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**BEFORE THE UNITED STATES
TRADE REPRESENTATIVE**

**PETITION TO REMOVE EL SALVADOR
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)
AND INTERNATIONAL BORTHERHOOD OF TEAMSTERS (IBT)
December 13, 2004**

For 2005 AR

Petition 2004 AR
by AFL-CIO & IBT
WR El Salvador

From: Elizabeth Drake [Edrake@aflcio.org]
Sent: Monday, December 13, 2004 4:43 PM
To: FN-USTR-FR0441
Subject: GSP Eligibility Petitions

Please find attached petitions from the AFL-CIO to remove El Salvador and Oman from GSP eligibility based on their failure to take steps to afford internationally recognized worker rights. The International Brotherhood of Teamsters (IBT) is also a petitioner for the petition on El Salvador. The AFL-CIO's endorsement of the GSP petition on Guatemala filed by the Washington Office on Latin America and the U.S./Labor Education in the Americas project is also attached.

Thank you,
Elizabeth Drake

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Information Required Under 15 CFR part 2007

1. Petitioner: AFL-CIO and International Brotherhood of Teamsters (IBT)
2. Country: El Salvador
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 El Salvador has not been and is not taking steps to afford internationally recognized worker rights.

Introduction

The AFL-CIO and IBT petition for the withdrawal of El Salvador's status as a beneficiary developing country pursuant to 19 U.S.C. § 2462(d) on the grounds that the Government of El Salvador (GOES) has not been and is not taking steps to afford internationally recognized worker rights as defined at 19 U.S.C. § 2467(4). The actions of the GOES described herein demonstrate that El Salvador is not eligible to receive GSP benefits.

FOA The Government of El Salvador continues to systematically violate workers' rights to freedom of association and collective bargaining. No significant progress has been made to address the systemic impunity of employers or the GOES itself, described in detail in the AFL-CIO's petition of 2000.

Labor Laws and Enforcement Mechanisms are Inadequate to Protect Fundamental Workers' Rights

An investigation by Human Rights Watch released in December 2003 underscores the deficiencies of both the Salvadoran legal regime for protection of workers' rights, and the administrative and judicial mechanisms for enforcing these laws.¹ The HRW investigation, based on extensive field research, draws attention to structural deficiencies in labor laws, including: weak protections against anti-union suspensions and dismissals; no explicit protection against anti-union discrimination in hiring; obstacles to union registration; and suspensions to circumvent labor law protections.

These deficiencies in Salvadoran labor law have also been extensively documented by the U.S. State Department, the International Labor Organization (ILO), and the international trade union movement. In its June 2003 comments on labor rights in the CAFTA countries, the AFL-CIO summarized some of the defects in Salvadoran labor law identified by these institutions, including: insufficient protection from anti-union discrimination, obstacles to union registration, restrictions on the right to organize at the industry level, limits on the rights of public employees, and restrictions on the right to strike.

The Human Rights Watch report also documents the systemic failure of the Salvadoran Labor Ministry and judicial system to enforce national laws and regulations

¹ Human Rights Watch, *Deliberate Indifference: El Salvador's Failure to Protect Worker Rights*, December 2003

that protect workers' rights to freedom of association and collective bargaining. The report shows that labor inspectors often fail to follow proper procedures, especially preparation of an *Acta* (record) of an inspection visit. Workers are frequently denied the opportunity to participate in inspection visits, and sometimes inspectors refuse to provide workers and union representatives with copies of *actas* as legally required. The Labor Ministry generally is derelict in enforcing inspection orders and exercising its power to impose sanctions on employers, and often refuses to rule on matters within its jurisdiction. In some cases, the Labor Ministry openly tolerates or participates in illegal actions by employers such as coercing employees to sign resignation letters. In addition, the Labor Ministry erects obstacles to unions' legal registration.

Labor courts are characterized by delays and burdensome procedural requirements that inflict heavy costs on workers and often prevent them from seeking justice. Witnesses are not protected against employer retaliation. There are no procedures to obtain jurisdiction over employers who fail to appear in court and cannot be found. Even when a judgment is obtained, it is often impossible to enforce it. Employers – including the government – frequently disregard court orders to reinstate fired workers with no legal consequence.

In summary, some of the key structural weaknesses in El Salvador's labor law and enforcement are:

1. The failure of the GOES to ratify ILO conventions governing freedom of association – ILO Convention 87 concerning Freedom of Association and Protection of the Right to Organize (ILO Convention 87) and ILO Convention 98 concerning the Right to Organize and Collective Bargaining (ILO Convention 98).
2. Legislation does not require immediate reinstatement of workers fired or suspended for legal union activity, including the immediate reinstatement of fired trade union leaders. In addition, legislation does not prohibit employers from discriminating in hiring with regards to workers who have been involved in union organizing, or are suspected of such activity.
3. The current minimum of workers required by law to form a union is excessive (35 workers). Additionally, the requirement that six months pass before workers whose application to establish a trade union is rejected can submit a new application serves as a deterrent to freedom of association. The failure to explicitly allow workers in independent public institutions to form industry-wide unions; and the failure to allow all public sector workers, with the possible exception of the armed forces and the police, to form and join trade unions, is unacceptable.
4. The Ministry of Labor of the GOES does not fulfill its legal obligation to enforce national labor laws or abide the legislation governing its operations. The Labor Inspectorate does not consistently and in an unbiased manner conduct inspections, upon request, on any matter legally within its jurisdiction or determine compliance

with, or violation of, the law in question; prepare official documents at the conclusion of each inspection and provide all parties a copy of the these inspection results; conduct re-inspections to verify that an employer has remedied all identified violations within the allotted time period, and finally, does not utilize the sanction process in the case of clear violations conducted by an employer.

