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The Government of Haiti has demonstrated through its actions that it does not respect, observe or enforce internationally recognized worker rights. The AFL-CIO urges that Haiti's GSP eligibility be terminated.

**BACKGROUND**

On February 7, 1986, Jean Claude Duvalier fled Haiti, ending a dynasty founded by his father Francois (Papa Doc) Duvalier nearly three decades before. The collapse of the worst dictatorship in modern day Latin America gave hope that Haitians, the hemisphere's most subjugated people, might at last have a chance for self-government and a better life. An army-led junta took control of the country, and its first proclamation promised that it would guarantee basic human freedom -- including the political freedoms of association and the right to organize. Subsequently, the junta also promised free and honest elections for a president and a national legislature by November 29, 1987, with the inauguration of a civilian government to take place by February 7, 1988.

Through 1986 and 1987, the junta headed by General Henri Namphy vacillated in its application of minimum standards of humane conduct toward a populace that suddenly found itself endowed with freedom of expression and the right to organize

political parties and trade unions. Despite the stated intentions of the interim government, the army, so long the mainstay of dictatorship, remained the ruling force in the country.

Newly-formed labor unions anticipated the application of that force if they transgressed the strictures of the 1981 Duvalier labor code. Still in effect, this body of law invests the government with wide powers to supervise the organization and functioning of trade unions. It limits strikes to 24 hours, after which time strikers may be fired; wild cat work stoppages and slow-downs lasting more than two hours expose workers to the same penalty. There are many other proscribed practices that constitute a "breach of duty by the workers," as stipulated in the code.

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The code's \$3-a-day minimum wage is routinely violated, usually by sweating piece-workers or prolonging work beyond the statutory maximum 48-hour week. Unscrupulous employers, many of them foreign (and U.S.) firms easily take advantage of workers, given an unemployment rate exceeding 50 percent of the nation's active work force. They fire workers with impunity for the slightest reason. The Ministry of Social Affairs, which mediates labor disputes, is not in a position to enforce worker protections in the labor code. This task is relegated to a virtually inoperative labor court.

The Namphy government's behavior toward organized labor during its transition term alternated between suspicion and, when

the occasion arose, outright hostility. Foreshadowing the violence the government was later to visit on the country, the army dealt quite forcefully with popular protests and street demonstrations. In such a climate labor rights were routinely trampled or ignored. The Autonomous Central of Haitian Workers (CATH) was closed, the union dissolved and its officers arrested merely for calling a strike. The junta backed off that blatant violation of freedom of association and subsequently, following strong protests from the AFL-CIO and the ICFTU, released the jailed CATH officers and allowed the organization to resume operations.

The climax of the government's disregard for basic human rights and freedoms came on the eve of the long-scheduled national elections. The evening of November 28, the headquarters of the Workers Federation of Trade Unions (FOS), which was being used as a ballot distribution center, was destroyed by firebombs. Joseph Senat, President of the FOS, had left Haiti because he felt his life was in danger. (In the December 28, 1987 issue of Haiti Progres, a weekly newspaper published in New York, Senat's name appeared on a Tonton Macoute death list, along with those of 101 other Haitian leaders.)

The next day as people lined up to vote, the Tonton Macoutes, came to life, unleashing a wave of wanton killings. On the pretext that law and order had broken down, the government cancelled the election even as the army stood by, ostensibly to guarantee peace. Army troops who -- according to credible

reports also participated in the violence -- were to remain in control of the country as the junta organized a new election on January 17.

It was won by Leslie Manigat, at one time a senior member of Francois Duvalier's government, with what was widely regarded as the support of the junta, the army and the Tonton Macoutes. The major candidates for the presidency and those standing for election to the legislature boycotted the election as a rigged affair. The regime saw it as a necessary piece of window dressing to ensure its rule.

For workers and labor unions, there are no signs yet that the election of Manigat has changed anything. It means living within the limitations of the Duvalier labor code. In short, thus far Manigat's election has meant the perpetuation of the old laws under which workers are accorded no rights.

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#### **FREEDOM OF ASSOCIATION AND THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY**

TOX  
The standards set in ILO Conventions No. 87 and No. 98 concerning the right to organize and bargain collectively provide illustrative guidelines by which to judge Haiti's labor policies. In Convention No. 87 for example:

- o Article 2 describes the individual's right to establish and join an organization of his or her own choosing without previous authorization.
- o Article 3 concerns the organization's right to draw up its own rules, elect representatives and formulate programs without interference from public authority. (Note: the ILO has ruled in no fewer than 99 cases that

the right to strike is a legitimate means for workers to use in defending their own interests.)

- o Article 8 states that workers and employers shall respect national laws and such laws shall not be applied to impair the spirit and intent of the Convention.
- o Article 11 declares that member governments shall take measures to ensure the right of workers to organize.

In Convention No. 98,

- o Article 1 states that workers shall enjoy protection against acts of anti-union discrimination such as: a) making employment conditional on not joining a union or on giving up membership; b) loss of employment due to participation in union activities.
- o Article 2 provides that government should extend to unions protection against any acts of interference by employers' organizations which are designed to dominate or control unions by financial or other means.
- o Article 3 discusses the obligation of governments to establish appropriate machinery or measures to ensure respect for the right to organize.
- o Article 4 calls for governments to encourage and promote the use of machinery for voluntary negotiations and the regulation of working conditions through collective agreements.

