>

146. See: <http://tutrabajovale.blogspot.com/>

147. The presentations were made on August 19 and 20 in San Salvador and Santa Ana, respectively.

Challenges and Recommendations	Indicators	August - December 2010																												
<p>competent institutions regarding labor rights and obligations in national law and issue an annotated edition of the Labor Code citing those decisions to better reflect how the rights and obligations have been implemented in specific cases, to make it accessible to workers, employers, judges, Labor Ministry officials, lawyers and other persons involved in the administration of labor justice.</p>	<p><b>Harmonization of case law</b></p> <p>3.10. Existence and operation of a program to harmonize case law (indicate the number and type of actions to publicize the harmonized case law, and if available, the results of the participants' evaluation of the pertinent dissemination events or program).</p>	<ul style="list-style-type: none"> <li>• The document “<i>Jurisprudencia Laboral. Sentencias de la Corte Suprema de Justicia de El Salvador, de 2008</i>” [Labor case law: 2008 judgments of the Supreme Court of Justice of El Salvador] remains available on the Internet.<sup>148</sup></li> <li>• The same web site mentions publication of the document: “<i>Líneas and criterios jurisprudenciales Sala de lo Civil 2007</i>” [2007 Civil Chamber jurisprudential guidelines and criteria],<sup>149</sup> which includes labor matters; however, the complete text of the document is not available on line.</li> </ul>																												
<p><b>3. Regional recommendations</b></p>																														
<ul style="list-style-type: none"> <li>• Make further investments in labor courts, judges and other personnel and equipment.</li> <li>• Enhance operation of the labor courts.</li> <li>• Establish comprehensive labor standards training initiative for judges, prosecutors, government officials, and others involved in labor law administration.</li> <li>• Involve appropriate academic organizations in establishing a network of labor law training centers in each country.</li> <li>• 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.</li> <li>• 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.</li> </ul>	<p><b>Institutional strengthening of the justice sector</b></p> <p>3.1.1. Amount of annual operating budget for the labor courts.</p> <p>3.1.2. Number of academic establishments participating in training initiatives for administrators of labor justice.</p>	<p><b>Estimate of the total cost of human resources and miscellaneous expenses in the courts with single jurisdiction in relation to the budget of the Judiciary. Period 2005 – 2010.</b></p> <table border="1" data-bbox="1178 831 1927 1143"> <thead> <tr> <th>Year</th> <th>Budget of the Judiciary</th> <th>Cost for labor cases (courts with single jurisdiction)</th> <th>Porcentaje</th> </tr> </thead> <tbody> <tr> <td>2005</td> <td>135,808,850</td> <td>1,682,870</td> <td>1.24%</td> </tr> <tr> <td>2006</td> <td>160,968,735</td> <td>1,711,912</td> <td>1.06%</td> </tr> <tr> <td>2007</td> <td>170,111,065</td> <td>1,851,071</td> <td>1.09%</td> </tr> <tr> <td>2008</td> <td>182,220,000</td> <td>1,863,184</td> <td>1.02%</td> </tr> <tr> <td>2009</td> <td>204,308,048</td> <td>1,916,748</td> <td>0.94%</td> </tr> <tr> <td>2010</td> <td>193,182,300</td> <td>2,097,603</td> <td>1.09%</td> </tr> </tbody> </table> <p>Source: Prepared by the authors based on information provided by the Institutional Planning Directorate, through the CSJ Institutional Programming and Monitoring Unit.</p> <ul style="list-style-type: none"> <li>• No academic establishments took part in training initiatives during this period.</li> </ul>	Year	Budget of the Judiciary	Cost for labor cases (courts with single jurisdiction)	Porcentaje	2005	135,808,850	1,682,870	1.24%	2006	160,968,735	1,711,912	1.06%	2007	170,111,065	1,851,071	1.09%	2008	182,220,000	1,863,184	1.02%	2009	204,308,048	1,916,748	0.94%	2010	193,182,300	2,097,603	1.09%
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148. Available [in Spanish only] at the following web page: [http://190.120.1.70:88/upload\\_arc/seccion/Tesoro%20El%20Salvador%20\(4\).pdf](http://190.120.1.70:88/upload_arc/seccion/Tesoro%20El%20Salvador%20(4).pdf)

149. The reference to the document [in Spanish only] can be found on the following web page: <http://www.csj.gob.sv/PUBLICACIONES/publicaciones01.html>

## 4. 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.

In El Salvador, the White Paper identifies the need to improve guarantees for the protection of women's labor rights, especially with regard to the issue of pregnancy testing related to hiring and dismissal of female workers. In order to comply with this commitment, the White Paper recommended that a series of public fora be held to publicize existing circulars on the issue, and that the institution establish “a task force responsible for ensuring compliance” with this prohibition with an office within the Labor Ministry, a special training module for inspectors, and a public awareness-raising program on the issue of discrimination in the workplace.<sup>150</sup> In addition, at the regional level, it recommended the establishment of a regional center for equality in employment that would provide training, educational materials and information to support the efforts to eliminate discrimination in the workplace.<sup>151</sup>

Over the period August–December 2010, the UEGP publicized the specific labor laws and regulations to prevent acts of discrimination and exclusion from employment, and to prohibit requiring pregnancy testing; and the MTPS and the ISDEMU organized a workshop to discuss sexual harassment and a model of integral attention.

