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DEPARTMENT OF LABOR

Office of the Secretary

Request for Comments on Labor Capacity-Building Efforts Under the Dominican Republic-Central America-United States Free Trade Agreement

AGENCY: Bureau of International Labor Affairs, U.S. Department of Labor and Office of the United States Trade Representative.

ACTION: Request for comments from the public.

SUMMARY: This notice is a request for comments from the public to assist the Secretary of Labor and the United States Trade Representative in preparing a report on labor capacity-building efforts under Chapter 16 (“the Labor Chapter”) and Annex 16.5 of the Dominican Republic-Central America-United States Free Trade Agreement (“CAFTA–DR”). Comments are also welcomed on efforts made by the CAFTA–DR countries to implement the labor obligations under the Labor Chapter and the recommendations contained in a paper entitled, “The Labor Dimension in Central America and the Dominican Republic—Building on Progress: Strengthening Compliance and Enhancing Capacity” (the “White Paper”). This report is required under the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (CAFTA–DR Implementation Act). The reporting function and the responsibility for soliciting public comments required under this Act were assigned to the Secretary of Labor in consultation with the United States Trade Representative (USTR).

DATES: Written comments are due no later than 5 p.m. (EDT) January 2, 2018.

ADDRESSES: Public comments should be submitted electronically to www.regulations.gov, the Federal e-rulemaking portal. Comments may also be submitted by postal or electronic mail to: Mr. Graham Robertson, Office of Trade and Labor Affairs, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW, Room S-5006, Washington, DC 20210, Robertson.Alistair.G@dol.gov. Comments that are mailed must be received by the date indicated for consideration. Also, please note that due to security concerns, postal delivery in Washington, DC may be delayed. Therefore, in order to ensure that comments receive full consideration, the Department encourages the public to submit comments via the internet as indicated above. Please submit only one copy of your comments by only one method. Also, please be advised that comments received will become a matter of public record and will be posted without change to [http:// www.regulations.gov](http://www.regulations.gov), including any personal information provided. The Department cautions commenters not to include personal information, such as Social Security Numbers, personal addresses, telephone numbers, and email addresses in their comments as such information will become viewable by the public on the [http:// www.regulations.gov](http://www.regulations.gov) Web site. It is each commenter's responsibility to safeguard his or her information. Comments submitted through [http:// www.regulations.gov](http://www.regulations.gov) will not include the commenter's email address unless the commenter chooses to include that information as part of his or her comment. If you are unable to provide submissions by either of these means, please contact Graham Robertson (202-693-4818) to arrange for an alternative method of submission.

FOR FURTHER INFORMATION CONTACT: Mr. Graham Robertson, Office of Trade and Labor Affairs, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW, Room S-5006, Washington, DC 20210. Email: Robertson.Alistair.G@DOL.Gov, Telephone: (202) 693-4818.

SUPPLEMENTARY INFORMATION:

1. Background Information

During the legislative approval process for the CAFTA–DR, the Administration and the Congress reached an understanding on the need to support labor capacity-building efforts linked to recommendations identified in the “White Paper” of the Working Group of the Vice Ministers Responsible for Trade and Labor in the countries of Central America and the Dominican Republic. Appropriations have been made available from FY 2005 through 2017 to support labor capacity building efforts in CAFTA–DR countries. For more information, see the full text of the CAFTA–DR at <https://ustr.gov/trade-agreements/free-trade-agreements/cafta-dr-dominican-republic-central-america-fta/final-text> and the “White Paper” at http://www.sice.oas.org/labor/White%20Paper_e.pdf.

