

CENTRAL AFRICAN REPUBLIC

SUSPENSION

006-CP-88 CAR

The Subcommittee on the Generalized System of Preferences (GSP) of the Trade Policy Staff Committee continued an interagency review of the petition filed by the AFL-CIO in June 1987 challenging the continuing preference-eligibility of the Central African Republic (CAR). The review was continued pursuant to a Presidential decision announced on April 1, 1988. The challenge was based on allegations brought forward by the petitioner regarding the CAR's failure to satisfy the GSP's mandatory eligibility criterion section 502(b)(7) of the Trade Act of 1974, as amended,

"...the President shall not designate any country a beneficiary developing country under this section--if such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country...."

For the purposes of the review the term internationally recognized worker rights was defined as detailed in section 502(a)(4) of the Trade Act of 1974, as amended.

The review was conducted under the terms of Part 2007 of the Regulations of the United States' Trade Representative Pertaining to the Eligibility of Articles and Countries for the Generalized System of Preferences Program (GSP[15 CFR Part 2007]).

The June 1987 petition filed by the AFL-CIO contained four allegations and requested that the Central African Republic be warned it was in danger of losing eligibility under the GSP. Two of the charges, alleging denial of the freedom of association and the "right to strike and bargain collectively," (sic) centered on the May 16, 1981 dissolution of the Union Generale des Travailleurs du Centrafrique (UGTC). A third alleged that the Government of the Central African Republic makes no effort to enforce its legal prohibition on the employment of children under the age of 14. The final allegation centered on charges brought before the International Labor Organization (ILO) by the International Confederation of Free Trade Unions (ICFTU) regarding the imposition of compulsory labor for prisoners jailed for political activities.

In a June 1988 submission, the AFL-CIO reiterated, and made more detailed, its June 1987 submission to the Subcommittee and requested that the Central African Republic's eligibility for preferences be terminated. The principal allegation remained that since the dissolution of the UGTC in May 1981, no

legitimate trade union movement has existed in the CAR. The petitioner alleged that the Confederation Nationale des Travailleurs du Centrafrique (CNTC), which had remained as the sole legal labor organization, engaged in "no militant independent activities" and was "more accommodating to government pressure."

In addition, new allegations were made in the June 1988 submission -- "management pays off labor inspectors to ignore flagrant violations of labor law," the visit of an ILO mission to investigate case 1040 before the ILO's Committee on Freedom of Association has been put off since 1986, labor activists are subject to harassment, and, despite legal requirements labor be represented, no labor representatives sit on the National Social Security Board.

The Subcommittee conducted its investigation into the allegations keeping in mind the fact that the Central African Republic is designated as a least-developed beneficiary country pursuant to Section 504(c)(6) of the Trade Act of 1974, as amended, and the language of the House Ways and Means Committee Report of September 27, 1984 on the Generalized System of Preferences Renewal Act of 1984 --

"it is not the expectation of the Committee that developing countries come up to the prevailing labor standards of the United States and other highly-industrialized developed countries. It is recognized that acceptable minimum standards may vary from country to country."

as well as the language of the Conference Report of October 4, 1984 on the Trade and Tariff Act of 1984 --

"It is the intention of the Conferees that this definition of internationally recognized worker rights be interpreted to be commensurate with the development level of the particular country...."

The Subcommittee deemed this necessary as 85% of the worker force of the Central African Republic is engaged in agriculture, with only one percent of the total workforce represented by organized labor (estimated in 1987 to total approximately 6,400 out of a total salaried workforce of 64,000.)

The Subcommittee found the allegations centered on the dissolution of the UGTC to be, on the whole, valid. On May 16, 1981, the UGTC was dissolved by administrative fiat. The fate of the property of the former UGTC, both real estate and liquid assets, remains unsettled. In this regard, the Subcommittee took note of the 1988 annual International Federation of Free Trade Unions' Trade Union Rights Survey of violations that states, "The situation in the Central African Republic remains also in clear violation of the principles of freedom of association; the ICFTU-affiliated UGTC is still dissolved under a presidential decree of 1981."

The Subcommittee also took into account the 1988 Report of the Committee of Experts on the Application of Conventions and Recommendations (COE) of the International Labor Organization which --

- o recalled the conclusions of the Committee on Freedom of Association in case 1040,
- o regretted that the Government of the Central African Republic has not replied to the proposals made regarding dates for a direct contact mission, and
- o asked the Government of the Central African Republic to supply full particulars on case 1040 to the ILO.

