BEFORE THE UNITED STATES
TRADE REPRESENTATIVE

POST HEARING BRIEF

FOR THE OCTOBER 2012 HEARING ON THE PETITION TO REMOVE
FIJI

FROM THE LIST OF ELIGIBLE BENEFICIARY DEVELOPING COUNTRIES
PURSUANT TO SECTION 19 USC § 2462(d) OF THE GENERALIZED SYSTEM OF
PREFERENCES (GSP)

filed by

THE AMERICAN FEDERATION OF LABOR & CONGRESS OF INDUSTRIAL
ORGANIZATIONS (AFL-CIO)

OCTOBER 2012
Preliminary Information

A. Party Submitting Petition:

AFL-CIO, 815 16th Street, NW
Washington, DC 20006

Contact: ph: 202-637-5344 / 202-508-6967

B. Country Subject to Review:

Fiji

C. Section of Law Warranting Review

19 U.S.C. § 2462(c)(7)

D. Basis for Petition:

As explained below and in prior filings, the Government of Fiji (the interim Government or GOF) is not taking steps to afford internationally recognized worker rights, including the right of association and the right to organize and bargain collectively. The Fijian military regime has amended labor laws in ways that severely restrict and even eliminate internationally recognized worker rights; in practice, it has also taken steps to deny internationally recognized worker rights.
This post-hearing brief contains our responses to the questions the United States Government (USG) asked the AFL-CIO to answer both at the hearing and in the post-hearing questions. We have also supplied additional information that we believe is relevant in determining whether Fiji should remain a designated beneficiary developing country under the Generalized System of Preferences (GSP). This includes two annexes which relate to the impact of the Essential National Industries Decree on trade unions in the air transportation sector and the banking sector respectively. This information supplements the information set forth in the 1) initial petition, 2) pre-hearing brief, and 3) oral testimony.

I. INTRODUCTION

In light of ongoing and serious violations of internationally recognized worker rights, the AFL-CIO urges the USG to suspend Fiji’s trade preferences under GSP unless the interim Government takes immediate and substantial steps to address each of the concerns raised in the petition and pre- and post-hearing briefs.

II. POST-HEARING QUESTIONS

1. What is the AFL-CIO’s assessment of the work of the Labour Standards Service (LSS), which has a mandate to promote the fundamental principles and rights of work standards and comply with the Employment Relations Promulgation 2007?

Fijian unions report that the Labour Standards Service within the Ministry of Labour is weak at best. Implementation of laws such as Employment Relations Promulgation (ERP) is poor and in many cases nonexistent. Certain employers like the Fiji Sugar Corporation (FSC), a state owned enterprise (SOE), reportedly flout labor laws with impunity. We are informed that the FSC requires workers to work overtime without pay and instead take time off, which is in contravention of the ERP and existing collective bargaining agreements. It is our understanding that this practice continues today. Reports to the Ministry and cases before the Arbitration Courts have produced no results. The cases continue to be deferred and the Ministry’s compliance department, which refuses to act. This is also the case in the civil service and other SOEs.

2. In its pre-hearing brief, the AFL-CIO included an attachment from the International Trade Union Confederation that alleges that the Labasa Cane Producers Association (LCPA), which represents several hundred harvesting gangs, is under the influence of the Fiji Sugar Corporation (FSC). Please explain why the AFL-CIO believes that this organization is less independent of the government than the unions representing workers in this sector. The ITUC letter also alleges that the military intimidated and threatened farmers into joining the LCPA at the same time that the government instructed the FSC to stop dues deduction from the National Farmers Union (NFU). What has been the impact on the unions of this alleged government support for the LCPA?

The LCPA was formed by government representatives (some of which are military) and the EU project office. By its charters, trade union leaders are barred from serving on the board. Fiji has
two democratic and independent farmers unions who were not consulted during this process, and the AFL-CIO believes the entire process was designed to diminish trade union influence and participation in the sugar sector. From the ITUC’s 2012 Annual Survey of Violations of Trade Union Rights – Fiji

The Sugar Cane Growers Council was disbanded in 2009. With the dismantling of these various institutions, unions allege that the cane growers have been completely side-lined from the industry, over which the Fiji Sugar Corporation (FSC) now has total monopoly. Furthermore, since it is no longer obliged to cooperate on industry matters, it has begun to withhold vital information that growers are entitled to under the partnership provisions. Further, the National Farmers Union, as the largest trade union representing cane growers, was prevented from holding its general body meeting and branch annual general meetings in 2011. These meetings, which are generally held before the onset of the crushing season, are used as a forum to discuss problems farmers face as harvest gets underway. In recent months, they have been unable to hold any meetings at all. In 2010, dues deductions were also halted.