Regarding the Gender Equity Office, which is pending installation, an institutional group was created to ensure that the gender perspective crosscuts the actions of the Labor Ministry. In addition, a manual was prepared on the operation of the office, together with an administrative manual, and a proposal was drawn up for the annual plan of operations (APO) and for the budget.

In the context of the pilot plan on integrated inspections, a module on gender and non-discrimination in employment was included (4 hours) and offered to 120 inspectors. The module covered basic concepts of gender equality, the principle of non-discrimination, and ILO Conventions 100 and 111.

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

- Draw up a MTPS institutional gender policy, in consultation with the organizations that represent workers and employers.
- Include the content of the module on gender and non-discrimination in the training provided to all MTPS officials.
- Install the Gender Equity Office, providing it with the necessary technical resources, and approve its APO.
- Establish a system to monitor the actions of the Labor Inspectorate in this regard, evaluating the application of international labor standards
- Evaluate the implementation of the MTPS Strategic Plan from a gender perspective.

<sup>150</sup>. The White Paper, p. 43

<sup>151</sup>. Ibid., p. 73.



Challenges and Recommendations	Indicators	August - December 2010
<b>I. Pregnancy testing</b>		
<p><b>Challenges:</b></p> <ul style="list-style-type: none"> <li>The issue of pregnancy testing related to hiring or dismissals remains an issue of significant concern.</li> </ul> <p><b>Recommendations:</b></p> <ul style="list-style-type: none"> <li>Hold a series of public fora to publicize the recently published circular regarding matters related to the issue of pregnancy testing in the hiring or dismissals of women in the workplace and institute a task force in charge of compliance related to this issue.</li> <li>Implement a specialized training and compliance program on gender issues. This initiative would have the following components:               <ol style="list-style-type: none"> <li>An office within the Labor Ministry on gender and employment discrimination issues;</li> <li>Development of a specialized training module for labor inspectors on gender, pregnancy and other workplace discrimination issues, and</li> <li>A public awareness program with leading employer, union and other civil society participants.</li> </ol> </li> </ul>	<p><b>Dissemination of circulars on non-discrimination in the workplace</b></p> <p>4.1. Number and type of activities for dissemination of the norms on non-discrimination and employment exclusion, working conditions and the application of pregnancy tests (include the number of participants and, if available, the results of the participants' evaluation of the pertinent event or program).</p> <p><b>Specific program on gender and non-discrimination</b></p> <p>4.2. Existence and operation of a specific office on gender and non-discrimination (indicate amount of the budget; number and type of officials assigned; number of scheduled and unscheduled inspections made; and number of cases detected, reported and sanctioned).</p>	<ul style="list-style-type: none"> <li>Over the period August to December 2010, the UEGP made 50 scheduled inspections during which it provided information on the labor laws that protect the rights and obligations of workers, specifically to prevent acts of discrimination and exclusion from employment, and verified compliance with the working conditions and the prohibition to require workers to take pregnancy tests. 12,695 workers benefited from these inspections.<sup>152</sup></li> <li>For the commemoration of the International Day on the Elimination of Violence against Women the MTPS, in coordination with the Salvadoran Institute for the Development of Women (ISDEMU), organized a workshop to provide an opportunity to reflect on the problem of sexual harassment and to discuss the initial steps for creating a model of integral attention to such cases.<sup>153</sup></li> </ul> <p><b>Specific program on gender and non-discrimination</b></p> <ul style="list-style-type: none"> <li>Over the verification period, there were no changes in the structure or functions of the UEGP. It continued to operate with a budget of US\$128,342, which covers the salaries of the 16 officials who work there (1 head of the unit, 2 supervisors, 12 labor inspectors and 1 secretary).</li> <li>Following the creation of the Gender Equity Office,<sup>154</sup> during the last quarter of 2010, the MTPS established an institutional group composed of 20 representatives of the Ministry's different directorates and special units, to liaise with this new office and to ensure that the gender perspective crosscuts the Ministry's actions.<sup>155</sup></li> <li>The manual for the operation of the Gender Equity Office was prepared, defining its main responsibilities, both internally and externally, its relationship with the other MTPD directorates and units, its functions, and its structure.<sup>156</sup> In addition, the Office's administrative manual was prepared, describing the posts and the profiles of the personnel of the Office.<sup>157</sup> Lastly, a proposal was drawn up for the annual plan of operations (APO) and the budget.<sup>158</sup></li> </ul>

152. UEGP. Report forwarded on March 7, 2011.

153. The activity was held on November 22 and 23, 2010, in the context of the support that the ILO, through the Verification Project, provided to the MTPS, for the process of restructuring the Gender Unit. 20 officials from the MTPS and the ISDEMU took part in the event.

