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

1993 GSP Annual Review

Worker Rights Review Summary

Case: 006-CP-93

FIJI

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GSP Information Center
Office of the U.S. Trade Representative
600 17th Street, N.W.
Washington, DC 20506
(202) 395-6971

I. INTRODUCTION*

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 right laws and practices in Fiji. The purpose of the review was to determine whether Fiji 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. In June 1993, the worker rights review of Fiji was extended for an additional year.

The GSP program, originally enacted in 1974, provides duty-free entry to eligible products from beneficiary developing countries.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 worker rights cited above, irrespective of social systems or states of economic development.

In the course of its review, the Subcommittee examined several submissions from the AFL-CIO and Government of Fiji, the Department of State's Country Reports on Human Rights Practices, and reporting from the U.S. Embassy in Fiji.

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* Worker Rights Summaries are made public to highlight the principal issues considered by the GSP Subcommittee during worker rights reviews. More complete discussions of 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 (ILO).

II. PRINCIPAL ISSUES

During the second year of its review, the Subcommittee again focused on problems related to the area of freedom of association. Specifically, the Subcommittee was concerned that three decrees enacted in 1991, along with additional regulations promulgated by the Government of Fiji (GOF), had reduced the ability of workers to exercise their rights in this area. Prior to 1991, workers in Fiji were more clearly able to exercise the rights of freedom of association and to bargain collectively in accordance with international norms.

A. Freedom of Association

Freedom of association includes the right of workers to join and form organizations of their own choosing (including trade unions) without prior government approval. International norms specify that trade unions and other organizations should be able to operate without internal interference from the government; i.e., they should be able to draw up their own constitutions and rules, and to elect their representatives in full freedom. Freedom of association also includes the right to strike.

The petition filed by the AFL-CIO contended that through three decrees (Decrees 42, 43 and 44 of October 1991) and two legal notices (Notices 58 and 59), the Government of Fiji had unilaterally restricted freedom of association, including the right to strike. In brief, these decrees established stricter definitions of preconditions for a strike, more complex machinery for settlement of labor disputes, and other guidelines to control the internal affairs of labor unions. While noting that a worker's right to join a unions of his/her own choice is protected by law and observed in practice (19 percent of the labor force is unionized, according to the HRR) the Subcommittee concluded after its first year of review that certain aspects of these measures reduced the autonomy of trade unions to operate independently and to establish their own rules and procedures (see Worker Rights Review Summary of Fiji, July 1993).

Furthermore, the Subcommittee noted that according to the ILO Committee on Freedom of Association (see ILO Report of the Committee on Freedom of Association, November 1992), some portions of these decrees and related measures were inconsistent with ILO standards. The Committee therefore requested the Government of Fiji to make the necessary changes to make their labor regime more consistent with international norms.

The Subcommittee noted favorably that the GOF followed through during the past year on commitments previously made regarding the repeal of several of the more restrictive provisions of the 1991

reforms. The amendments, the Subcommittee observed, addressed several of the concerns expressed by the ILO. The legislative reforms promulgated by the GOF in 1993 and 1994 include the following:

- repeal of the six week validity limit for union strike votes;
- repeal of the ban on multiple office holding by labor officials;
- repeal of measure requiring secret ballots if a trade union seeks international support.
- restoration of automatic "check off" of union dues for civil servants.

In addition, the Subcommittee noted that the GOF has indicated it will continue its cooperative dialogue with the ILO to insure that Fiji's labor law regime is consistent with international labor standards.

B. Conditions of Work

In its June 1992 petition, the AFL-CIO made several specific allegations regarding conditions of work in Fiji: (1) Fiji has no national minimum wage; (2) Fiji has no regulation specifying hours of work for adult males; and (3) the government does not have enough personnel to adequately enforce health and safety standards. The garment industry is cited as an example of an industry where working conditions are particularly poor.

These allegations continue to be corroborated in part by the HRR, which states that Fiji has no national minimum wage, but that certain sectors have minimum wages that are "effectively enforced and generally support a barely adequate standard of living in all sectors except the garment industry...". The Subcommittee noted that the GOF, in a November 3, 1993 submission, stated that when a certain sector of worker is found to have no effective mechanism for adequate remuneration, Wage Councils, made up of worker, employer and independent members, are responsible for setting wages. Wages, according to the GOF, "are normally decided on the basis of the ability of the sector concerned to pay such increases and also the cost of living adjustment".

The HRR confirms that Fiji has no standard workweek for adult males, and that employees in certain industries, notably transportation and shipping, have problems with excessive hours of work. The HRR also states that government enforcement of health and safety standards suffers from a lack of trained personnel, but that the unions do a reasonable job of monitoring health and safety conditions. The Subcommittee also noted the GOF's statement in its

November 3 submission regarding its Health and Safety at Work Act, to be effective August 1994. This new Act, according to the GOF, will bring Fiji's minimum requirements in the area of occupational health and safety in line with international standards. The GOF also indicated that it would be recruiting additional staff to handle the implementation of this Act.

III. POSITIVE ACTIONS NOTED

The Subcommittee noted the following positive actions:

- The repeal of four of the provisions of the 1991 labor reforms that had been cited by the ILO as being inconsistent with international norms;

- The GOF's statements regarding its intention to continue its cooperative dialogue with the ILO with the objective of bringing Fiji's labor regime into compliance with international norms; and

- The GOF's announcement that a new Health and Safety at Work Act, bringing Fiji's occupational health and safety standards in line with international standards, will go into effect in August 1994.

IV. RECOMMENDATION

The Subcommittee found that Fiji has an independent and active labor movement and affords its workers significant legal protections to exercise the freedom of association and the right to organize and bargain collectively. While the Subcommittee did express its concern regarding the labor reforms of 1991, it welcomed the GOF's actions during the past year to reverse some of the more restrictive of the 1991 measures. It also viewed the GOF's continuing dialogue with the ILO regarding the remaining issues stemming from the earlier reforms as an indication of the GOF's good faith commitment to bringing its labor law regime into closer compliance with international norms.

Accordingly, the Subcommittee recommended that Fiji found to be taking steps to afford its workers internationally recognized worker rights and that the worker rights review of Fiji be concluded favorably at this time.