In 2010, the Labasa Cane Producers Association (LCPA), which covers cane growers in the Northern Division, was created. According to trade unions, the LCPA is not a representative institution of cane growers and is under the influence of the FSC. Trade unionists were also adamant that they were not consulted about the formation of the LCPA. FTUC also reports that the military intimidated and threatened farmers into joining the LCPA – while at the same time the government instructed the FSC to stop dues deduction from NFU members. Farmers were also told that by joining the LCPA, they would get a higher price for the cane supplied to the FSC – which did not in fact materialize. The NFU also states that access to services has been restricted if the farmer is not a member of the LCPA.

The LCPA is established under the Industrial Organisations Act. Article 3.1(iii) of the LCPA constitution provides that officials of any other industrial association or political party cannot be office bearers of the LCPA – meaning that no trade union officer can ever be part of the governing body of the LCPA. Similar cane producer associations are planned but not yet established for the other cane growing regions. The Western Division is expected to be next.¹

At the hearing, the Committee also asked for additional information regarding military occupation of the sugar mills. Though such occupation has been reported by the ITUC, as well as various national trade union confederations, due to the heavy news censorship in Fiji during much of the post-coup period, there is a dearth of traditional “news” sources documenting this problem. The AFL-CIO is very concerned that military occupation and influence inhibits and interferes with the practice of fundamental labor rights. The AFL-CIO renews the

recommendation it made at the hearing that the USG should send a fact-finding mission to perform its own fact gathering and analysis. Again, from the ITUC:

Since 2009, sugar mills have been occupied by the military, which has assumed control over many aspects of their operations — including human resources. The Fiji Sugar and General Workers Union (FSGWU) reports that the military has assumed the power to discipline and fire workers. The President of the FSGWU — Ba Branch was beaten by military officers on 18 February 2011, along with Felix Anthony, the national secretary of the Fiji Trades Union Congress (FTUC), and again on 22 June. In conjunction with the second attack on the president, he was suspended from work for two weeks without pay and was transferred from his job as a locomotive driver to that of a general employee in the track shop (which implied a drop in wages from USD4.17 to USD3.64 per hour). The military stated that the reason for the transfer was his status as a trade union leader.

The military interrogated the union president on a monthly basis in 2011, accusing him of sabotaging the Fijian sugar industry. He reported that the soldiers told him that “if you make one wrong move, we will kill you.” In June 2011, the Commissioner Western Division (a civilian post occupied by a Lieutenant-Colonel) announced at a meeting with mill workers that there is no longer a union representing mill workers. In November 2011, HR manager Subril Goundar told the union president that he would no longer recognise him as the representative of the workers. On several occasions, Mr Goundar called in workers to his office to discharge or discipline them; there was no investigation or any consultation with union representatives. The grievance machinery and progressive discipline machinery in the CBA, which remains in force, has been ignored. Workers who are caught talking to the union president have been threatened by management and the military with discipline or discharge.

Despite annual wages increases provided for in the CBA, Mr Khalil reports that there have been no wage increases for several years. Further, overtime provisions are routinely violated, with workers either not being paid the overtime premium (1.5-2x) or not being paid at all for overtime work. Indeed, the CBA is respected only in the breach. Cases have been filed over dismissals and other breaches of the CBA. However, these cases are slow to be processed, if ever. The Ministry, which receives the cases and provides mediation, often delays action on the cases for months on end.2

3. Regarding the Employee Relations Advisory Board (ERAB):

a. Is it your understanding that all legislation affecting labor is within the scope of reform proposals being considered by the ERAB, or are certain laws (e.g. Public Order) outside the scope of ERAB discussions?

2 Id.
The Fijian Trade Union Congress has sought to bring all legislation that impacts labor into the discussions of ERAB, including the Public Order Amendment Decree. Two tripartite talks were held, the last on the week of August 6th to 10th, but have since been abandoned by the government. There have not been any discussions on any of these matters in the last two and half months and none are planned to our knowledge.

b. To what extent have Fijian union leaders engaged in the discussions of the ERAB? If labor unions submitted any proposals through the body how have these proposals been treated?

The FTUC has been committed to these talks, which were attended by the President and National Secretary and two other senior officials. The FTUC has made submissions to the Board on amendments that were being sought by the Unions and those are on record. While the Employers Organization and Government Representatives present accepted the proposals, there are forces outside the Committee that have greater clout. It is important to note that while unions and employers send their most senior representatives to these talks, high-level Government Representatives are not required to attend, so those in attendance only serve as intermediaries. The FTUC views this as a cause of the breakdown of talks.

c. Do Fijian union leaders have confidence in ERAB and its process? If not, have they proposed improvements to the process?