154. The office was created on August 30, 2010, with technical assistance from the ILO Verification Project.

155. In the context of this initiative, these officials received training on basic concept of the gender theory, in order to provide them with the necessary information to facilitate the task of preparing and analysis proposals that ensure that the gender approach crosscuts the MTPS. The program consisted of 4 modules and took place over give 7-hour days.

156. The document was prepared with the technical and financial support of the ILO Verification Project.

157. The manual establishes that the Unit must be composed of an office manager, an adviser and a collaborator for the areas of training/awareness-raising and a collaborator for the area of research. The document was prepared with the technical and financial support of the ILO Verification Project.

158. The APO was prepared with the technical and financial support of the ILO Verification.

Challenges and Recommendations	Indicators	August - December 2010
	4.3. Existence and functioning of a specialized training module for inspectors on gender and non-discrimination (indicate number of activities held and number of persons trained and, if available, the results of the participants' evaluation of the pertinent training event or program).	<ul style="list-style-type: none"> <li>The training plan offered in the context of the implementation of the pilot program for integrated inspections includes a module on gender and non-discrimination in employment and a 4-hour session was organized for 8 inspectors.<sup>159</sup></li> </ul>
	4.4. Existence and functioning of a public awareness-building program (indicate number of activities organized and number of participants and, if available, the results of the participants' evaluation of the pertinent awareness-raising event or program).	<ul style="list-style-type: none"> <li>No relevant activities were recorded during this period.</li> </ul>
<b>2. Regional recommendations</b>		
<ul style="list-style-type: none"> <li>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.</li> <li>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.</li> </ul>	<p><b>Regional Center for Employment Equality</b></p> <p>4.5. Number and type of actions carried out to establish the Regional Center, which include:</p> <ul style="list-style-type: none"> <li>Number of coordination activities for the design, establishment and operation of the Regional Center.</li> <li>Existence of a conceptual, operational and sustainable financial proposal for the Employment Equality Center.</li> <li>A functioning Regional Employment Equality Center.</li> <li>Existence of agreements between the countries (informal or formal).</li> </ul>	<ul style="list-style-type: none"> <li>No relevant actions were recorded during this period.</li> </ul>

159. The module consisted of a 4-hour session on basic concepts of gender equality, the principle of non-discrimination, and ILO Conventions 100 and 111.

## 5. 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 expresses concern about current national capacity to achieve the elimination of child labor; hence the need to increase the resources dedicated to the issue and to improve inter-institutional coordination.<sup>160</sup> At the regional level, a commitment was made 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.<sup>161</sup>

Over the period August–December 2010, the MTPS held 9 meetings concerning the Road Map in order to program strategies and activities and to define the institutional focal points and their functions. In addition, the inter-institutional coordination mechanisms on child labor held 7 meetings to draw up plans of operation for 2011 and to define methods of ensuring accountability.

Six public institutions incorporated into their plans of operation and implemented actions to prevent and eliminate child labor and its worst forms, and defined strategies and activities to implement in 2011.

The most important measures taken by the institutions responsible for the issue of child labor and its worst forms included: 4,231 scheduled inspections with regard to child labor by the MTPS; 53 awareness-raising workshops held by inspectors in the agricultural sector; training and awareness-raising events on child labor; approval of municipal public policies, and monitoring and prevention actions in some municipalities. In addition, the MAG implemented a program to encourage sustainable agriculture with the objective that minors should not be involved in agricultural tasks.

The annual MTPS budget allocated to the Unit for the Elimination of Child Labor has remained at US\$182,338 since 2008.

As a result of the activities of the MTPS, the Ministry of Education and 4 civil society organizations, it was recorded that 13,025 boys, girls and adolescents were prevented or withdrawn from child labor and its worst forms.

An inter-American organization offered various dissemination, awareness-raising and advanced training activities to contribute towards the establishment of a child-labor-free zone.

<sup>160</sup> The White Paper, p. 43.

<sup>161</sup> *Ibid.*, p. 73.