Already mentioned are the limits set by Haiti's labor code on the duration of "legal" strikes. If workers fail to give 48 hours notice, a strike is automatically illegal; the strikers are immediately subject to dismissal. If the notification requirement is observed, the Social Affairs Ministry intervenes to mediate the strikers' grievances with the employer. If the employer refuses the mediation, as is often the case, the Ministry has no recourse except to refer the dispute to Haiti's notoriously inefficient and corrupt labor court. There three

judges are charged with an unmanageable case backlog. And while this tortured legal process is pursued, employers are free to fire complainants and hire replacements.

This vicious circle was evident throughout the Namphy transition. Nothing could break it--not pressure on the regime from Haiti's nascent union movement and not the international free trade union movement. Protests, warnings, and private advice from friends of the regime were received with great seriousness by the Haitian authorities. But they responded with the usual platitudes concerning respect for worker rights, while employers relying on the sweeping powers available in the Duvalier labor laws proceeded to break unions. The old forces continue to hold the reins of power, in plain defiance of Haiti's new constitution, approved by popular vote in 1987, and notwithstanding the installation of Mr. Manigat in the presidency in 1988.

For the unions, this was to become clear almost at once, as confirmed by representatives of the AFL-CIO who visited Haiti in May 1988 to meet with trade unionists and senior members of the Manigat government. The AFL-CIO concluded that the elaborate terms of the labor code, drawn up seven years ago as a device to obtain certain U.S. trade and financial assistance, disguised the harsh reality that freedom of association, as defined in ILO Convention No. 87, is essentially meaningless and that the right to organize and bargain collectively, set out in Convention No. 98, does not exist in Haiti.

The following examples, all dating from the installation of the Manigat government, afford evidence that the Government of Haiti is failing to protect its workers' internationally recognized rights:

- o On February 23, employees at Elmaco, an electronics assembly firm, went on strike when they learned the company planned a mass firing. There was one minor altercation between the strikers and management personnel, and, at the request of Elmaco, army troops arrived to take control of the plant. The firm then fired 117 workers.  
*EX Case 1*  
*March 103*
- o On March 18, workers at Minoterie d'Haiti, a major flour and milling company, struck to obtain pay increases agreed to by the mill in March of 1986, and to win an adjustment of current wage levels; they also sought better working conditions. Despite the promise of the Ministry of Social Affairs to secure the 1986 wage increase and look into the workers' additional demands, the government replaced the mill's management with new directors, who then threatened to fire all those who had struck. To save their jobs they went back to work.  
*Case 2*
- o Three hundred employees at Inter-American Manufacturing, a textile and apparel producer, struck on March 19 to protest the firm's failure to pay them during February and March and to request improved wages and working conditions. The 24-hour strike served as a warning, and Inter-American made partial payment of the wages due. There has been no resolution concerning full payment of back wages or the employees' demand for a wage increase and better conditions at the site.  
*Case 3*
- o In April, workers at Ciment d'Haiti conducted a one day strike. The army came to the factory, although the employer claimed it had not been invited. The Workers Federation of Trade Unions (FOS) protested the army's presence to the Minister of Social Affairs. The action was ultimately defended by the government. The issues in the dispute remain unresolved.  
*Case 4*  
*March 104*
- o In May the Christian Democratic CATH-CLAT federation launched a campaign of protest against Rawlings International, a producer of sports equipment, for the company's arbitrary firing of workers in violation of the terms of the labor code. The federation petitioned the Ministry of Social Affairs for redress. When the  
*Case 5*

Ministry sought to mediate the issue with the company, Rawlings refused to discuss it. Because of the failure of mediation -- which is to say the firm's refusal to deal either with the workers or the government -- the Ministry said it had no recourse but to refer the matter to the labor court.

The response of management in this last case was a typical maneuver by companies doing business in Haiti. The labor code permits an employer to frustrate the mediation efforts of the Ministry of Social Affairs, guaranteeing the relegation of the dispute to the labor court where there is little likelihood of any action. Another device is to pay the fired worker the pittance of severance pay required by the code and thus foreclose any future claim by the discharged employee. By merely accepting severance pay the employee forfeits all legal right to pursue a labor matter. A tactic more recently favored by employers is flatly refusing to meet with either union or government representative.

In any case, the effect is to nullify freedoms and rights stipulated in international labor conventions which the Government of Haiti has accepted. Even its obligation to report to the ILO on compliance with these conventions is flouted. The 1987 Report of ILO's Committee of Experts on the Application of Conventions and Recommendations notes "with regret" that the Haitian government has sent in none of the required reports on Convention Nos. 87, 98 and 105 (the latter dealing with forced labor, an issue raised by Haiti's contracts with the Dominican Republic to supply seasonal sugarcane cutters). Long concerned with the "excessive restrictions on the right to strike" in



Haiti's labor code, the Committee said it had not received any of the 12 reports that were outstanding during Namphy's tenure in office.

The disregard by Haiti's post-Duvalier governments of their obligations to the ILO reflects the prevailing attitude toward worker rights in the country. So far, the Manigat administration has simply carried on the practice of the Namphy junta in its use of the Duvalier labor code. Promises have been made that a tripartite body (labor, government, and employers) will draft a new code shortly and that it will be submitted to the ILO for review of its consistency with the ILO Conventions. This remains to be seen. In the meantime, workers' appeals to management are generally rebuffed with a refusal even to discuss a dispute. Once the limited strike weapon is unsheathed, the Ministry of Social Affairs steps in to mediate. The employer either pays off the fired workers with a small severance or refuses to deal in good faith with the Ministry, which then has no option but to comply with the law and send the matter to the dead letter office in the labor court. At this point there are hundreds of labor-management cases tied up in the labor court. None has ever been adjudicated. The worker is left to decide -- if he gets the chance -- to return to the job or join Haiti's army of unemployed. The likelihood is that he will be fired in any case for having agitated for better wages, hours and sanitary conditions in the first place.