This process gives Fijian unions little confidence. They believe that the process is only to show the international community that the government is engaging and talks are in progress, but has little to do with really addressing issues. The FTUC does not see any results emanating from the talks as the situation currently stands and is reluctant to engage further in this charade to help the Government of Fiji look good internationally.

III. HEARING QUESTIONS FOR WHICH ADDITIONAL INFORMATION WAS REQUESTED OR FOR WHICH THE AFL-CIO WOULD LIKE TO PROVIDE AN UPDATE

Hearing Question 1:
In its pre-hearing brief, the AFL-CIO details several incidents in 2011 of assault and harassment of trade union leaders. In its brief, the government denies that such harassment has occurred and indicates that no reports have been filed with the police. Do you know whether the alleged victims of assault and harassment have filed complaints, or attempted to file complaints, with Fijian authorities? If so, are you aware of any efforts to investigate the alleged assaults? If not, why not and what evidence can be presented to support these claims? Have there been any similar incidents in 2012?

The assaults on trade unionists are well documented in the reports of the International Labor Organization (ILO) Committee on Freedom of Association and Committee of Experts. Letters in protest against these assaults have been written by the ITUC and various trade unions around the world, as well as human rights organizations such as Human Rights Watch. The GOF has yet to respond to these letters. As the AFL-CIO testified at the hearing, the ILO has also raised these
matters directly with the government. The assaults were formally reported to police in Lautoka on July 13, 2012. The report number is 7739. To the AFL-CIO’s knowledge, no action has been taken on this official complaint.

To the AFL-CIO’s knowledge, there have been no physical assaults on unionists by government agents in 2012, but the intimidation continues, with the police and military intelligence keeping a close eye on union activities. While police are authorizing more union meetings, they are also insisting on being present. In May 2012, a number of police officers wanted to sit in the FTUC Conference. When the FTUC refused access to the union’s conference room, the police sat just outside and listened to the entire meeting. Such surveillance has an obvious impact on the ability of unions to carry out their activities without interference. Most recently, on October 19, police forced their way into the Board Room of PAFCO (Fishing Company), where officials of the FTUC and the company were negotiating. Police ordered the meeting to be stopped unless the police could attend. The meeting was abandoned after 30 minutes due to the insistence of the police to be present in the meeting.

Hearing Question 2:
There seems to be conflicting information as to whether permits are now required for trade unions to hold meetings. The government of Fiji claims that the Public Emergency Regulations (PER) have been lifted and that all persons and organizations (including trade unions) are allowed to freely hold meetings without the need to obtain a permit. However, the AFL-CIO stated that under the existing Public Order Act and Decree 1 of 2012, unions are still required to request approval of the government to hold meetings, and while more meetings are being held, police have been selective in granting some requests.

Is the AFL-CIO aware of any instances in 2012 in which union meeting requests have been denied or in some way restricted? Has the requirement to seek approval for meetings disrupted the normal activities and functions of the unions? If so, how?

It is our understanding that the trade unions can hold meetings in their own offices without a permit. However, any meetings the unions hold in a public place require a permit, such as in a hall, school or hotel conference rooms. Union meetings are normally held in public places as union offices are not large enough to accommodate them. Thus, the GOF is misleading the USG when it claims that, in the usual case, unions may meet without a permit.

The AFL-CIO is aware of two recent instances in particular where union meeting requests were denied or restricted. The first was mentioned at the hearing, and the AFL-CIO would like to provide additional details. On April 19, 2012, the Tropikwood Employees and Allied Workers Union applied for a meeting permit. The union reported that officers went to the police station in Lautoka six times to inquire about the permit. Each time, the President and Secretary of the union were told that a permit would be granted only if they removed Felix Anthony, FTUC General Secretary, and Daniel Urai, FTUC President, from the list of speakers. The Tropikwood union refused to remove them from the list. To date, no permit has been granted. A copy of the letter seeking a permit is attached.
In a second example, the National Union of Catering, Hospitality and Tourism Industry Employees (NUCHTIE) was also refused a permit. NUCHTIE was scheduled to meet with its members on Mana island, a fully unionized resort hotel. The Government of Fiji refused a permit on June 7, 2012. A copy of the refusal letter given to union is attached.