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

- Reaffirm the role of the MTPS in combating child labor, ensuring adequate coordination with the different entities, monitoring compliance with the commitments made, and training the Ministry's personnel in this area.
- Prepare a national system to monitor, supervise and follow up on the actions of prevention and elimination of child labor and its worst forms implemented by public institutions, and established in the Road Map.
- Publicize the Road Map among the worker and employer sectors, explaining the desirability of their active and continued participation in following-up on the undertakings made.
- Develop protocols for interventions by the institutions responsible for children and adolescents, with direct effects on the problem of child labor.
- Encourage a cross-cutting approach to the problem of child labor in the different MTPS units, as indicated in previous Verification Reports.
- Increase the number of actions by the Labor Inspectorate designed to detect and deal with child labor and its worst forms.
- Train and increase the capabilities of labor inspectors to ensure that the problem of child labor is handled more appropriately and effectively.
- Conduct research into child labor that will assist in decision-making to improve the situation of the boys, girls and adolescents involved.
- Improve the statistics on child labor and its worst forms, especially records on the effective withdrawal of minors from the worst forms of child and adolescent labor, as suggested in previous Verification Reports.
- Increase the annual budget of the MTPS Unit dedicated to the elimination of child labor.
- Establish the pertinent coordination with the Ministry of Education and other entities of the Executive, in order to develop a State policy to increase school enrolment at all levels with the support of appropriate social programs and a more effective application of conditioned monetary transfers. Also, take into consideration employment policies that contribute to combating child labor.
- Implement dissemination and awareness-raising activities with the support of cooperation agencies and the pertinent subregional and regional institutions.

Challenges and Recommendations	Indicators	August - December 2010								
<b>I. Additional resources</b>										
<p><b>Challenge:</b></p> <ul style="list-style-type: none"> <li>El Salvador has made significant commitments to act against child labor in recent years. Progress could be accelerated if the capacity of the Labor Ministry was enhanced to do so. Progress would also be accelerated if other agencies of the government were more effectively involved in the effort, and international organizations helped to establish an improved planning process.</li> </ul> <p><b>Recommendations:</b></p> <ul style="list-style-type: none"> <li>Increase the resources for national institutions working on the elimination of child labor, including the National Steering Committee for the Elimination of the Worst Forms of Child Labor, the child labor unit of the Labor Ministry, and improve coordination with the other relevant national institutions.</li> <li>Request the Inter-American Development Bank in cooperation with the ILO, to support and convene a high-level meeting of national institutions, and international support agencies, with the specific objective of formulating a comprehensive plan to establish El Salvador as a "child-labor-free" nation within a specific timeframe consistent with the obligations of ILO Convention 182 on the Worst Forms of Child Labor.</li> <li>Reorganize and accelerate the Time-Bound Program, and provide it with clear benchmarks.</li> <li>Put a new national plan in place within one year, with a goal of successful implementation by the end of the decade.</li> </ul>	<p><b>National Plan for Prevention and Elimination of Child Labor</b></p> <p>5.1. Existence and status of implementation of a National Plan (date formulated, financing available, degree of compliance with the goals, principal results, existence of periodic assessments).</p> <p>5.2 Existence and functioning of the inter-institutional committees on child labor and its worst forms (include the level of tripartite participation in the meetings and the type of agreements reached, also the degree of compliance with the agreements made).</p>	<ul style="list-style-type: none"> <li>As part of the process of developing and implementing the Road Map to make El Salvador a country free of child labor,<sup>162</sup> the institutions that head its 6 elements defined the strategies and activities to be implemented in order to achieve its goals.</li> </ul> <p><b>Meetings of the mechanisms for inter-institutional coordination on child labor. Period August – December 2010.</b></p> <table border="1" data-bbox="1050 784 1936 1011"> <thead> <tr> <th>Mechanism</th> <th>Number of meetings</th> </tr> </thead> <tbody> <tr> <td>National Committee for the Elimination of the Worst Forms of Child labor.</td> <td>0</td> </tr> <tr> <td>National Committee against People Trafficking*</td> <td>3</td> </tr> <tr> <td>Working Group to combat the Commercial Sexual Exploitation of Girls, Boys and Adolescents**</td> <td>4</td> </tr> </tbody> </table> <p>* The meetings were held on September 28, October 27 and November 30, 2010.  ** The meetings were held on August 12, October 21, November 18 and December 14, 2010.  Source: MTPS. Unit for the Elimination of Child Labor. February 2011.</p> <ul style="list-style-type: none"> <li>The issues discussed during this period in the inter-institutional coordination mechanisms on child labor included: development of a methodology for accountability; preparation of annual plans of operation for 2011, and presentation of reports on initiatives implemented in 2010.</li> <li>Regarding the activities implemented under the Road Map, the MTPS reported that 9 meetings had been held to contribute to the process of programming the Road Map strategies and activities, as well as to define the institutional focal points and their role.<sup>163</sup></li> </ul>	Mechanism	Number of meetings	National Committee for the Elimination of the Worst Forms of Child labor.	0	National Committee against People Trafficking*	3	Working Group to combat the Commercial Sexual Exploitation of Girls, Boys and Adolescents**	4
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162. The Road Map is a public policy that integrates into a single effort the initiatives of public and private entities to prevent and eliminate child labor and its worst forms, as well as to protect adolescent workers. The Road Map re-prioritizes the national actions to achieve the goals established in the Hemispheric Agenda for Decent Work, and its strategic framework includes 6 elements: poverty reduction, education, health care, legal and institutional framework, awareness-raising and social mobilization, and generation of knowledge and monitoring, with their respective objectives, results, indicators and goals, and fundamental strategies to achieve them.

