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INFO AFL 1988 :
Burma
Haiti
Indonesia
Malaysia
Syria
Thailand
Turkey

006-CP68

original

AMERICAN FEDERATION
OF LABOR AND CONGRESS
OF INDUSTRIAL ORGANIZATIONS

UNION YES

June 1, 1988

- for 1987 review -

Hiram Lawrence
Chairman
GSP Subcommittee, Room 517
Office of the U.S. Trade Representative
600 17th Street, NW
Washington, DC 20506

Dear Mr. Lawrence:

Enclosed please find AFL-CIO petitions requesting that the GSP status of eight countries be reviewed with respect to the designation criteria listed in subsections 502(b) and 502(c) of the Trade Act, as amended [19 U.S.C. 2642 (b) and (c)], pursuant to the procedures described in the Federal Register on February 11, 1986.

In our view, any fair reading of the worker rights provisions of Title V of the Trade and Tariff Act of 1984 requires that Burma, the Central African Republic, Haiti, Indonesia, Malaysia, Syria, Thailand and Turkey be found ineligible to participate in the GSP program. We would, moreover, urge that the GSP Subcommittee conduct comprehensive investigations of at least every country regarding which a petition or complaint has been received by your office, and not dismiss or disregard any complaints until a review is completed by you.

The AFL-CIO will cooperate with you fully during the course of the review.

Sincerely,

Tom Kahn
Director of International Affairs

Rudy Oswald
Director
Department of Economic Research

INTRODUCTION

The AFL-CIO once again welcomes the opportunity to present documentation to the United States Trade Representative (USTR) concerning the failure of certain governments to abide by internationally recognized standards for worker rights. This information is provided pursuant to provisions contained in Section 502 (b) and (c) of the Trade Act of 1974, as amended by the Trade and Tariff Act of 1984, the legislation governing the Generalized System of Preferences. We present below evidence to support our contention that certain countries in which worker rights are violated should, as required in U.S. law, be denied the privilege of importing goods to the U.S. under preferential tariff conditions.

The countries cited include Burma, the Central African Republic, Haiti, Indonesia, Malaysia, Syria, Thailand, and Turkey. Except for Burma, Malaysia and Syria, these countries were included in testimony previously submitted by the AFL-CIO. Although the President chose not to remove them from GSP eligibility in April 1988, we believe that the facts warrant further examination by the USTR, and the termination of their GSP eligibility.

In the AFL-CIO's view, all of the countries cited here have long-standing, repressive labor practices, and they have consistently refused to take significant steps to extend internationally recognized rights to their workers. These rights are cited in U.S. law, but their most important delineation can be found in the conventions of the International Labor Organization, and it is these which are used illustratively as our basis for judgment in this petition. They include:

1) the right of association;

2) the right to organize and bargain collectively;

3) a prohibition on the use of any form of forced or compulsory labor;

4) a minimum age for the employment of children; and

5) acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health.

In presenting cases for the 1988 annual review we would like to clarify the views of the AFL-CIO regarding such issues as: 1) the balanced use of worker rights criteria; 2) international worker rights standards and relative levels of development; 3)

law and practice; 4) the process of case selection; and 5) the obligation of U.S. government to enforce Section 502 (b) and (c) regardless of whether a petition has been submitted against a country. We urge you to take special note of this latter point which, though obvious, has not, in our view, been observed in previous reviews.

Balanced Use of Criteria

The AFL-CIO considers infringement in any one of the five rights categories designated in the law to be deserving of serious attention. No reasonable interpretation of the law would suggest granting beneficiary status on the basis of acceptable performance in just one area when practices in other areas stand in continuing violation of internationally recognized standards. The right of association, for example, is the underpinning of all collective economic and political trade union action and as such forms the bedrock of workers rights. Without the right to organize and bargain collectively, independent of state or employer control, virtually any other union function, whether economic or political, has no meaning.