3. The AFL-CIO describes concerns with the Essential National Industries (Employment) Decree (ENID) of 2011, including its requirements for re-registration of unions, restrictions on union Officers and representatives, scope of the bargaining unit, renegotiation of collective bargaining agreements, and the right to strike. In response, the government of Fiji’s prehearing brief asserts that almost all trade unions have continued in operation and are conducting collective bargaining. Please describe what you understand to be the challenges faced by the trade unions affected by this decree, including their ability to represent workers in the companies covered. How did the regulations of the Essential National Industries (Employment) Decree of 2011 change the procedures for collective bargaining? Is it correct that all the unions had to re-register and renegotiate collective bargaining contracts? And, that Air Pacific is the only union that registered and has a current CBA under ENID? Also, can you provide name of two banks with negotiations continuing?

The AFL-CIO would like to update its answer to address the Committee’s (specifically Mr. Wedding’s) follow-up question regarding the number of Collective Bargaining Agreements (CBAs) concluded under the ENID. Except for Air Pacific, there are no Collective Bargaining Agreements under ENID in any other company. Of the four major banks in Fiji, only two have bargaining units. The other two have no unit and no collective bargaining. Of the two that have bargaining units, negotiations are continuing with the banks, which are attempting to reduce benefits and change terms and conditions of employment. The 60-day limitation for finalizing the new agreements has long since passed. Many workers through their union have applied for registration of bargaining units, but have yet to receive a response from the Prime Minister’s office, including the Fiji Island Revenue and Customs Authority, Water Authority of Fiji, Westpac Banking Corporation (three applications) and Bank of the South Pacific. To the best of our knowledge, this is the situation with other state owned enterprises as well. Annexes 1 and 2 provide FTUC’s responses to the annexes in the interim government’s brief.

4. Has the climate of relations between the government and union leaders changed in the past year?

The AFL-CIO would like to update its response to add: The relations between the GOF and unions have not improved measurably in the past year. In many ways, the relations are worsening. Specifically, one major problem is the Ministry of Labour’s effort to frustrate unions by delaying action on labor disputes for years. The Arbitration Tribunal is very inefficient. For example, Dispute 26 of 2009, reported on September 17, 2009, and Dispute 22 of 2009, reported September 22, 2009, have yet to be heard. These disputes had nine mention dates in 2010 alone and about five mention dates in 2011. Dispute 32 of 2010 was heard on July 19, 2011 but an award has yet to be handed down. These are but a few examples of disputes pending since 2009.
More recently, the Registrar of Trade Unions Office has attempted to interfere in the internal affairs of the Unions. Indeed, the Registrar unilaterally ruled that the Executives of the PAFCO union cannot convene its meetings or Extraordinary General Meetings. This directive was issued on October 17, 2012. Further, as mentioned above, the police recently suspended a meeting of FTUC officials and PAFCO management (Fishing Company) and police attempted to sit in the Union's annual general meeting.

Hearing Question 7:
The Fijian government cited the Employee Relations Tribunal and Court (established in the Employee Relations Promulgation of 2007) as a place where employee-worker disputes are mediated or tried. How does the AFL-CIO or its Fijian trade union partners assess the work of the Employee Relations Tribunal and Court functions in resolving employee-worker disputes?

The Fijian trade union partners agree that the concept is good but it is not working. No workers covered by the ENID have recourse to the Tribunal (see Art. 26(2) of the ENID). For other workers, this has been an inefficient Tribunal. It can take up to two or three years before a dispute is heard and an award given. In many cases, disputes have remained unheard for two years or more and even if they are heard, awards are very slow in coming. In fact, there are a few awards pending for two years now. In addition, there is a sizable backlog of cases.

In many cases, disputes are held up by the Ministry of Labour, which has to accept the dispute and refer the matter to mediation. Again, it is our understanding that reports of disputes are held back for long periods, some over two years. This appears to be simply to frustrate the unions.

IV. SPECIFIC RESPONSES TO GOF’S ASSERTIONS

1. While the Public Emergencies Regulations (page 4 of the interim Government’s brief) have been suspended, the Public Order (Amendment) Decree (POAD) was imposed immediately afterwards. This decree is even more draconian than the PER and seriously violates fundamental human and trade union rights, including the rights of free speech and assembly (see pre-hearing brief). It is untrue to suggest that all restrictions on the media and meetings have been removed. The Media Industry Development Decree 2010 also strengthens state censorship by forbidding publications that are “against public interest or order, against national interest, offends good taste or decency, or creates communal discord,” for example. Violations can lead to steep fines or jail or both. In June, the government passed an amendment to the 1992 Television Decree requiring television licensees adhere to the restrictions in the Media Code of Ethics and Practice. This has reportedly resulted in self-censorship.

2. The comments attributed to Mr. Agni Deo Singh in the interim Government’s brief are quoted out of context and in no way were meant to suggest that the POAD was well received.

