

**PETITION TO REVIEW COSTA RICA'S COUNTRY ELIGIBILITY UNDER  
THE GENERALIZED SYSTEM OF PREFERENCES (GSP) FOR VIOLATION  
OF INTERNATIONALLY RECOGNIZED WORKERS' RIGHTS**

**To:**

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

**Submitted by:**

**International Labor Rights Fund  
733 15th Street, NW, Suite 920  
Washington, DC 20005  
Phone: (202) 347-4100  
Fax: (202) 347-4885**

**Asociación Servicios de Promoción Laboral  
Apartado Postal: 583 Guadalupe  
San José, Costa Rica  
Tel: (506) 285 13 44  
Fax: (506) 285 2196**

**Date: December 13, 2004**

## **I. General Information about Petitioners**

The International Labor Rights Fund (ILRF) is an independent non-profit organization headquartered in Washington, DC. ILRF was created in 1986 to promote and defend labor rights worldwide. ILRF achieves this goal through research, publication, public education and outreach, training and advocacy programs in partnership with civil society organizations in developing countries, engagement with international organizations, and legal advocacy. Since the addition of the labor rights clause in the Generalized System of Preferences (GSP), ILRF has filed numerous petitions with the US Trade Representative seeking suspension of trade preferences to countries that failed to comply with internationally recognized worker rights. These prior GSP petitions include: Bangladesh, Cambodia, Columbia, El Salvador, Guatemala, Honduras, Indonesia, Malaysia, Mexico, Peru, Pakistan, Panama, Sri Lanka and Thailand. Each report included an in-depth review of the country's labor rights practices, drawing on a thorough review of the literature (including governmental and NGO reports and academic publications), in-country research and numerous interviews with representatives of labor, civil society and government.

ILRF has also promoted the enforcement of other US laws and programs with labor rights clauses. For example, the Overseas Private Investment Corporation (OPIC) is prohibited from supporting any project that contributes to a violation of internationally recognized workers rights in the host country, as defined by the Trade Act of 1984. In 2000, OPIC began to process an application for financing an political risk insurance to support the construction of a methanol plant by AMPCO in Equatorial Guinea. However, OPIC was concerned that although the laws of Equatorial Guinea recognized the fundamental worker rights, the laws were not always enforced. Indeed, OPIC specifically noted ongoing country practices that limited the exercise of the right to freely associate. In order to perform its due diligence review vis a vis labor rights, OPIC contracted with ILRF to perform a thorough assessment of worker rights in Equatorial Guinea.

The Asociacion Servicios de Promocion Laboral (ASEPROLA) is an independent non-profit non-governmental organization founded in 1985. ASEPROLA is based in San Jose, Costa Rica. Its mission is to provide technical support to the formal sector salaried workers in Central America to better defend, promote and fully exercise their social and labor rights. ASEPROLA has been a major force in the formation of national labor organizations and the consolidation of regional labor organizations in the Central America. In the agricultural sector, for example, ASEPROLA provides research, training, and legal advice to its partners, including for example, Coordinadora Centroamericana de Trabajadores (COCENTRA), Coordinadora Latinoamericana de Sindicatos Bananeros (COLSIBA) and Coordinadora de Sindicatos Bananeros de Honduras (COSIBAH). ASEPROLA has a broad and experienced working relationship with other labor oriented Central American non-governmental agencies (NGOs) and civil society organizations in Panama, El Salvador, Guatemala and Honduras.

As described below, the petitioners believe that Costa Rica has 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 Costa Rica's eligibility under the Generalized System of Preferences be placed under review, as a means to bring Costa Rica into compliance with these rights.

## II. Supporting Information on Violations of Internationally Recognized Workers Rights

FOIA  
Costa Rica is one of the most anti-union countries in the Americas and routinely violates the right of workers to freely associate. Only 15% of the Costa Rican work force belongs to a union, and, of that number, 80% are in the public sector. Currently, the greatest impediment to free association in Costa Rica is the use of "solidarity associations," which are favored by the employers. Such associations are incapable of exerting a threat to the employer because they do not enjoy the right to strike. Indeed, employers use these organizations as cover to avoid obligations to bargaining collectively with unions.

Among those who do have the right to strike, they are excessively restricted by an absence of legal guidance and a hostile judicial system. For example, while strikes are allowed in the public sector so long as a judge determines that a strike would not effect essential services, no criteria exist to determine which sectors belong to this category. In the past 50 years, only two strikes have been declared legal. Indeed, after a visit to Costa Rica in September 2001, the ILO confirmed that it is almost impossible to carry out legal strikes.

Within the Costa Rican system, judicial processes that should protect the rights of union workers are slow and ineffective. In effect, different sectors accuse the judicial branch of preventing workers from reclaiming their labor rights, because of the long delays in the courts. Individual workers' complaints take an average of 18 months to be resolved.

In 2002, the GSP Subcommittee rejected for review the petition submitted by the AFL-CIO to suspend trade preferences for Costa Rica. Given the abundant evidence that Costa Rica does not respect internationally recognized worker rights, as set forth in that petition, we urge the USTR to reconsider its decision and to conduct a full investigation into the failure of Costa Rica to meet all of the conditions necessary for participation in the GSP program.

We are particularly concerned that during the negotiations of the Central American Free Trade Agreement (CAFTA), the Costa Rican government has actually taken steps to weaken existing national labor protections. In early 2004 the government introduced a project to reform the country's labor code. In particular, proposed legislation would modify working hours through a year-long calendar of work shifts and the weekly accumulation of working hours, eliminating the standard eight-hour workday.

The proposed legislation would also eliminate the rights to mixed and absolute overtime hours, as it would allow employers to increase work hours at times of high demand, and lessen work hours in times of low demand. We are particularly concerned that when introducing this legislation to the Costa Rican parliament, the government argued that *such flexibilization of working hours and overtime rules was necessary in order to allow Costa Rica to remain competitive with the other Central American countries once the CAFTA was ratified*. Public pressure on the Costa Rican government resulted in some modifications to the proposed legislation, which has not yet been introduced to the legislature.