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**BEFORE THE UNITED STATES
TRADE REPRESENTATIVE**

**PETITION TO REMOVE BANGLADESH
FROM THE LIST OF BENEFICIARY DEVELOPING COUNTRIES
UNDER THE GENERALIZED SYSTEM OF PREFERENCES (GSP)**

**SUBMITTED BY:
AMERICAN FEDERATION OF LABOR AND CONGRESS OF
INDUSTRIAL ORGANIZATIONS (AFL-CIO)
June 15, 2005**

Petition 2005 AR Case# 001-CP-05

by AFL-CIO

WR Bangladesh

From: Anne Knipper [Aknipper@aflcio.org]
Sent: Wednesday, June 15, 2005 4:58 PM
To: FN-USTR-FR0441
Cc: Elizabeth Drake
Subject: "2005 Annual GSP Review - Petition"

Attached are the AFL-CIO petitions.

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Information Required Under 15 CFR part 2007

1. Petitioner: AFL-CIO
2. Country: Bangladesh
3. Section of Law Warranting Review: 19 U.S.C. §2462(b)(2)(g) and 19 U.S.C. §2462 (c)(7)
4. Reason for Filing: The Government of Bangladesh (GoB) has not been and is not taking steps to afford internationally recognized worker rights

Background

Since 1990, the AFL-CIO has filed petitions on worker rights violations in law and practice in Bangladesh. An initial petition was filed by the AFL-CIO in June 1990 calling for revocation of GSP benefits for Bangladesh because Bangladesh, by suspending certain labor laws from being applied to Export Processing Zones (EPZs), thereby effectively denied to EPZ workers their rights of freedom of association and collective bargaining.

A second petition was filed by the AFL-CIO on June 16, 1999 after the GoB failed to meet established deadlines to allow legal rights in the EPZs. In response to this second complaint, the GoB gazetted an official notice on January 31, 2001 that said, in part, that all workers in EPZs "will have their legal rights and related rights in the Zones and this will be effective from January 1, 2004."

In December of 2002, the AFL-CIO filed a supplement highlighting the decision of the Bangladesh Export Processing Zones Authority (BEPZA) position to review the functioning of the worker welfare committees in the Export Processing Zones as a prerequisite for introduction of trade union and collective bargaining rights. The AFL-CIO noted this was inconsistent with the spirit of the Bangladesh Gazette notice of January 31, 2004.

Introduction

After fighting to weaken a proposed bill to introduce any labor law into the country EPZs, the GoB finally relented, but allowed a set of ~~laws and regulations to pass~~ that are not ILO compliant. There is no freedom of association in the EPZs, although the law does provide for worker election of representatives in each factory and highly constrained collective bargaining. In the past several months, elections to Worker Welfare Committees have occurred. However, employers have repeatedly intimidated workers and rigged elections. The Bangladesh EPZ Authority officials have been lax in enforcement and implementation, and workers have not been given adequate information of the law and process. There have been only a few relatively fair elections.

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The Implementation and Enforcement of the EPZ Workers' Association and Industrial Relations Act, 2004

The law was made official on July 18, 2004 and provides limited association and collective bargaining rights. The recent actions to implement the Act include:

- Worker Representation & Welfare Committee (WRWC) elections procedures were developed by BEPZA by November 2004.
- WRWC elections, mandatory at each EPZ registered company, commenced in December 2004.
- By June 1, 2005 WRWC elections have been conducted by BEPZA at approximately 70% of the EPZ registered companies.
- By June 1, 2005 registrations for 95 of the 136 elected WRWC's have been issued by BEPZA.

There are a number of problems with the implementation and enforcement of the final EPZ Labor Law:

- The law passed and gazetted in July 2004 is inconsistent with the report from Labor and Investors provided to the GoB in May 2004. The areas of substantial deviation are: extremely restrictive affiliation rights of the WRWC's and Worker Associations (in the 2nd phase of the law); confusing language on the mechanisms and processes for resolution of violations and grievances; and excessive administrative procedures.
- It took five months for the first WRWC elections to take place; 11 months after the passage of the law approximately 30% of the companies have not held WRWC elections.
- After the elections that have taken place (136 of 210 companies); there have been delays in many WRWC's receiving their registrations (95 of 136 WRWC have received their registrations as of June 1, 2005). No serious negotiations are taking place between the companies and elected WRWC's. There are a number of reports of outright refusal to negotiate with the WRWC by companies.
- Workers and candidates in WRWC elections and processes have witnessed violations of trade union rights:
 - company interference in the nominations process
 - company threats towards workers management did not want on the WRWC