3. The Constitution review process and elections in 2014 are not a certainty. There are many questions about the process and whether there will be free and fair elections. They
include that the Constituent Assembly and its Chairperson will be appointed by the interim Prime Minister, the interim Prime Minister has the sole right to appoint and dismiss members of the Constituent Assembly, and that the military will be part of the Constituent Assembly. Further, the current Attorney General is also the Minister of Elections, which affects the independence of the electoral process and the elections outcomes. An independent electoral Commission that is responsible for all aspects of the elections—from registration of voters to the final outcome—is a fundamental requirement. Currently, a military representative is in charge of voter registration.

4. The FTUC disputes the GOF’s figures for the numbers of unions and members, which have decreased under the interim regime’s various decrees. The AFL-CIO reiterates its recommendation for the US Government to gather its own data rather than accept the figures the GOF provides.

5. The interim Government refers to Mr. Tomasi Tokalauvere (on page 7 of its brief). However, Mr. Tokalauvere may not be the most reliable voice as the AFL-CIO understands he no longer holds his union leadership position and is under investigation for mismanagement of union funds. Mr. Tokalauvere is not a founding member of the FTUC, which was founded in 1951. The Public Employees Union is in the process of joining FTUC and fully supports the FTUC position.

6. The interim Government’s description of social dialogue and tripartite mechanisms are inaccurate. While the Employment Relations Promulgation provides for such structures, they do not work as intended. Much of these tripartite structures are disregarded in the decision making process on labor issues with directives simply coming from the Prime Minister or the Attorney General.

7. The reference to the National Employment Centre (NEC) and unemployment figures are misleading. The NEC has not achieved any verifiable results and there remain many unanswered questions on its performance. The unions believe the unemployment numbers far exceed the 8.6% stated. Casualization of work and underemployment is also on the increase.

8. The ILO Contacts Mission arrived in Fiji at the invitation of the Government and the Terms of Reference (TOR) was agreed in line with the report of the ILO Committee on Freedom of Association. The Government now wants to dictate a new TOR for the ILO Mission, which is unacceptable. The ILO issued a press release on this matter, which is available at: http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_189958/lang--en/index.htm.

9. The case against Daniel Urai and Nitin Goundar has not progressed. The prosecution has failed to produce any required evidence to sustain its claims (see page 24 of the interim Government’s brief).

11. The Government also fails to mention the public sector, where workers were denied collective bargaining and representation by their unions. They are excluded from the Employment Relations Promulgation and therefore do not enjoy any minimum entitlements.

V. CONCLUSION

When read in conjunction with the AFL-CIO’s petition, pre-hearing brief and oral testimony, the facts and analysis make clear that Fiji has not taken steps to afford internationally recognized worker rights. Indeed, the government has rejected opportunities to work with unions and the international community to restore these rights. GSP benefits should therefore be suspended unless and until the Government of Fiji agrees to a binding and comprehensive work-plan to restore all internationally recognized worker rights and demonstrates evidence of immediate and substantial implementation.
ANNEX I

TRANSPORT WORKERS UNION

41 Narewa Road, Nadi, Fiji; PO Box 468, Nadi, Fiji; Phone: 6724502; Fax: 6700480; E-mail: tvunion@connect.com.fj

Comments on Air Pacific Letter

By paragraph number

Para 4

The $91.8 million loss was attributed to: $60 million to fuel hedging and loan financing; $20 million currency devaluation; $16 million as a result of the government withdrawing resident withholding tax concessions. If one removes all that Air Pacific made an operating profit. These figures are approx. figures and were given by Air Pacific’s Revenue Accounting Manager when he decided to open his mouth after he was sacked.

Para 6

Air Pacific proposed to the union removal of certain benefits and privileges while significantly reducing many others. The union proposed the retention of all but proposed a company-wide pay cut as it did in 2010. The company refused. In 2010 following a request by the company to bail themselves out of its financial difficulties the union agreed to a 10% pay cut to be reviewed after three months. At the expiry of the three month the company informed the union that it had recovered and would be reinstating the 10%.

Para 9

The ENI decree was designed for Air Pacific by Air Pacific. It hired a USA based law firm to draft the decree and also paid for the cost involved. ERP took several years of drafting and debating. The government, unions and the employer representatives were all involved. Air Pacific by criticizing ERP is criticizing its own representatives. Furthermore it is normal for employers to pay its employees extra for extra work done beyond their normal hours of work. This is inclusive of meal allowances. Air Pacific now pays its employees 0.25% more than their normal pay for all overtime without paying any meal allowance.