In addition, in December 2006, the U.S. Department of Labor (USDOL) published its procedural guidelines for the receipt and review of submissions under U.S. Free Trade Agreements, including the CAFTA–DR (71 FR 76691 Dec. 21, 2006). Subsequently, pursuant to CAFTA–DR Article 16.4.2, in November 2008, the United States and CAFTA–DR partner countries held the first Labor Affairs Council meeting in San Salvador, El Salvador. Since the CAFTA–DR came into force, USDOL’s Office of Trade and Labor Affairs (OTLA) has accepted three submissions

under the labor chapter of the CAFTA–DR. In February 2015, OTLA issued a public report on its review of a submission regarding Honduras, and in December of that year the United States and Honduras signed a comprehensive monitoring and action plan that addresses gaps in enforcement of Honduran labor law outlined in OTLA’s public report. In September 2013, OTLA issued a public report in response to a submission regarding the Dominican Republic and since then, the Department of Labor has been engaging with the Dominican Republic on the issues identified in the report. With respect to a submission regarding Guatemala, OTLA issued a public report in January 2009, and the United States Trade Representative requested the establishment of an arbitral panel in August 2011, pursuant to Article 20.6.1, to consider whether the Government of Guatemala was conforming to its obligations under Article 16.2.1(a) of the CAFTA-DR. In November 2012, the parties agreed to suspend panel proceedings while the parties negotiated and implemented an Enforcement Plan. In an attempt to resolve the dispute, the Panel resumed its work in September 2013 and issued its final report on June 14, 2017. The Panel’s findings confirmed the U.S. view that Guatemala’s enforcement failures, in particular with respect to laws protecting the right of association, the right to organize and bargain collectively, and acceptable conditions of work including occupational safety and health, minimum wage, and hours of work, are a serious concern, but determined that evidence did not establish other required elements necessary to prove a violation of CAFTA-DR. Under CAFTA-DR, the panel decision is final; there is no appeal process.

Under section 403(a) of the CAFTA– DR Implementation Act, 19 U.S.C. 4111(a), the President must report biennially to the Congress on the progress made by the CAFTA–DR countries in implementing the labor obligations and the labor capacity-building provisions found in the Labor

Chapter and in Annex 16.5, and in implementing the recommendations contained in the “White Paper.” Section 403(a)(4) requires that the President establish a mechanism to solicit public comments on the matters described in section 403(a)(3)(D) of the CAFTA–DR Implementation Act, 19 U.S.C. 4111(a)(4) (listed below in 2).

By Proclamation, the President delegated the reporting function and the responsibility for soliciting public comments under section 403(a) of the CAFTA–DR Implementation Act, 19 U.S.C. 4111(a), to the Secretary of Labor, in consultation with the USTR (Proclamation No. 8272, 73 FR 38,297 (June 30, 2008)). This notice serves to request public comments as required by this section.

2. The USDOL Is Seeking Comments on the Following Topics as Required Under Section 403(a)(3)(D) of the CAFTA–DR Implementation Act

- a. Capacity-building efforts by the United States government envisaged by Article 16.5 of the CAFTA–DR Labor Chapter and Annex 16.5;
- b. Efforts by the United States government to facilitate full implementation of the “White Paper” recommendations; and
- c. Efforts made by the CAFTA–DR countries to comply with Article 16.5 of the Labor Chapter and Annex 16.5 and to fully implement the “White Paper” recommendations, including progress made by the CAFTA–DR countries in affording to workers internationally-recognized worker rights through improved capacity.

3. Requirements for Submission

Persons submitting comments must do so in English and must make the following note on the first page of their submissions: “Comments regarding the CAFTA–DR Implementation Act.” In order to be assured consideration, comments should be submitted by 5 p.m. (EDT), January 2, 2018. The Department of Labor encourages commenters to make on-line submissions using the www.regulations.gov Web site. When entering this site, enter “Request for Comments on Labor Capacity-Building Efforts Under the Dominican Republic-Central America-United States Free Trade Agreement” on the home page search bar and click “search.” The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice and click on the link entitled “Comment Now.” (For further information on using the www.regulations.gov Web site, please consult the resources provided on the Web site by clicking on “How to Use This Site” (found on the bottom of the home page under “Help”).

The www.regulations.gov Web site allows users to provide comments by filling in a “Type Comment field,” or by attaching a document using an “Upload File” field. The USDOL prefers that uploaded submissions be in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the “Type Comment” field.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the submission itself. Similarly, to the extent

possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself and not as separate files.

As noted, USDOL strongly urges submitters to file comments through the www.regulations.gov Web site.

Comments will be open to public inspection. Comments may be viewed on the www.regulations.gov Web site.

Signed at Washington, DC, on November 9, 2017

Martha E. Newton
Deputy Undersecretary