

semi-autonomous weapon system. A weapon system that, once activated, is intended to only engage individual targets or specific target groups that have been selected by a human operator. . . .

. . . .

unintended engagement. The use of force resulting in damage to persons or objects that human operators did not intend to be the targets of U.S. military operations, including unacceptable levels of collateral damage beyond those consistent with the law of war, ROE, and commander's intent.⁵

SETTLEMENT OF DISPUTES

Guatemala and United States CAFTA-DR Labor Standards Arbitration Suspended

In August 2011 the United States initiated arbitration against Guatemala pursuant to Chapter 20 of the Dominican Republic–Central America–United States Free Trade Agreement due to Guatemala's alleged failure to comply with labor protections contained in the agreement.¹ In the following months, no further announcements were made regarding selection of arbitrators or other steps to launch the proceedings. The Office of the U.S. Trade Representative (USTR) and Guatemalan authorities instead conducted negotiations that led in April 2013 to an agreed enforcement plan addressing U.S. concerns. According to a USTR press release, "The labor case is suspended while the Enforcement Plan is being implemented."²

According to undated material on the website of the United States Trade Representative (USTR):

The United States and Guatemala agreed on a robust enforcement plan to resolve concerns raised in a labor case brought by the United States under the Dominican Republic–Central America–United States Free Trade Agreement (CAFTA-DR). The 18-point plan includes concrete actions with specific time frames that Guatemala will implement within six months to improve labor law enforcement. This is the first labor case that the United States has brought to dispute settlement under a trade agreement. Under the Enforcement Plan, which was the result of extensive engagement and resolve by both governments, Guatemala has committed to strengthen labor inspections, expedite and streamline the process of sanctioning employers and ordering remediation of labor violations, increase labor law compliance by exporting companies, improve the monitoring and enforcement of labor court orders, publish labor law enforcement information, and establish mechanisms to ensure that workers are paid what they are owed when factories close.³

An April 2013 USTR fact sheet contains a substantial list of measures that Guatemala has agreed to take to improve enforcement of its labor laws. Excerpts follow:

⁵ U.S. Dep't of Defense Directive No. 3000.09, *supra* note 3.

¹ See John R. Crook, Contemporary Practice of the United States, 105 AJIL 775, 812 (2011).

² Office of the U.S. Trade Representative Press Release, United States and Guatemala Sign Groundbreaking Agreement on Labor Rights Enforcement Plan (Apr. 30, 2013), at <http://www.ustr.gov/about-us/press-office/blog/2013/april/US-Guatemala-labor-enforcement>.

³ At <http://www.ustr.gov/trade-topics/labor/bilateral-and-regional-trade-agreements/guatemala-submission-under-cafta-dr>.

The United States and Guatemala have agreed to an ambitious and comprehensive enforcement plan that includes significant, concrete actions that the Guatemalan government will implement within specified time frames to improve enforcement of labor laws. Below are some of the key actions contained in the plan.

STRENGTHENING THE MINISTRY OF LABOR TO ENFORCE LABOR LAWS

Sanctioning Employers and Ordering Remediation: Guatemala will pursue legislation to establish an expedited process for labor courts to adopt fines recommended by the Ministry of Labor and Social Protection for labor law violations, and to order employers to remediate such violations. . . .

Additional Resources for Inspections: Guatemala, on an ongoing basis, will provide the resources necessary for the Labor Ministry's effective enforcement of labor laws. . . .

Ensuring Access to Worksites for Labor Inspectors: Guatemala will issue an agreement between the Ministry of Labor and the Ministry of Interior ensuring police assistance to facilitate labor inspector access to worksites.

ENSURING PAYMENT TO WORKERS WHEN FACTORIES SUDDENLY CLOSE

Early Warning System: Guatemala will provide relevant agencies with direct access to each other's databases so that they may immediately share new information related to a company's operating status or indicators of impending company closure.

Rapid Response Team to Prevent Factory Closures: Guatemala has established a Rapid Response Team . . . to oversee export companies that receive special tax benefits. The Rapid Response Team will verify the imminent closure of a company and work with the employer to attempt to prevent closure and ensure payments owed to workers if the closure cannot be prevented.

Ensuring Workers Get Paid: Guatemala will issue a Ministerial Accord requiring the Labor Ministry to proactively intervene upon receiving information or indicators of a potential closure and take the necessary steps to obtain the payments owed to workers if that company closes. . . .

IMPROVING ENFORCEMENT OF COURT ORDERS

Verifying Employer Compliance: Through the newly created "Verification Unit" within the Judiciary, Guatemala will verify timely compliance by employers with labor court orders. . . .