Para 10

Apart from the pilots and flight attendants the other workers in Air Pacific are denied their right to belong to a union and to collective bargaining. The pilots and flight attendants have a bargaining unit as allowed by the ENI decree as they have 75 or more employees in a single
occupational grouping. The bargaining unit is headed by direct employees of the airline. Negotiations are held directly with the airline’s own employees and disallow involvement of professional, experienced and full time union officials. This makes it easy for Air Pacific to intimidate its own employees into agreements. In fact the flight attendant bargaining unit is heavily influenced by management. The chairman of the unit has been seen on many occasions having one on one private meetings with Dave Pfizer.

Para 16

An environment of fear of job losses has been widely spread across air pacific by management spearheaded by Dave Pfliger. The fear is such that the employees have accepted whatever has been given to them in form of individual and collective contracts. Employees feared job losses and air pacific has taken full advantage of the high unemployment in the country. This also meant a high exodus of employees especially aircraft engineers and pilots as they are quite highly skilled. The representatives of the bargaining unit were given two months with final date of 30th November 2011 to finalise negotiations otherwise the company was going to go ahead with the implementation of its own terms and conditions. The representatives were so much intimidated as they felt they had a gun pointed at them. The whole negotiation in so far as the unit representatives were concerned was trying to save what they had which was achieved over decades of struggle.

Para 18

Profit sharing is nothing new. It has existed for many years. It remains unchanged. The management and the board have control of this system and it unilaterally decides who gets what. Recently there was a pay out with a good number of workers receiving as little as $100.00.

Para 21

The medical scheme that is now in place requires employees to pay full premium by way of payroll deductions. Previously employees paid one third of the premium and the employer paid two thirds.

Para 22

ERP set up an independent mediation unit, employment tribunal and employment court where workers and trade unions could take employment grievances including unfair dismissals and seek redress. Air Pacific has its own internal system with the management reviewing its own decisions. Workers can only take their grievances to this process. Since the establishment of this process not a single grievance has been taken up because the employees can almost pre-empt the outcome.
Para 24

Flight attendants no longer receive overtime pays and they hardly work beyond 70 hours because of flight schedules and legal restrictions. Previously overtime was paid at the rate of time and half for the first two hours in excess of 8 hours and double time thereafter.

Layover meal allowances were previously based on the menus of the hotels the flight attendants stayed in. Now it is based on UN/WHO per-diem rates which in many cases are lower than what the flight attendants used to receive.

The hotels are now chosen by the management and the flight attendants no longer have a say in its selection.
Pay increases are at the mercy of the employer and is not for negotiation.

The flight attendants no longer receive winter clothing allowance which was $393.00 previously.

A cosmetics allowance has been reduced from $353.00 to $300.00 annually.

Telephone allowance of $150.00 has been taken away.

They no longer enjoy long service leaves which used to be 2 weeks for 10 years of service and thereafter at every additional 5 years of service.

Annual leave which was 35 days per year has been changed as follows:
- 1 to 5 years of service – 21 days
- 5 to 10 years of service – 28 days
- 10 years and more service – 35 days

Sick leave has been reduced from 15 days to 12 days in a year. 4 days sick without medical certificate has been reduced to 2 days. Sick leave incentive bonus, which was paid at normal pay rates for all unused sick leave has been withdrawn.

Laundering of uniforms at layover ports is now flight attendants responsibility.

Previously meal/res seats were blocked for crew and the number depended on aircraft type and the crew complement. This is no longer the practice. Crew can use seats if they are empty otherwise they use the jump seats or have their meals while standing at the back of the galley.

During transits crew have to clean the aircraft themselves. Previously ground handlers used to do that.

Collective agreement is now reviewed after every 5 years as opposed to annually previously.

Triple rating changed to multiple rating. This means crew will now be required to operate all aircraft types the company will have in its fleet.
Para 29

There is no increase in the pay. Overtime is now at time and quarter as opposed to time and half and double time previously.

Para 32

ERP provided as a minimum one week pay for each year of service for redundancy payment. Pacific Sun refused to recognize the long years of service the employees had but instead from the time it bought Sun Air. This would have given the employees a maximum of two year service. This would have given the employees two weeks pay. The union entered into intense negotiation with the management. It also lobbied with the government and as result the employees received a higher pay out.

Para 33

The employer’s own admittance that the discussions with the union were fruitful and ended with an amicable agreement is worth noting.

..........................
Kamlesh Kumar
General Secretary
19th October 2012
ANNEX II

FINANCIAL SECTOR

Designated Corporations

Five corporations were designated in September 2011 – FRCA, ANZ, WBC, BOB and BSP. The new bank Bred Bank has also been designated even though it hasn’t started trading yet.