- lack of meaningful information on the WRWC process and on the rights, responsibilities, and work of the WRWC being provided to workers and WRWC candidates
 - outright fraud (e.g., workers from 2 companies voting in one election)
 - company selection of candidates and company support for these candidates
 - companies orchestrating the exact number of candidates as WRWC seats, through intimidation, to avoid WRWC election through acclamation
 - seemingly valid worker nominations being rejected by BEPZA for unknown and questionable reasons
 - company proclamations to workers and WRWC's that the company will not negotiate with the WRWC and the WRWC is not "real"
 - delays in elected WRWC's receiving their registrations from BEPZA
- 11 months after the passage of the law there is no mechanism in place for alleged violations of the law, violations or irregularities in the elections process, and worker grievances to be heard and decided on. The system to date has been ad hoc, at the discretion of BEPZA and without due process. The EPZ Labor Tribunal and EPZ Labor Appellate Tribunal required by the law have not been established. Some interim, fair, and transparent system of hearing and deciding on violations and grievances has to be put in place now to deal with current cases.
 - Of all violations brought to BEPZA's attention by workers and/or WRWC's, not a single one, to date, has resulted in a decision upholding the worker(s) or WRWC assertions. Hundreds of questionable worker terminations, dismissals, demotions, and disciplinary measures exacted by companies have occurred.
 - There appears to be a pattern of harassment, demotion, suspension, and dismissal of WRWC elected officers and WRWC conveners. To date, BEPZA has authorized or tolerated (through no action) these employer actions.
 - Companies are refusing to allow WRWC elected officers to do the work of a WRWC representative (e.g., company refusing to provide space for WRWC as required by law; company refusing to negotiate with or meet with WRWC when requested; company disallowing WRWC elected officers to speak with workers; companies excessively and unfairly monitoring and limiting the movement of WRWC elected officers in the factory.

Worker Rights Cases

Taj Knitting

When workers at Taj Knitting protested underpayment of minimum wage and overtime, and an incident of sexual harassment, the factory responded with violent attacks on union activists, sending one to the hospital with a badly fractured skull. This

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union which has collected almost 90% of workers' "D-cards" for union registration is facing harassment and intimidation and the attempt by employers to form a "yellow" union despite the overwhelming majority of workers clearly wanting to choose a real union. The Taj workers submitted an application for union registration on May 2, 2005. Within a week, the management and representatives of the Taj Knitting have threatened a number of the Executive Committee members trying to form the union and urged them to withdraw the application. Further intimidation, including death threats against union organizers, continue at the time of this writing.

Kang Book Company

In January 2005, the leader of the union and at least 100 workers were terminated by KangBook for no justifiable reason (though they believe it is to eliminate most of the workers eligible for and interested in supporting or serving on the WRWC). Same workers have had seemingly bogus criminal cases filed against them meaning they are subject to being taken in to police custody at any time. The company has refused to reinstate them. Workers report they have been blacklisted and have therefore been unable to find another job. Most report they have been without work for up to 6 months now.

Spectrum Sweater

The Spectrum Sweater facility factory situation reveals a pattern of violence, neglect and violation. Dozens of workers died and dozens are still missing. Reporting is by the Clean Clothes Campaign.

Violations reported at Spectrum Sweater include:

- death of a worker three days before the (building collapse) due to burns sustained from hot water from a boiler in the factory.
- worker seriously injured three months prior to the collapse, when her clothing became tangled in wires and she was electrocuted. She remains hospitalized.
- violation of the minimum wage (obviously this means wages far below living wage standards). Wages at Spectrum Sweater were reportedly only 700 taka (about 10 Euro) per month. The minimum wage is 930 taka, an amount that has not been raised since 1995 and which is far below what is needed to live.
- violation of legal right to one day off in seven. Workers at Spectrum Sweater reportedly worked seven days per week. In Bangladesh, workers have the right to one day off per week (Friday, which is the Islamic day of rest).

Conclusion

It has been well over a decade since the first AFL-CIO petition on Bangladesh's violations of worker rights was submitted and there still has been no remedy to this original complaint. Bangladesh has demonstrated contempt for the GSP process, has blocked and delayed any meaningful change and has through its passage of a terribly weak law, and shoddy implementation of that law, proved it is not serious about real reform. Bangladesh should follow the current letter of the law, and deliver a practical plan to abolish its prohibitions against trade unions in export processing zones. The AFL-CIO therefore calls on the U.S. Government to withdraw Bangladesh's eligibility for GSP benefits until the ultimate goal, full freedom of association in the EPZs, is attained.