Ensuring Criminal Prosecution for Employers who Fail to Comply: Guatemala will train labor court judges and other court personnel and develop the legal procedures necessary to help ensure effective criminal prosecution of employers who fail to comply with labor court orders related to the protection of workers' rights of association, right to organize, and right to bargain collectively.

Monitoring Enforcement of Labor Court Orders: Guatemala will conduct a systematic review of all labor courts and will apply disciplinary procedures to judges who fail to take measures required by law to enforce court orders.

ENSURING EXPORT COMPANIES COMPLY WITH LABOR LAWS

Monitoring Export Companies: The Labor Ministry will conduct annual inspections of all companies that receive tax and tariff benefits under special provisions of Guatemalan law

(Decree 29-89) to confirm compliance with labor laws and reject new applications for benefits received from labor law violators.

Revoking Tax Benefits: Guatemala will issue a Government Accord requiring that the Ministry of Economy revoke tax and tariff benefits within five days of receiving notice from a labor court that an employer violated a labor law and failed to comply with the labor court's resolution.

Ensuring Worker Payments: With the help of an international institution, Guatemala will work to develop a contingency mechanism based on the extent of potential need to ensure payments owed to workers when Decree 29-89 companies close.

TRANSPARENCY AND COORDINATION

Stakeholder Input: Guatemala will publicize the Enforcement Plan and meet with the Tripartite Commission and other parties, as appropriate, to review its implementation.

Publication of Enforcement Statistics: Guatemala will publish data concerning labor complaints, inspections, violations, and court orders.⁴

BRIEF NOTES

U.S. Army Sergeant Pleads Guilty to Multiple Murders of Afghan Civilians

In June 2013, U.S. Army Staff Sergeant Robert Bales pleaded guilty before a military judge to multiple murder and other charges stemming from his killing of sixteen Afghan civilians in villages near his base in the Panjway district of Kandahar Province in March 2012.¹ Military prosecutors in the case sought the death penalty;² by pleading guilty, Bales reportedly will avoid a possible death sentence. He shot or stabbed his victims, including many women and children, before returning to his base where he was taken into custody.³ He was charged with multiple violations of the Uniform Code of Military Justice, including under Article 80 (attempted murder), Article 118 (premeditated murder), and Article 128 (assault).⁴ The killings are seen as the worst war crime committed by a single American soldier since the September 2001 terrorist attacks against the United States. Bales's sentencing is scheduled for August 2013.⁵

Two U.S. States Repeal the Death Penalty; U.S. Death Sentences Decline

Since April 2012, two more U.S. states have repealed the death penalty, bringing to seventeen the number of U.S. jurisdictions that have abandoned its use, either entirely or as a penalty

⁴ Office of the U.S. Trade Representative, Fact Sheet: Guatemala Agrees to Comprehensive Labor Enforcement Plan (Apr. 11, 2013), at <http://www.ustr.gov/about-us/press-office/fact-sheets/2013/april/guatemala-labor-enforcement>.

¹ Kirk Johnson, *Guilty Plea by Sergeant in Killing of Civilians*, N.Y. TIMES, June 6, 2013, at A11.

² Kirk Johnson, *Army Seeks Death Penalty in Afghan Massacre Case*, N.Y. TIMES, Nov. 14, 2012, at A13.

³ Kirk Johnson, *Pretrial Hearing Starts for Soldier Accused of Murdering 16 Afghan Civilians*, N.Y. TIMES, Nov. 6, 2012, at A16; Ernesto Londoño, *Soldier Is Said to Have Lacked Remorse After Afghan Massacre*, WASH. POST, Nov. 6, 2012, at A3; Ernesto Londoño, *Afghans to Take Stand in Soldier's War Crimes Hearing*, WASH. POST, Nov. 7, 2012, at A3; Kirk Johnson, *Two Views of Officer Emerge in Afghan Case*, N.Y. TIMES, Nov. 8, 2012, at A13.

⁴ A redacted copy of the DoD Form 458 charge sheet listing the charges and specifications against SSGT Bales is available online at <http://i2.cdn.turner.com/cnn/2012/images/03/23/bales.charge.pdf>.

⁵ James Dao, *Soldier Is Expected to Plead Guilty in Massacre*, N.Y. TIMES, May 30, 2013, at A13; Gene Johnson, *U.S. Soldier to Admit to Afghan Massacre*, WASH. POST, May 30, 2013, at A4; Peter Finn, *Soldier Admits to Killing 16 Afghans*, WASH. POST, June 6, 2013, at A1.