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Petition for Review and Pre-hearing brief
Docket Number: USTR-2010-0017
Case: # 002-CP-06
In re. Niger Country Practice Petition

August 3, 2010

ATTN:

Mr. Seth Vaughn, Director, GSP Program
Chairman, GSP Subcommittee of the Trade Policy Staff Committee
Office of the United States Trade Representative
600 17th St., NW
Room 514
Washington, DC 20508

Pursuant to [75 FR 135] (July 15, 2010), the International Labor Rights Forum (ILRF) files this petition in support of the on-going review of forced and child labor violations by the Government of Niger.

I. Niger's GSP status should be revoked for grave labor abuses which have not significantly improved since the ILRF's 2006 petition for review.

The International Labor Rights Forum (ILRF) presents this petition pursuant to 15 C.F.R. §2007(b) to request a review of the Republic of Niger's designation as an eligible developing country under the Trade Act of 1974, Generalized System of Preferences (GSP), 19 U.S.C. §2461 et seq., as amended. The Government of Niger has failed to take steps to afford workers "internationally recognized worker rights" as required under 19 U.S.C. § 2462(b)(2)(G) & (c)(7) and defined in 19 U.S.C. § 2467(4), in particular, failure to protect workers' freedom from compulsory labor. Niger's progress under its new, undemocratically established government fails to meet the standards for labor practices under international law, specifically under the forced labor conventions of the ILO, to which Niger is a party. Further, it has failed to "implement its commitments to eliminate the worst forms of child labor" as required in 19 U.S.C. §2462(b)(2)(H) and defined in 19 U.S.C. § 2467(6).

In 2006, the ILRF requested that Niger's GSP eligibility be reviewed to determine if its violations of internationally recognized workers' rights had violated the principles of the GSP program based on allegations of forced labor and child labor. The U.S. noted that respect for human rights in Niger has not improved since the 2006 petition was submitted, and that as

many as 43,000 individuals were living in slavery conditions in 2009.¹ In light of the grave situation for laborers in Niger, the U.S. should suspend GSP benefits to Niger until it takes steps to implement its commitment to eliminate forced labor and the worst forms of child labor. Unless the government of Niger meets established benchmarks toward the elimination of these practices, its status as a Least Developed Beneficiary Developing Country should be revoked in accordance with 19 U.S.C. 2462(d).

II. Niger has failed to address the issue of forced labor and child labor.

In 2006, the ILRF requested that Niger's GSP eligibility be reviewed to determine whether Niger should remain eligible for benefits. At that time, there were reports of tens of thousands of people living in slavery conditions, deliberate attempts by the government of Niger to obstruct human rights investigations, pervasive caste-based slavery rooted in the traditions of some Nigerien ethnic groups, and children being bought and sold as property. Under Niger's system of caste-based slavery, people are born into slavery and work their entire lives with no compensation except meager food rations and shelters they are expected to make themselves.² Those born into lower castes are expected to serve those in the higher castes. Most have accepted this arrangement as their lot in life and do not question it.³ Those who are held in servitude are not free to make their own decisions. Their family, marital, physical, mental, and psychological lives are under the control of their masters, and they cannot make even simple decisions concerning their families, such as whether they can send their children to school.

Women in servitude have no control over their sexual lives, and must perform for their masters when commanded, and are told that if they comply they will go to heaven.⁴ Children born to slave mothers inherit their mother's status of servitude, and are treated as chattel. Children of slaves are separated from their parents at early ages and deliberately traumatized so as to reinforce the notion that they exist to serve their masters and be humiliated. Some children as young as five become forced laborers when, after being sent to *marabouts* for religious studies, they are forced by their teachers to labor in the fields or beg in the streets. Girls are often exploited for domestic labor or prostitution. Any wages earned by these children are turned over to their masters. According to the ILO, the above-mentioned practices "clearly [fall] under the definition of forced labor set out in Article 2 of the [Forced Labor] Convention."⁵

III. The government of Niger has failed to make significant progress toward the abolition of forced and compulsory labor and child labor.

Current developments in Niger offer reasons to be cautiously optimistic, such as the creation of a new constitution and the creation of transitional bodies to restore economic and political order. Existing institutions, institutionalized by the former regime, have been dissolved and replaced with new bodies which, once functional, will address issues such as human rights. Corrupt officials are being replaced with competent and qualified leaders. The judiciary has

¹ 2009 Trafficking in Persons (TIP) Report: Niger. U.S. State Department.

<http://www.state.gov/documents/organization/123360.pdf>

² Request for the Review of GSP Status of the Republic of Niger for Violations of Worker Rights. July 20, 2006. <http://laborrights.org/sites/default/files/publications-and-resources/NigerGSPpetition.pdf>

³ 2005 Country Reports on Human Rights Practices, Niger. 2005. U.S. State Department, Bureau of Democracy, Human Rights, and Labor.

⁴ ILO, International Labor Congress, ("ILO ILC"), Available at:

<http://webfusion.ilo.org/public/db/standards/normes/appl/index.cfm?lang=EN>

⁵ 2009 Trafficking in Persons (TIP) Report: Niger. U.S. State Department.

