



International Labor Rights Fund

733 15th Street, NW, Suite 920, Washington, DC 20005

December 13, 2004

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Chairman, GSP Subcommittee
Office of the United States Trade Representative
1724 F Street, NW, Room F-220
Washington, DC 20508

Dear Chairman,

Pursuant to Vol. 69, No. 219, Fed. Reg. 65674 (Nov. 15, 2004), the International Labor Rights Fund (ILRF), in cooperation with the Asociacion Servicios de Promoción Laboral (ASEPROLA) hereby submits the attached five petitions to be considered under the 2004 Annual Product and Country Eligibility Practices Review. In so doing, we join the petitions submitted by the AFL-CIO and the Washington Office on Latin America/US Labor Education in the Americas Project regarding the failure of El Salvador and Guatemala to comply with internationally recognized workers rights. As set forth more fully in the attached petitions, Honduras, Costa Rica, Panama, El Salvador and Guatemala have systematically failed to comply with internationally recognized workers' rights, as required by 19 U.S.C. § 2462, § 502(b)(2)(G). Therefore, we request that each of these countries' eligibility under the Generalized System of Preferences be placed under review, as a means to bring these Central American countries into compliance with these rights.

We would also like, with this letter, to raise concerns regarding the proposed Central America Free Trade Agreement (CAFTA). We are extremely concerned that the labor chapter in this agreement will in fact lead to a weakening of labor laws and legal implementation in each of the Central American countries that are party to this agreement. The CAFTA labor chapter will supersede more credible and transparent labor review processes, such as that available under the GSP program, creating a perverse incentive for Central American governments to weaken their existing labor laws, and eliminating the existing process by which concerned civil society actors, including trade unions, can petition the US government to hear these concerns.

In written testimony on CAFTA submitted to the Office of the US Trade Representative in December 2002, ILRF requested that access to the labor rights enforcement process be made available to all interested parties, not just the government signatories to the trade agreement. The key constituency, workers themselves, must have direct access to an

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enforcement process, at least through the trade unions and other civil society organizations such as human rights groups or church groups that are most closely promoting their interests. As currently written, the CAFTA labor chapter does not address this concern.

We also requested that the enforcement process make a distinction between violations that are attributable to private actors, including multinationals, and therefore require remedies more in the line of penalties, and those that are attributable to governments, and might be better addressed by trade sanctions. Penalties directed at companies, with the cooperation of the host government, will resolve most problems. This also leaves problem solving within the firm control of the individual governments and allows them to act to prevent any protectionist use of the enforcement process. Again, the current CAFTA labor chapter completely fails to address this concern.

We strongly believe that as currently written, the CAFTA labor chapter will not promote better compliance with international labor standards in the Central American countries. As currently written, the chapter is weak, diffuse, complicated, and aimed to sanction commercial actions and not to protect labor. As detailed in the attached petitions, some Central American countries have already sought to weaken their existing labor laws in order to compete within the framework of the free trade agreement. In other countries, governments are seeking to introduce parallel mechanisms that will impede workers' use of labor laws, either by weakening existing labor movements or by creating new barriers to bringing forward cases under existing laws. Moreover there is no means to sanction employers who consciously abandon more stringent labor enforcement environments for weaker regimes, promoting a "race to the bottom." In Honduras, Costa Rica, and El Salvador, for example, the maquilas are slowly leaving for countries such as Nicaragua, Haiti, and China, and workers in the former countries live in fear that if the conditions 'don't improve' the maquilas will leave for good. In Guatemala, the banana companies initiated an exodus from the Caribbean to the Pacific (where there have historically been few or no unions) in order to eliminate union. In Honduras, the Tela company, owned by Chiquita, has been delaying the collective bargaining with the union SITRATERCO for more than a year. Trade unions and other civil society organizations throughout the Central American region have been protesting the passage of CAFTA by their national governments, clearly signaling that they do not believe the agreement will further workers' interests.



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With this letter we would also like to present briefly a comment on Nicaragua, which is not a GSP beneficiary country and therefore not subject to review at this time. A legal project to promote alternative dispute resolution has been undertaken in Nicaragua, with support from the Ministry of Labor and Nicaraguan companies in the export sector. The initiative is being presented to the Nicaraguan parliament. We are concerned that any changes to Nicaraguan law to facilitate alternative dispute resolution not in any way undermine collective bargaining and the mechanisms to negotiate and resolve disputes already present in collective bargaining agreements. We understand that as proposed, the current legal initiative may undermine existing laws related to the formation of unions, and may eliminate existing Ministry of Labor obligations for verification of good faith bargaining. We would very much appreciate the attention of the Office of the US Trade Representative to the proposed initiative, to ensure that it in no way undermines existing Nicaraguan laws related to the formation of unions or collective bargaining agreements.

If you have any questions regarding this submission, please contact Bama Athreya at the International Labor Rights Fund at (202) 347-4100 x 106.

Sincerely,

Bama Athreya
Deputy Director

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