



July 6, 2016

Ms. Clara Lopez  
Minister of Labor  
Carrera 14 No. 99-33  
Bogotá, Colombia

Re: US-Colombia Labor Action Plan (LAP)

Dear Ms. Lopez,

We appreciate the opportunity to dialogue with you. WOLA monitors labor rights closely in Colombia. Over the years, we have taken US Members of Congress to visit Colombia in order to look at the labor situation, and have brought many labor delegations to DC to meet with our policymakers.

***US-Colombia Labor Action Plan and Protection of Workers***

Frankly, we are very disappointed with the fact that after five years of the US-Colombia Labor Action Plan's (PAL) launch, so many of the commitments made in this plan were not realized. While the LAP was flawed to begin with because it is non-binding and does not incorporate the universe of changes required improve labor rights, it does contain 32 measures covering 10 substantive issues that if properly applied, would make a significant positive difference in workers' rights.

WOLA staunchly advocated for the full implementation of these measures prior to the passage of the US-Colombia FTA. Sadly, the US government incorrectly announced that the major items of the LAP were met in 2011 to pave way for the Colombia-US FTA. Prior to the FTA, effort was made by Colombia to show that at least in principle the commitments of the LAP were being met. Post-FTA, these efforts completely stopped. Under Minister Luis Garzon it was declared that the LAP is no longer needed since Colombia has met all its obligations. Despite evidence to the contrary sent by WOLA and others to this Ministry, real efforts to advance the LAP were dropped.

This year marks the fifth anniversary of the LAP. The National Labor School (ENS)'s May 2016 status report on the LAP is very disturbing. ENS concludes that despite the LAP

having 37 measures on 10 issues, none of them were fully specified and no indicators of compliance enacted. Due to a lack of political will, no follow up mechanisms with the participation of unions was set up and the policies to address inspection, labor formalization, protection of unions' freedoms, prevention of violence and combating impunity are insufficient.

Worse yet, in some areas like labor formalization, policies put in place in favor of the LAP took steps backwards. We are particularly concerned about Decree 583 of April 2016 (see our attached letter). It is mystifying that illegal contracting in Colombia has actually gone up 10% in the past five years of the LAP. While reforming the penal code to sanction perpetrators of labor repression was good, up until now there has not been a single indictment or conviction in such cases. Lastly, we have not seen significant change in the priority areas of the LAP regarding the right to freedom of association, collective bargaining, diminishment of subcontractors and transformative change in labor conditions for workers.

The US military assistance to Colombia is conditioned on certain human rights standards being met. One of them is a guarantee that trade unionists are not killed. In the past five years, 126 trade unionists were murdered and another 74 survived assassination attempts. The number of threats against unionists remains high with WOLA receiving requests for intervention regarding the security of unionists frequently. To this letter we have attached concerns we received since 2014. The response to our efforts to improve the National Protection Unit's protection measures for trade unionists is often ignored or insufficient.

With relation to the above we take this opportunity to ask you the following questions:

How is the overall strategy and focus of your Ministry different than that of former Minister Luis Garzon? What efforts are you undertaking to adhere to the obligations found in the U.S. - Colombia Labor Action Plan. In particular, what steps is your Ministry taking to guarantee direct contracts for workers in the port, mining, sugar, oil palm, and flower sectors? Is your office focused on reintegrating the hundreds of workers from such sectors that have been unlawfully fired for organizing or associating with a trade union? Have you held meetings with the key players in these sectors (companies, contractors, workers and stakeholders) to map out a plan for moving forward towards fully implementing the Labor Action Plan?

While we understand that the provision of protection measures falls under the mandate of the National Protection Unit and that justice falls under the Attorney General's office, the

level of violence and death threats against trade unionists and labor activists remains high. As such, we would like to know what efforts is your Ministry undertaking for reducing violence against trade unionists and guaranteeing that persons responsible for murdering, threatening and attacking trade unionists and activists are brought to justice?

We also ask for your intervention in all of the cases/issues that are attached to this letter.

### *Peace, Labor and Afro-Colombian Workers*

We believe that the current peace process allows for Colombia to make historical changes in all aspects of policy and labor rights. We would like to see a post-conflict Colombia where violence against unionists is stopped, labor rights and trade union liberties (right to association, negotiation and strikes) are re-established. It is in the interest of peace to strengthen labor rights, since by doing so it helps to decrease some of the causes of the conflict including inequality and impunity. For this to happen, labor inspections need to be better focused, and issues found addressed in a prompt and timely manner. Companies that violate labor rules should be strongly sanctioned in a proper and timely matter so they do not repeat unlawful practices.

In October 2015, WOLA along with Representative Hank Johnson and the Coalition of Black Trade Unionists (CBTU) visited Colombia and issued a report (see attached). We would like to know how the Ministry of Labor has addressed the issues pertaining to labor found in this report.

With regards to the above we ask:

How is your Ministry seizing the opportunity of the peace talks to guarantee that labor abuses that took place in the past fifty-years of conflict at the hands of armed groups are included in truth, justice and reparation efforts?

What is your perspective on the peace process and what do you think is required to create a new environment for labor rights that deals with past and prevents repeated abuses from taking place?

What steps is your Ministry taking to address racial discrimination in the public and private sector?

We wish to work with you to see effective implementation of the LAP that results in transformative change for the rights of workers on the ground. We look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Gimena Sánchez-Garzoli", is centered within a light gray rectangular box.

Gimena Sánchez-Garzoli

Senior Associate