163. The meetings were held on November 19, 22, 23, 24, 26 and 30, 2010, and December 1, 3 and 10, 2010.

Challenges and Recommendations	Indicators	August - December 2010
	<p>5.4. Amount of the MTPS institutional budget dedicated to the issue of child labor.</p>	<ul style="list-style-type: none"> <li>• The institutions that are members of the institutional network responsible for implementing the strategic framework of the Road Map reported that the following actions had been taken over this period:</li> </ul> <p><b>Ministry of Labor and Social Welfare (MTPS):</b></p> <ul style="list-style-type: none"> <li>• 4,231 scheduled inspections on child labor.</li> <li>• 17 training sessions on child labor (305 men and 115 women).</li> <li>• Interviews on radio and television to raise the general public's awareness of the causes and consequences of child labor (5 interviews).</li> <li>• Approval of municipal public policies in 6 municipalities in the department of La Libertad.</li> <li>• Coordination of joint activities between the MTPS, specifically with the Labor Inspection Directorate General, to combat child labor in the sugar cane harvest.</li> <li>• Coordination to offer the IIN/OAS Diploma course on commercial sexual exploitation of girls, boys and adolescents.</li> <li>• Workshop on strengths, opportunities, weaknesses and threats of the Working Group to combat the commercial sexual exploitation of girls, boys and adolescents.</li> <li>• Awareness-raising workshop for Tour Operators on the problem of commercial sexual exploitation, coordinated by MITUR.</li> <li>• Event to share the experiences and good practices of the 6 local child labor monitoring and supervision committees, held in Santa Tecla.</li> <li>• 36 meetings of local child labor monitoring and supervision committees, in 6 municipalities of the department of La Libertad.</li> <li>• 53 awareness-raising workshops on the protection and defense of labor rights and the elimination of child labor in this sector, with the participation of 1,519 personas (1,170 men and 349 women).</li> </ul> <p><b>Ministry of Agriculture and Livestock:</b></p> <ul style="list-style-type: none"> <li>• The program to promote sustainable agriculture was implemented; it consists in assisting and promoting the involvement of families/students in rural, urban and suburban agriculture, in family, school and community vegetable plots, in order to help the families grow their own food and avoid their children becoming involved in hazardous tasks in the agricultural sector. The beneficiaries were 200 men and 200 women from the zone of Ciudad Arce and San Juan Opico, department of La Libertad.</li> </ul> <p><b>Employer sector:</b></p> <ul style="list-style-type: none"> <li>• In November 2010, the sugar production sector implemented its annual policy of Zero Tolerance for Child Labor, which consists in prohibiting the presence of children under the age of 18 years in the plantations where sugar cane is being harvested.</li> </ul>

