

Generalized System of Preferences (GSP)  
Subcommittee  
of the  
Trade Policy Staff Committee  
1992 GSP Annual Review

Worker Rights Review Summary

Case: 001-CP-92

BAHRAIN

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## 1. INTRODUCTION<sup>1</sup>

In response to a petition filed in June 1992 by the AFL-CIO, the interagency Subcommittee on the Generalized System of Preferences (GSP) conducted a review of worker rights practices in Bahrain. The AFL-CIO petition cited two factors noted in the Country Reports on Human Rights Practices for 1991: restrictions on the right of association and on the right to organize bargain collectively. The purpose of the review was to determine whether Bahrain is complying with the worker rights provision of Section 502 (b) of the U.S. GSP law, which requires beneficiary countries to have taken or be taking steps to afford internationally recognized worker rights.

The GSP program, originally enacted in 1974, provides duty-free entry to eligible products from beneficiary developing countries. The GSP legislation (Title V of the 1974 Trade Act, as amended) defines internationally recognized worker rights as follows:

- a) the right of association;
- b) the right to organize and bargain collectively;
- c) a prohibition against any form of forced or compulsory labor;
- d) a minimum age for the employment of children;
- e) acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health.

The legislative history of the Generalized System of Preferences Renewal Act of 1984 indicates that Congress intended the level of development to be taken into account in assessing the worker rights situations in GSP beneficiary countries. The 1984 report of the Committee on Ways and Means on the renewal act states that:

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

The Subcommittee noted that it is established United States policy that basic human rights are universal and that all governments are required to respect basic human rights, which include the first three cited worker rights, irrespective of social systems or stage of economic development.

In the course of its review, the Subcommittee examined submissions from the AFL-CIO and other groups, as well as the Bahraini Government, the Department of State's Country Reports on Human Rights Practices.

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<sup>1</sup>Worker rights summaries are made public to highlight the principal issues considered by the GSP Subcommittee during the worker rights reviews. More complete discussion on countries' worker rights laws and practices can be found in the Department of State's Country Reports on Human Rights Practices, as well as in various documents issued by the International Labor Organization.

## II. PRINCIPLE ISSUES

### RIGHT OF ASSOCIATION

The major right of association issues reviewed by the Subcommittee were: (1) the general issue of whether unions are allowed to exist; (2) the exclusion of certain groups from labor law protections; and, (3) the right to strike issue.

With respect to the right of unions to form, the Subcommittee noted the statement by the Government of Bahrain that "the formation of unions is legal." However, the legal rationale for this conclusion was unclear to the Subcommittee, in that it appeared that there were no laws in Bahrain, either in specific or in general, that allowed for the creation of independent labor unions, or which would necessarily prevent it. In light of this, it was unclear whether workers wishing to form unions would have legal protection from arbitrary interference by the government in attempting to form unions. In this regard, the Subcommittee noted that the State Department Human Rights Report (HRR) for 1992 stated that the formation of unions is "actively discouraged by the Government," although it noted that the Government of Bahrain had denied this conclusion in its submission. As the right of association is a fundamental right, the Subcommittee considered it crucial to determine precisely the degree to which the legal right exists in Bahrain before making a final determination.

With respect to the rights of particular groups of workers, the Subcommittee noted that 1976 Bahraini Labor Law for the Private Sector specifically does not apply to five specific categories of workers, including government employees, domestic servants, and most agricultural workers. This denies workers in these sectors the rights to even participate in the Joint Committee structure (to be discussed below) that is available to workers in the industrialized sector. As such, while noting that such workers could and did avail themselves of established grievance procedures, the Subcommittee noted that they appeared to be denied the more fundamental rights of association and collective bargaining.

With regard to the right to strike, the Subcommittee determined that the right to strike is not legally acknowledged in Bahrain, although it noted that some work actions, such as walkouts and strikes have occurred in the past (though not recently). Again, it was unclear to the Subcommittee that in the absence of such legally acknowledged rights, what protection workers taking various worker actions in Bahrain might have from arbitrary interference by the government.

### RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

The Subcommittee's review focused on the issues of (1) the degree to which collective bargaining, as established by ILO norms, was allowed in Bahrain, and, in this context (2) the degree to which "Joint Committees (JCCs)" established under Bahraini law approximated the right to bargain collectively de facto.