Thus, for instance, wage improvements in a country where unions are denied political freedoms, as in Turkey, or where workers cannot form their own unions, as in Indonesia, should not be considered evidence that the government of that country is "taking steps" to accord union rights and is thus deserving of the GSP privilege. Nor does the relative freedom of association in a country like Thailand absolve that government of its responsibilities to observe and enforce standards with regard to child labor.

Each of the five criteria is cited in the U.S. Trade Act of 1974, as amended, and due consideration should be given by USTR to all five basic rights categories. Some involve political freedoms, others economic conditions. There can be no trade-off between them since both combine to define the condition of worker rights.

International Worker Rights Standards and Levels of Economic Development

The AFL-CIO has never suggested that the economic references contained in the worker rights provisions of the law be applied to GSP beneficiaries according to the standards familiar to the industrialized world. AFL-CIO President Lane Kirkland has said, for example, that "in order for the concept of 'internationally recognized workers rights' to be applied in a meaningful fashion ..." the USTR should "specifically reference appropriate ILO Conventions as a means of defining criteria." These are general guidelines that take into account differing levels of economic

development. In presenting these cases, the AFL-CIO has taken care to consider the relative level of economic development of the countries concerned. On the other hand, when it comes to the right of unions to exist, there can be no compromise of principle. The fundamental freedom of association and the right to organize and bargain collectively must be defended and advanced; that is the purpose of the law.

Law and Practice

A country's official declarations of intent or the existence of written law do not necessarily warrant a positive assessment, or justify the judgment that improvements are in fact being made. It is easy for governments to point to impressively drafted laws which appear to conform to ILO standards to prove that they are taking steps in the direction of granting workers rights. Our experience over the years leads us to conclude that in too many cases de facto labor practices bear little resemblance to the law. Thus we choose not to place very much faith in the promises of government officials, who seek to frustrate our inquiries with protestations of good intentions and flowery explanations of how free workers will be one day in their countries, until these promised changes become reality.

Process of Case Selection

The AFL-CIO is solely responsible for the cases submitted. Although we have consulted with the trade unions in the countries cited, they do not necessarily or always endorse or encourage our actions under U.S. law. Certainly, they should bear no burden of blame for our submission.

Enforcement of U.S. Law

Our decision not to include any particular GSP-eligible country in this review does not necessarily suggest approval by the AFL-CIO of its labor rights record. We present cases with regard to countries where we have the most detailed and reliable information. In numerous cases, however, the most egregious violators of worker rights do not permit the AFL-CIO to have access to their countries at all. These tend, not surprisingly, to be the same places where there are no elected worker leaders who are able to speak for the working people. So we simply do not have the kind of first-hand, reliable information that would enable us to present a complaint in this process.

The U.S. Government, on the other hand, does have detailed information about the denial of human rights in these countries, including such worker rights as are relevant to the present discussion. Section 502 of the Act does not require that GSP eligibility reviews be conducted only of those countries against whom a complaining petition has been filed by a private party.

In many cases the best (or only) reliable information about worker rights violations is already in the possession of the U.S. Government. Some of it is reported in the State Department's annual Country Reports on Human Rights Practices.

For instance, Burma and Syria are just two countries whose records are well-enough known by the U.S. Government as worker rights violators that their GSP eligibility should be terminated without lengthy deliberation. The most recent edition of the State Department's Country Reports on Human Rights Practices says, about Burma:

> There is no independent trade union movement in Burma. Workers do not have the right to organize independently, to bargain, or to strike.

The same edition of the State Department's Country Reports on Human Rights Practices says, about Syria:

> Labor unions function as dependent parts of the government apparatus and are primarily used to transmit instructions and information from the Syrian leadership. ... Strikes are forbidden by law.

The abrogation of freedom of association, and the suppression of the rights to organize and bargain collectively in these (and numerous other countries) are well known to the U.S. Government. The AFL-CIO urges and expects the U.S. Government to enforce the terms of Section 502 (b) and (c) respecting worker rights in all countries, regardless of whether the AFL-CIO enjoys free access to those countries, or a petition has been filed.

We have included references to these and other citations in brief petitions on Syria and Burma included here. Together they constitute prima facie evidence that these countries should be denied GSP privileges.