Challenges and Recommendations	Indicators	August - December 2010																																			
		<ul style="list-style-type: none"> <li>The annual MTPS budget for the UETI has not varied since 2008, as can be seen in the following table.</li> </ul> <p style="text-align: center;"><b>Annual MTPS budget for the Unit for the Elimination of Child Labor. Period 2005 – 2010</b></p> <table border="1" data-bbox="1003 375 1881 570"> <thead> <tr> <th>Expenses</th> <th>2005</th> <th>2006</th> <th>2007</th> <th>2008</th> <th>2009</th> <th>2010</th> </tr> </thead> <tbody> <tr> <td>Salaries</td> <td>30,343</td> <td>41,184</td> <td>41,184</td> <td>44,484</td> <td>44,484</td> <td>44,484</td> </tr> <tr> <td>Operations</td> <td>n.d.</td> <td>17,800</td> <td>n.d.</td> <td>17,800</td> <td>17,800</td> <td>17,800</td> </tr> <tr> <td>Equipment</td> <td>n.d.</td> <td>n.d.</td> <td>n.d.</td> <td>20,054</td> <td>20,054</td> <td>20,054</td> </tr> <tr> <td><b>Total</b></td> <td><b>n.d.</b></td> <td><b>n.d.</b></td> <td><b>n.d.</b></td> <td><b>182,338</b></td> <td><b>182,338</b></td> <td><b>182,338</b></td> </tr> </tbody> </table> <p>Source: MTPS. Unit for the Elimination of Child Labor. February 2011.</p>	Expenses	2005	2006	2007	2008	2009	2010	Salaries	30,343	41,184	41,184	44,484	44,484	44,484	Operations	n.d.	17,800	n.d.	17,800	17,800	17,800	Equipment	n.d.	n.d.	n.d.	20,054	20,054	20,054	<b>Total</b>	<b>n.d.</b>	<b>n.d.</b>	<b>n.d.</b>	<b>182,338</b>	<b>182,338</b>	<b>182,338</b>
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	5.5. Number of children and adolescents recorded as removed from child labor and its worst forms by means of the actions contained in existing national plans.	<p style="text-align: center;"><b>Boys and girls attended by programs for the prevention and elimination of child labor and its worst forms. Period August – December 2010.</b></p> <table border="1" data-bbox="1031 732 1810 1052"> <thead> <tr> <th>Institution</th> <th>Program/strategy</th> <th>Number</th> </tr> </thead> <tbody> <tr> <td>MTPS</td> <td>Labor inspection</td> <td>17</td> </tr> <tr> <td>Ministry of Education</td> <td>Remedial classes</td> <td>6,459</td> </tr> <tr> <td>Intervida Foundation</td> <td>Integral attention unit</td> <td>435</td> </tr> <tr> <td>Plan El Salvador</td> <td>Integral attention center</td> <td>687</td> </tr> <tr> <td>Telefónica Foundation</td> <td>Pro niño</td> <td>1,962</td> </tr> <tr> <td>FUNDAZUCAR</td> <td>Elimination of child labor</td> <td>3,465</td> </tr> <tr> <td><b>Total</b></td> <td></td> <td><b>13,025</b></td> </tr> </tbody> </table> <p>Source: Unit for the Elimination of Child Labor of the MTPS. March 2011</p>	Institution	Program/strategy	Number	MTPS	Labor inspection	17	Ministry of Education	Remedial classes	6,459	Intervida Foundation	Integral attention unit	435	Plan El Salvador	Integral attention center	687	Telefónica Foundation	Pro niño	1,962	FUNDAZUCAR	Elimination of child labor	3,465	<b>Total</b>		<b>13,025</b>											
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Challenges and Recommendations	Indicators	August - December 2010																																
	5.6. Number of cases sanctioned for using boys, girls and adolescents in child labor and its worst forms (include the cases recorded by MTPS and the criminal cases recorded by the Public Prosecutor's Office).	<ul style="list-style-type: none"> <li>During the verification period, the UETI did not report any case in which a sanction had been imposed for employing boys, girls and adolescents in child labor and in its worst forms.<sup>165</sup></li> </ul>																																
	5.7. Net rate of enrolment, by educational level.	<p style="text-align: center;"><b>Net rate of enrolment, by level of education. Period 2004 – 2010.</b></p> <table border="1"> <thead> <tr> <th>Educational level</th> <th>2004</th> <th>2005</th> <th>2006</th> <th>2007</th> <th>2008</th> <th>2009</th> <th>2010</th> </tr> </thead> <tbody> <tr> <td>Pre-school</td> <td>49.6</td> <td>49.7</td> <td>50.3</td> <td>48.9</td> <td>50.3</td> <td>50.3</td> <td>n.d.</td> </tr> <tr> <td>Primary</td> <td>93.4</td> <td>93.9</td> <td>94.8</td> <td>95.0</td> <td>95.3</td> <td>95.0</td> <td>n.d.</td> </tr> <tr> <td>Secondary</td> <td>49.6</td> <td>50.5</td> <td>51.1</td> <td>51.8</td> <td>53.9</td> <td>56.3</td> <td>n.d.</td> </tr> </tbody> </table> <p style="text-align: center;">Source: Ministry of Education. Statistics Department. Annual Enrolment Survey. March 2011.</p>	Educational level	2004	2005	2006	2007	2008	2009	2010	Pre-school	49.6	49.7	50.3	48.9	50.3	50.3	n.d.	Primary	93.4	93.9	94.8	95.0	95.3	95.0	n.d.	Secondary	49.6	50.5	51.1	51.8	53.9	56.3	n.d.
Educational level	2004	2005	2006	2007	2008	2009	2010																											
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## 2. Regional recommendations

<ul style="list-style-type: none"> <li>Establish a child labor-free zone consistent with ILO Convention 182 by the end of the decade.</li> <li>Develop viable timelines, needs assessments, and allocation of resources to accomplish the objective.</li> </ul>	<b>Child-labor-free zone at the regional level</b>	
	5.8. Number and type of national and regional actions aimed at establishing a child-labor free zone by the end of the decade.	<ul style="list-style-type: none"> <li>Some of the activities related to the establishment of a child-labor-free zone carried out between August and December 2010 consisted in dissemination and awareness-raising events on the issue, in particular:               <ul style="list-style-type: none"> <li>Implementation by the Inter-American Children's Institute (IIN), an OAS specialized body, of a diploma course on the commercial sexual exploitation of children, using the semi-presential system, in which 15 members of the Working Group against the commercial sexual exploitation of girls, boys and adolescents took part. The purpose of the course was to provide the participants with information about the conceptual, legal and institutional framework of this issue.</li> </ul> </li> </ul>