<http://www.state.gov/documents/organization/123360.pdf>

welcomed training on antislavery legislation. While these are indicators that there is hope for lasting change in Niger, the fact remains that little has been done over the past decade to deal with the entrenched practice of slavery. The progress towards a peaceful, prosperous nation is commendable; however, advancement which lacks substantial progress towards the abolition of slavery and labor rights abuses still falls short of the standards the U.S. has set forth for the Generalized System of Preferences.

Despite these accomplishments, the labor situation in Niger remains a cause for grave concern. The U.S. State Department reports that as many as 43,000 people in Niger live in slavery conditions and that there has been “no effort to enforce the laws prohibiting the practice of forced and compulsory labor.”⁶ Furthermore, according to the 2009 Trafficking in Persons Report, the Government of Niger “does not fully comply with the minimum standards for the elimination of trafficking and is not making significant efforts to do so. The Nigerien government demonstrated marginal efforts to combat human trafficking, including traditional slavery, during the last year.” The ILO’s Committee of Experts Individual Observations, published in 2008, noted that while Niger has made efforts to combat slavery, the government of Niger did not deny that there were people still living in slavery conditions. Also, while a 2003 law prohibits slavery, penal sanctions are not consistently enforced and until recently, had never been used. According to the same report, specific information regarding the enforcement of slavery laws and prosecutions and sentencing under Niger’s 2003 slavery laws was largely unavailable.⁷

IV. Progress towards the abolition of compulsory labor in Niger should be based on established benchmarks.

Niger needs to make a commitment to ending the practices of slavery, human trafficking, and the worst forms of child labor. The Nigerien government must make a concerted effort to show its citizens that slavery is unacceptable, illegal and punishable. Affirmative steps to indicate that the administration condemns the practices of slavery, human trafficking and child labor should include: 1) the passing of additional legislation prohibiting the trafficking of persons; 2) leading a nationwide campaign to educate the Nigerien people on slavery; 3) the support (including financial) of the Commission on Discrimination and Forced Labor; and 4) the extension of training programs—such as those already implemented with the judiciary—to include training of the police and gendarmes. Also, the government must fund programs for the reintegration and compensation of trafficking and slavery victims, and ensure that victims are able to come forward and assert their rights. The ILO noted that detailed information and statistical data on the prevalence and consequences of slavery is needed in order to identify the measures that must be taken as well as the beneficiary groups,⁸ and that information on the investigation, prosecution, and sentencing of those who engage in slavery, trafficking, or child labor would aid in the formulation of a national action plan to combat these labor abuses.

In light of the marked lack of progress toward the abolition of forced labor and child labor in Niger, the U.S. should suspend Niger’s GSP eligibility and reinstate it only when the Government of Niger has taken steps to implement its commitment to eliminate forced labor

⁶ 2009 Country Reports on Human Rights Practices, Niger. 2009. U.S. State Department, Bureau of Democracy, Human Rights, and Labor. March 11, 2010.

⁷ CEACR: Individual Observation concerning Forced Labour Convention, 1930 (No. 29) Niger (ratification: 1961) Published: 2008


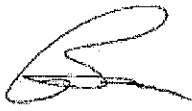
⁸ *Id.*

and the worst forms of child labor. The determination to revoke, suspend, or limit GSP eligibility must take into consideration the egregious labor abuses present in Niger, and must include clear recommendations for Niger's reinstatement into the GSP program. The suspension of benefits for Niger must be accompanied with a clear determination that forced labor and child labor in Niger amount to a violation of the labor rights standards set forth in 19 USC 2462(b)(2), and only concrete steps toward elimination of these practices can restore its status as a GSP beneficiary. The transition government must demonstrate a commitment to implement internationally recognized labor rights, including freedom from compulsory labor and freedom from compulsory child labor.

V. Niger's suspension from the GSP program should be based primarily on the labor abuses present, and should only be reinstated when benchmarks for progress are met.

While there may be other compelling reasons to revoke, suspend or limit its GSP eligibility, the primary focus of the USTR should be on Niger's egregious labor violations. Before Niger is eligible for any trade benefits, it must take meaningful steps which reflect a commitment to protect internationally recognized worker's rights in accordance with U.S. law and policy. While we remain hopeful that the new government will take much needed steps to address the issue of slavery, the Government of Niger must take affirmative action to demonstrate a substantial shift in their policy before it can continue to benefit from U.S. trade preferences. Only after Niger has demonstrated a firm commitment to end slavery through steps such as nationwide campaigns to educate its citizens, increased funding of existing programs, the creation of human trafficking laws, and the strict enforcement of existing laws should the U.S. reinstate Niger's GSP benefits. While lasting change can only come from democratic reform, there is hope that the Nigerien government can use this opportunity to create a lasting peace founded on the respect for all people. Meanwhile, the U.S., through its authority to suspend a country's GSP eligibility, can send a strong message to developing countries that the U.S. will not stand for, nor will it support, the exploitation of workers and that slavery is an unacceptable institution, a violation of U.S. law, and contrary to the values our trade policy is meant to reflect.

Respectfully submitted,



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