This situation was, however, altered, in the opinion of the Subcommittee, by the passage of a Loi Syndicale by the Central African Republic's National Assembly on May 11, 1988. The bill was promulgated (signed into law) by President Kolingba on May 19, 1988. While the law concerns trade union freedom and the protection of union rights, the Subcommittee noted that the law modified only part of the already existing CAR labor code.

The Loi Syndicale was the subject of considerable debate at the June 15, 1988 session of the Conference Committee (CACR), with particular focus on Article 4 of the new law which states that trade unions may affiliate themselves into a single national confederation. Some CACR members maintained that this is an improper restriction on the right of unions to affiliate.

The GSP Subcommittee considered this information in conjunction with reports that concurrent with the passage of the Loi Syndicale the Government of the central African Republic drafted statutes for a Union Nationale des Travailleurs du Centrafrique (UNTC) which would serve as an umbrella organization for trade union activities in the CAR.

The Subcommittee also took note of the fact that the Loi Syndicale has, as yet, not taken effect because a Decret d'Application that spells out how the law is to be implemented administratively has not been written.

The Subcommittee's examination of the allegation regarding the lack of enforcement regarding child labor laws took note of the 1988 U.S. Department of State annual Country Reports on Human Rights Practices that states that relevant legislation is, indeed, only loosely enforced. While acknowledging that the allegation is accurate, the Subcommittee chose to consider the allegation in the context of an African agrarian society in which "child labor" refers to the longstanding tradition of children helping to tend goats or weed manioc patches. In towns, this tendency results in children working in family businesses or selling food products in the streets.

As to the allegations regarding forced labor for political prisoners, the Subcommittee took note of the fact that this issue has been of concern to the ILO. In June 1988, the CAR presented its case on the issue, but the ILO noted that considerable difficulties still remained. The ILO suggested a direct contacts mission to investigate these allegations.

The allegations focus on three laws dating back to the 1960s. One is aimed at eliminating idleness; a second requires farmers to maintain specified areas under cultivation; and a third specifies hard labor as a punishment for political activity outside the then national party. It is the final of the three that the petitioner addressed in its original submission to the Subcommittee.

The Government of the CAR has stated that the first law will soon be abrogated; the second is not an instance of forced or compulsory labor, but a "technical support services" effort; and the third is obsolete as the national party referred to in the law was dissolved in 1979.

The Subcommittee developed the following regarding the new allegations made by the petitioner:

-- no information could be found to support the charge that labor inspectors are paid to ignore labor code violations;

-- while the Government of the Central African Republic has agreed in principle to accept an ILO direct contact mission, it has not as yet set a specific date to receive the mission;

-- while the circumstances surrounding the incidents are confused, it can be said that labor activists are subject to some degree of harassment; and

-- labor representatives do not hold seats on the National Social Security Board (Office Nationale de la Securite Sociale), but the Board itself has fallen into disuse since 1981.

In addition to all of the above, the Subcommittee took note of information provided it regarding efforts made by trade unionists in the CAR to exercise their rights under the new Loi Syndicale. In September 1988, trade unionists attempted to convene a labor congress as a first step to returning labor to the public stage within the CAR. When labor leaders approached the Ministry of Labor to ask when they could hold their Congress, they were told not until after the Central African Democratic Assembly (RDC), the only legal political party, had written the needed implementing decree. While no date for the decree was provided at that time, the Subcommittee noted that U.S. Embassy Bangui reported that RDC representatives indicated in late February that "the RDC was actively working out the mechanisms for union participation in the political process, and that mechanisms would be in place by year's end."

A similar situation was found regarding labor's efforts to fill the two seats the CAR constitution provides specifically for labor in the Economic and Regional Council. The Minister of Labor has pledged that unions will be able to elect their own representatives and not have them selected by the President of the Republic or nominated by the President of the National Assembly, but no procedures have been provided for such an election. It is assumed that a labor congress will have to be convened to select the labor representatives.

The Subcommittee noted, however, that the congress, according to the Minister of Labor, can not be held until the implementing decree for the Loi is drafted. This inherently conflictive situation is then used by the Government of the Central African Republic as the basis for arguments that the exercise of labor rights in the CAR is constrained solely by the unions' inability to organize themselves.

After full and careful consideration of the above, the determination of the GSP Subcommittee was to recommend suspension of the Central African Republic from eligibility under the U.S. Generalized System of Preferences.