## 6. 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.

In the case of El Salvador the challenges and recommendations in this area mention four aspects: (a) effective application of labor laws in the customs-free zones, (b) maximizing the impact of the Superior Labor Council in “building social consensus in the country”; (c) “strengthening understanding about the fundamental labor rights throughout El Salvador”, and (d) “creating a national policy on corporate social responsibility to advance social development and increase compliance with labor standards”.<sup>166</sup>

Over the period August-December 2010, the UEGP made 50 scheduled inspections (151 in all 2010), during which information was provided on the labor laws, especially with regard to non-discrimination and working conditions. Also, 76 inspections were made in customs-free zones (26 of them unscheduled), In 46 cases, violations of the law were detected.

Between August and December 2010, the CST Board of Directors held a regular meeting in which it discussed the proposed reforms to articles 211 and 248 of the Labor Code, and the CST Strategic Plan. During the plenary session, an agreement was signed on the priority CST agenda. Also, the Government drew up proposed regulations for the election of members of the CST from the labor sector.

Regarding the dissemination of labor rights, the trade union sector held the first National Congress of Workers for the Economic and Social Development of El Salvador (CONATRADE), “Employment with rights, social cohesion and sustainable economic growth”, during which it delivered a proposal for a fiscal pact and a national employment policy to the Presidency’s Technical Secretariat.

The MTPS Alternative Dispute Resolution (RAC) office carried out dissemination and awareness-raising activities concerning labor law and company dialogue committees.

Lastly, the private employer sector organized several activities through its CSR Committee and FUNDEMAs such as talks, conferences, a monitoring program, and training workshops, preparing its own program of activities that included raising the awareness of businessmen and heads of associations, and the dissemination of codes of conduct.

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

- Continue activities to disseminate labor rights in the customs-free zones and schedule the corresponding inspections.
- Monitor the priority CST agenda and proceed with the analysis of the reforms to the Labor Code.
- Reinforce and revitalize the CST, enhancing its institutional framework so that it can fulfill its mandate effectively, particularly with regard to discussion of the bills concerning freedom of association.
- Support (MTPS) the activities organized by the social sectors to disseminate labor rights.
- Promote the employer sector’s collaboration in the implementation of programs and activities on corporate social responsibility and good practice, highlighting successful national and international experiences, as suggested in the previous report.

<sup>166</sup>. The White Paper, p. 44.

Challenges and Recommendations	Indicators	August - December 2010
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## I. Free trade zones

### Challenge:

- Concerns continue to be raised about the effective application of labor laws in the customs-free industrial zones.

### Recommendations:

- Publicize the recently issued circular directed to the Administrators and Users of the customs-free industrial zones emphasizing the rights and prohibitions in the Labor Code and that their violation will be subject to fines.

### Labor rights in customs-free industrial zones

6.1. Number and type of actions for dissemination of labor rights and obligations (include the number of participants in the actions and, if available, the results of the participants' evaluation of the pertinent training event or program).

6.2. Existence of a plan of scheduled inspections for customs-free zones (include the number of scheduled and unscheduled inspections, the number of cases of labor violations detected or reported, the number of cases sanctioned, and the percentage of sanctions in relation to the cases reported).

- Over the period August to December 2010, members of the UEGP carried out 54 scheduled inspections during which they provided information on the labor legislation that protects the rights and obligations of workers, with the specific objective of preventing acts of discrimination and exclusion in employment, verifying that working conditions were complied with, and that women workers were not required to take pregnancy tests.

#### MTPS inspection visits in the customs-free zones. Period August – December 2010

Type	Number of inspection of inspections
Scheduled inspections	54
Unscheduled inspections	26
Total inspections	80
Number of cases in which violations of the law were detected	46
Number of cases forwarded for to impose a fine	34

Source: Labor Inspection Directorate General. UEGP

## 2. Superior Labor Council

### Challenge:

- The Superior Labor Council needs to maximize its impact upon building social consensus in the country.

### Recommendation:

- Implement a review on how to strengthen the role of the Superior Labor Council, including by broadening the participation in the Council.

### Activities of the Superior Labor Council

6.3. Number of ordinary and extraordinary meetings held by CST ((include the level of tripartite participation in the meetings, the number of type of agreements reached, the level of compliance with these agreements) and number of dissemination and training events organized by CST on compliance with labor laws and standards (include the level of tripartite participation and, if available, the results of

- Over the period August 2010 – December 2010, the CST Board of Directors held one regular meeting,<sup>167</sup> during which it discussed the following issues:
  - Presentation of the proposed amendments to articles 211 and 248 of the Labor Code. On this point, both the worker and the employer sector stated that they would agree to a total reform of the Labor Code, but not to a partial reform; for its part, the government sector stated that it agreed to the proposed amendments.
  - Presentation of the CST Strategic Plan: the plan will be executed throughout 2011, in order to implement the priority thematic agenda of the Superior Labor Council.<sup>168</sup>

<sup>167</sup>. The regular meeting of the Board of Directors was held on October 21, 2010.