Representation

Fiji Bank and Finance Sector Employees Union (FBFSEU) represented almost 100% of the support staff (around 1500) in the four private sectors, foreign owned commercial banks.

Local managers (around 200) were represented by the Finance Sector Managerial Staff Association (FSMSA). As none of the banks have more than seventy five local managers FSMSA members have not been able to form bargaining units under the ENI decree and are now effectively de-unionized.

FBFSEU initially sought recognition from the banks. All banks refused recognition and have since then avoided any direct collective bargaining with the union.

Check-off

Almost immediately after ENI Bank of Baroda ceased FBFSEU members check-off. It reinstated it after three months but directly to the BOB bargaining unit and not the union.

The other three banks have continued with check-off to FBFSEU but have mounted clandestine campaigns to discourage union membership.

As a result FBFSEU almost immediately lost more than half of its members in BSP bank and smaller numbers in the other banks. Membership continues to decline as without workplace access the union is unable to organize new workers. Total membership decline since ENI is now around 500.

Bargaining Representatives and Registration

FBFSEU assisted members in all banks to elect their bargaining representatives.

ANZ supported the formation of the staff association. ANZBGSA was registered by RTU in December 2011. ANZ then refused to recognize the registration and lobbied and got the unit deregistered in February 2012. It then forced the staff association to agree to exclude the workers at ANZ Pacific Operations before granting voluntary recognition.

ANZBGSA was then registered and certified by the “Prime Minister” in June 2012. This was only through ANZ’s influence with govt and as the bank wanted to introduce massive changes to
terms and conditions. The ANZBGSA registration is we are certain the only one properly done under ENI by the PM!

BOB recognized BOBSA and it was registered as a BU by the “RTU” in December 2011, however it has not yet been “certified” by the PM so it is also “improper” as was the initial ANZ registration before it was cancelled by RTU.

WDC encouraged the formation of WBCSA and readily recognized it as representative in Dec 2011. Since then WBCSA has applied three times to both the RTU and PM’s office for registration. None of the applications have even been acknowledged and inquiries to both remain unanswered. The workers therefore remain unrepresented.

BSP bank encouraged staff to form their own SA. The workers did but the bank refused to recognize them and opposed their registration. The Union then assisted them to regroup and apply for election to PM’s office. PM’s office urged the SA and management to have dialogue. The bank refused. Several requests to PM’s office to conduct elections since January 2012 have remained unanswered. The workers remain unrepresented.

Collective Bargaining

There has been no bargaining in WBC.

BSP bank immediately after ENI gave notice to staff that it would impose a new CA with major diminution of some benefits, changes to grievance and disciplinary procedures and outcomes etc. Although it cannot impose a new CA in the absence of a registered union, it has already imposed the changes. There has been no bargaining.

BOB gave notice to BOBSA late last year on massive reductions in conditions and benefits such as leave and allowances, changes to work hours etc. COLA claims remain outstanding since 2010. There has been ongoing discussions but no progress but the bank is withholding COLA obviously to get the reps to agree on other changes.

ANZ was in discussion with FBFSEU on 2011 COLA just before ENI. After ENI the bank told staff it would resume COLA discussions with staff reps once registered.

ANZBGSA has submitted three times for rollover of terms agreement and COLA. The bank has refused to consider that and now says it will not pay COLA at all. It has submitted wide ranging claims on the SA to change the grading and pay structures, remove annual increments, and other benefits.

ANZ has attempted to bully the staff reps by calling meetings twice a week sometimes without notice. It has refused to allow them to communicate with staff through its email system. It has pushed its claims in bits and pieces and has not responded to requests for information to support the changes its wants. It has refused to agree on a communication protocol and a good faith bargaining framework. All this with the obvious intention to dilute the union, divide and frustrate the staff and undermine the ANZSA reps.
ANZ's intentions in getting the initial registration cancelled became clear when it used the period in between (February to May 2012) to make 40 service staff redundant. These were the lowest paid staff, mainly service workers such as drivers, messengers, security and domestic workers. They were not paid at least 12 weeks notice pay entitlement. ANZ did not discuss the matter with the reps and ignore their request for information on calculation of redundancy payments.

Outgoing ANZ CFO publicly described the workers as a “colonial hangover”.

**Dispute and Grievance Resolution**

These are at a standstill as none of the banks have appointed review officers under the ENI decree. As a result disciplinary outcomes remain unchallenged.