First, the Subcommittee noted that Bahraini law does not have specific provisions to grant workers the right to organize and bargain collectively, in the sense established by ILO conventions. As noted in the 1992 HRR: "in the absence of legitimate trade unions, there are no collective bargaining agreements. While the JCC's... are empowered to discuss labor disputes, organize workers services, and discuss wages, working conditions, and productivity, the workers have no independent recognized vehicle for representing their interests in these or other labor-related issues."

Yet, in light of information provided by the Government of Bahrain, the Subcommittee believed it important to intensively investigate the structure and operation of the Bahraini system of Joint labor-management consultative committees, known as JCCs.

The first of these Committees was formed, with government permission in 1982. Twelve have been established in the major state-owned industries which include approximately seventy-percent of the indigenous Bahraini industrial workforce. On the positive side, the Subcommittee reviewed information that:

- (1) worker representatives to the JCCs are legitimately chosen by workers to represent their interests;
- (2) these worker representatives are empowered to discuss labor disputes, wages, working conditions and other labor-related issues with management;
- (3) while language qualifications are a barrier to many foreign workers (need to speak Arabic), there is no prohibition against an expatriate workers becoming a representative on a JCC;
- (4) the JCCs do in fact negotiate informal agreements with management on some working conditions and a limited number of wage issues.

Thus, to some important degree, JCCs do appear to provide a legitimate voice to workers in their relations with management. However, the Subcommittee concluded that the JCC structure appeared to fall short of true collective bargaining in several critical ways:

- o the JCC structure itself is not freely chosen, but mandated by law (this is also a right of association issue);
- o it does not appear that the informal agreements reached in these committees are binding or have legal standing in the courts;
- o it appears that the JCCs are empowered to make suggestions to management, but that management must agree before a proposal is put into force. The structure thus appears to give management final say and a veto power over the actions of the JCC;

- o as noted above, the JCC structure is not afforded to certain important sectors of the workforce;
- o a language qualification effectively prevents most foreign workers (a majority of workers in the country) from being representatives on a JCC.

Thus, notwithstanding the important empirical information provided by the Government of Bahrain concerning the operation of JCCs, the Subcommittee continues to have concerns about the extent of legal rights afforded Bahraini workers under the JCC structure, and the degree to which JCCs represent an effort to comply with ILO norms.

### OTHER WORKER RIGHTS AREAS

In addition to the issues raised in the petition, the Subcommittee noted in its overall assessment of Bahrain's worker rights system actions in the following areas:

Remedial Action against Abuse of Domestics. Non-industrial foreign workers represent approximately sixty percent of the overall work force. Of concern are recent reports of abuse in some countries in the Gulf region with respect to female domestics who have been physically and sometimes sexually abused by employers. The Subcommittee viewed positively reports that the Government of Bahrain was being responsive in cases where abuses are reported: the courts and the Labor Ministry undertake investigations and appropriate remedial action is taken.

Penalties for Withholding Wages. The Subcommittee also viewed positively reports that the Government of Bahrain has taken action to amend its labor law to penalize with fines and possible imprisonment employers who withhold wages to employees without cause whether they are Bahraini or expatriate.

Child Labor. In reviewing several years of reports the Subcommittee notes that child labor laws have been effectively enforced within the industrial sector, though more monitoring would appear needed in the non-industrial sector.

Working Conditions. Overall working conditions in Bahrain are good. Minimum wage scales for both private and public sector employees generally afford a decent standard of living. While foreign workers may not be paid on an equal scale to Bahraini workers, they also receive housing and other non-wage benefits and are generally paid above wage levels for similar work in their own countries. The law, enforced by the Ministry of Labor and Social Affairs mandates acceptable work conditions including hours, and occupational health and safety standards.

### III. POSITIVE ACTIONS NOTED

The Subcommittee viewed the worker rights actions noted in the "Other Areas" section above as having an important positive impact on worker rights in Bahrain. In addition, the Subcommittee welcomed the responsive submissions presented by the Government of Bahrain,

which clarified many points about labor-management relations in that country, and highlighted some of the positive aspects of that system.

#### IV. RECOMMENDATION

In light of continuing concerns and questions about the extent of legal protections for the right of association and the right to organize and bargain collectively, detailed above, the Subcommittee was unable to recommend that Bahrain is "taking steps to afford internationally recognized worker rights" as required by the GSP statute. However, in light of both the positive actions in other worker rights areas, and the fact that members of the Subcommittee had additional factual questions about the situation in Bahrain, it was recommended to continue the worker rights review of Bahrain for another year. During that time, the Subcommittee will work to both collect more information on key aspects of the Bahraini system, and monitor developments in Bahrain closely for progress in the areas of right of association and collective bargaining.