<sup>168</sup>. The central element of the priority agenda of issues is the development of the decent work plan.

Challenges and Recommendations	Indicators	August - December 2010
	the participants' evaluation of the pertinent training event or program).	<ul style="list-style-type: none"> <li>• During this period, the CST held a regular plenary session, in which an agreement was signed establishing its priority thematic agenda.<sup>169</sup></li> <li>• The government sector drew up proposed regulations for the election of the labor sector members of the CST, which was submitted to the representatives of the legally-constituted federations and confederations. The purpose of the document is to promote the election of the labor sector members who would form part of the CST for the next period.<sup>170</sup></li> </ul>

### 3. Information and training on fundamental labor rights

#### Challenge:

- There is still a need to strengthen understanding about the fundamental labor rights throughout El Salvador.

#### Recommendation:

- Institutionalize a permanent and on-going program of public education and awareness-raising on the fundamental labor rights and their application in the workplace on a tripartite basis with employer and worker representatives.

#### Dissemination of labor rights

- 6.4. Number and type of information and social awareness-raising actions on labor rights (include the number of participants and, if available, the results of the participants' evaluation of the pertinent training event or program).

- The trade union sector, in the context of the celebration of Trade Unionists Day, organized the first National Congress of Workers for the Social and Economic Development of El Salvador (CONATRADE), entitled: Employment with rights, social cohesion and sustained economic growth<sup>171</sup> during which the Presidency's Technical Secretariat was presented with a document with the trade union sector's proposal for a fiscal pact and the creation of a national employment policy.
- Over this period, the DGT Alternative Dispute Resolution (ADR) area carried out the following dissemination and awareness-raising activities regarding the labor laws in force.

Actions	Activities	No. of participants
Visits to promote dialogue committees	201	134
Creation of dialogue committees in companies	12	64
Training talks on rights and obligations and ADR methods to workers and employers	5	66
<b>Total</b>	<b>218</b>	<b>264</b>

Source: Labor Directorate General. April 2011.

169. The regular plenary session was held on November 10, 2010. It should be noted that, prior to that meeting, the CST held sectoral meetings: on October 30, with the representatives of the workers and on November 5 with the employer sector.

170. Meeting held on December 9, 2010.

171. The activity was held on October 29, 2010, and was organized by 7 confederations and 26 federations of trade unions who constitute the Trade Union Unification Movement of El Salvador (MUSYGES). The event was sponsored by the ILO Social Dialogue Project.

Challenges and Recommendations	Indicators	August - December 2010
	6.5. Amount of the budget dedicated to education and awareness-raising activities on labor rights.	
<b>4. Corporate social responsibility</b>		
<p><b>Challenge:</b></p> <ul style="list-style-type: none"> <li>• Create a national policy on corporate social responsibility to advance social development and increase compliance with labor standards.</li> </ul> <p><b>Recommendations:</b></p> <ul style="list-style-type: none"> <li>• Implement the Corporate Social Responsibility Program developed with the World Bank and Business for Social Responsibility.</li> </ul>	<p><b>National Program on corporate social responsibility (CSR)</b></p> <p>6.6. Existence of a program on corporate social responsibility. (Include the number of companies participating in the CSR program as well as the number and type of CSR initiatives in operation).</p>	<p>The employer sector, through the ANEP, has a Corporate Social Responsibility (CSR) Committee that implemented the following activities over the verification period:</p> <ul style="list-style-type: none"> <li>• Talks and conferences on CSR, which included the issues of labor rights and competitiveness.<sup>172</sup></li> <li>• Implementation of the program INDICARSE, which monitors the issue of CSR in 58 companies (30 SMES and 28 corporations, with a total of 23,522 employees).</li> <li>• Three specialized training workshops on CSR with the participation of 65 representatives of companies and journalists.</li> <li>• Reinforcement of the ANEP CSR Committee by the preparation of a strategic plan that includes the definition of the model for the execution of the ANEP policy on CSR, the principal messages and the methodology for publicizing CSR among the different associations that are members of ANEP, and also raising the awareness of 70 representatives of the Textile Chamber (CAMTEX), the Salvadoran Industrialists' Association (ASI) and the ANEP Steering Committee and Board of Directors.</li> </ul>

172. 12 presentations on CSR (254 participants); 6 conferences in the context of the 10th anniversary of FUNDEMAS, on topics such as labor law, employment liability as a key factor for competitiveness, successful cases and lessons learned on CSR (140 participants).