All outstanding matters in the Tribunal were terminated. These involved matters awaiting decisions, including dismissal and disciplinary cases going back over five years. There were a number of contractual disputes and pay disputes awaiting decision or pending processing with a cumulative value of over a million dollars.
The Fiji Times ONLINE

Travel ban lifts on Urai

Mary Rauto
Tuesday, September 25, 2012

THE court has allowed a trade unionist to travel abroad.

Suva Magistrate Janaka Bandara has allowed Fiji Trades Union Congress president and National Union of Hotel and Catering Employees general secretary Daniel Urai to travel to China and Malaysia.

Mr Urai is charged with urging political violence.

Mr Urai will travel to Beijing, China, for the International Labour Organisation Bureau that began yesterday. He was invited by the director of Bureau for Workers' Activities.

From China, Mr Urai will travel to Kuala Lumpur for the IUF Asia/ Pacific Hotel, Restaurant, Catering and Tourism Sector meeting on October 3 and 4.

He was invited by the secretary of the International Union of Food, Agriculture, Hotel, Restaurant, Catering, Tobacco and Allied Workers Association.

Mr Urai returns on October 7.
THE Fiji Police Force yesterday cancelled a march by the Ecumenical Centre for Research, Education and Advocacy citing it as a "national threat".

The march that was supposed to begin from Vanua Arcade to Civic Centre as part of ECREA’s celebration for International Day of Peace was stopped at the eleventh hour.

Father Kevin Barr of ECREA said they had prepared themselves with placards, posters and banners but were told that they could not go ahead with their plans.

"We had been issued with a permit but I don’t know why our march was cancelled," Father Barr said.

When contacted yesterday, Senior Superintendent of Police Rusiate Tudravu referred all questions to Fr Barr.

"When the permit is cancelled that means it’s cancelled," SSP Tudravu said.

However, later on during the day, another march took place at Battery Rd where more than 200 people wore T-shirts with "Just Peace–Just Wages for All" printed on them.

They had carried their placards and banners, which were also part of their submissions to the Constitution Commission.
14 April 2012

The District Commissioner Officer
Western Division
Lusaka

Dear Sir

PERMISSION FOR ANNUAL GENERAL MEETING

If the General Secretary of the above Union would like to seek permission from your good office regarding our 2012 Annual General Meeting,

Attach a copy of our Agenda.

Yours,

Yours faithfully,

[Signature]

Shan Kangwa
General Secretary
TROPiK WOOD EMPLOYEES AND ALLiED WORKERS UNION

ANNUAL GENERAL MEETING AGENDA

Pursuant to Rule 25 of the Union Constitution, all members are hereby advised that the Annual General Meeting of the Union will be held as follows:

Time: 9.00am
Venue: Club 2000, Lusaka

AGENDA

1. Welcome
2. Chief Guest (TUZ General Secretary - Felix Anthony & President - Daniel Durol)
3. Confirmation of Last Minute Meeting
4. Matters Arising
5. Annual Report
6. Notices Adding
8. Matters Arising
9. Announcement of Elected Executives
10. Motions (if any)
11. General Business

All eligible members are urged to attend.

Signed:

General Secretary
RE: NATIONAL UNION OF CATERING HOSPITALITY INDUSTRY EMPLOYEES

1. Pursuant herewith brief appreciation report for the above applicant.

2. Evidences are presented that:
   - There is complete disregard sensitive issues at Marine Island Resort within hotel management and employees on condition of work.
   - Difficulty for parties concerned to adapt to changes needed to be implemented by management.
   - To conduct a new meeting at the hotel, in the same time would only increase difficulties already experienced.

Recommendations:
- Recommend for preceeding application to be REJECTED as it appears to be given the highest to be held elsewhere other than Marine Island.

3. Submitted, please.

[Signature]
 día: 07 Jun 2012
APPENDICES TO THE GOVERNMENT OF THE REPUBLIC OF FIJI'S
PREHEARING COMMENTS

PLEASE VIEW THE COMBINED APPENDICES DOCUMENT AT
HTTP://WWW.MIT.GOV.FJ/

THE COMBINED APPENDICES DOCUMENT INCLUDES:

APPENDIX ONE (Pages 1-4)
May 23, 2012, Letter from the Prime Minister of Fiji to Juan Somavia, Director-General of the
the ILO, in response to the ILO's statements on Fiji.

APPENDIX TWO (Pages 5-13)
Employment Relations Advisory Board (ERAB) and its Subcommittee's Work to review Fiji's
Labour laws (April – August 2012). The table includes the agenda items discussed, those
present in the tripartite meetings, and the pertinent resolutions reached by the Cabinet.

APPENDIX THREE (Pages-14-16)
Letter from Sustainable Mahogany Industries, Ltd. in opposition to the AFL-CIO petition.