5. The Ministry of Labor's Labor Directorate does not uphold its legal duty to facilitate the formation of labor unions by abiding by its obligation to provide workers fifteen days to remedy any legal defects with a union registration petition or fully investigate and allow workers to respond to employer claims regarding founding union members' eligibility for membership.

Despite repeated criticism from the U.S. State Department, the ILO, the international trade union movement and independent human rights advocates of these serious defects in both labor law and practice in El Salvador, the government has not begun to take the steps needed to afford workers their internationally recognized worker rights. In order to meet GSP eligibility requirements, the government of El Salvador must make immediate progress in reforming its labor laws to meet international standards and must undertake major reforms of its enforcement system to ensure that the Labor Ministry, the courts, and other government officials work to defend the exercise of labor rights rather than undermine it.

Violations of Freedom of Association and Collective Bargaining in the Private Sector

Mr. Gilberto Soto, a long time organizer with the International Brotherhood of Teamsters (IBT) based in New Jersey, was assassinated on November 5, 2004 at 6:00 p.m. in the city of Usulután, El Salvador. Mr. Soto was in charge of organizing port container drivers in the northeast of the U.S. and was a recognized leader in his community, involved in civic and religious activities that guided his life in the U.S. and kept him connected to his roots in El Salvador. In early 2004, Mr. Soto met with Denmark's Specialized Workers Union in Denmark (SID) Representative for Central America in New York City and based on this meeting the IBT and SID decided to collaborate on a joint project to document the systematic violations of worker rights by Maersk, one of the largest shipping companies in the world. Mr. Soto was just about to begin his organizing work, to meet with port workers in El Salvador, Honduras and Nicaragua and the truck drivers who haul Maersk containers, when he was shot along his torso by three unknown assailants. According to eyewitnesses, those responsible for pulling the trigger did not attempt to rob Mr. Soto, and fled immediately after the assassination, running to a car and leaving a bicycle 100 yards away.

Despite the arrest of the five suspects in the murder including Mr. Soto's mother in law, significant doubt remains about the integrity of the investigation and whether the responsible parties have truly been identified. El Salvador's Special Organized Crime Unit of the National Civil Police Force, which has been handling the case since it was removed from the jurisdiction of the Usulután police force, is renowned for its corruption and willful negligence in investigating other human rights violations that have occurred

over the last decade.² In the case of tracking down suspects in the killing of Mr. Soto, the police have been accused of torture to get confessions, behavior that is consistent with past practice according to human rights activists and former police officers.³ El Salvador's Human Rights Ombudsperson, Beatriz Carillo is conducting a verification of the police's investigation, including looking into the claims of coerced confessions, and is scheduled to release her own independent findings on Monday, December 13, 2004.

Even if the prosecutors in the case are correct in their claim that the murder of Mr. Soto is not linked to his activism around Maersk Sealand Industries, it is clear that taking a public stand to speak out against worker rights violations is not a fully protected right and can result in harassment, or worse. Days after the Soto murder, the Centro de Estudios y Apoyo Laboral (Center for Labor Study and Support or CEAL) placed a paid advertisement in Salvadoran newspapers decrying the act and calling for a full, independent investigation. Immediately afterwards, between the evening of November 13 and morning of November 14, 2004, CEAL's office was ransacked, their computers and communication equipment stolen and files reviewed and stolen. These two examples of the price paid by labor activists and the organizations engaged in the work of highlighting and remedying worker rights violations in El Salvador reveal the hostile environment in which Salvadoran workers must struggle to exercise their most basic rights as workers.

Threat

The GOES continues to tolerate worker rights violations in El Salvador's maquiladoras that produce apparel for export, principally to the US. The Government's response to media reports of massive safety and health violations in the maquilas has been either to deny the existence of a problem or to blame the unions. In point of fact, in the apparel-producing maquilas, the violations of worker rights disclosed in a USAID-funded report by an investigative unit of the Ministry of Labor in July 2000⁴ continue. In addition to persistent safety and health problems, recent reports indicate the persistence of sub-standard working conditions including inadequate ventilation, excessive heat, denial of permission to drink water or use the restrooms, and abusive treatment. Threats of dismissal of anyone who attempts to form a union are reported, as is the use of blacklists to prevent union organizers from being re-hired in the maquilas.⁵

MINSTTD

STIT and INSINCA, S.A.

case 1

On July 31, 2002, the administration of the INSINCA maquila suspended the contracts of 640 employees, all members of the Union of Workers of the Textile Industry

² The murder of Ramón Mauricio García Prieto Giralt in 1994 and the rape and murder of Kattia Miranda on April 4, 1999 are two examples of the breakdown of the police system to prevent, investigate or arrest perpetrators of violent crime. Even worse, evidence in these two cases point to the complicity of police in the crimes. See, <http://www.elsalvador.com/vertice/2004/060604/reportaje.html> and <http://www.state.gov/g/drl/rls/hrrpt/2003/27897.htm>.

³ Testimony in the Prensa Grafica: "Yo torturé... y casi maté"
<http://www.elsalvador.com/vertice/2004/051204/relato.html#>

⁴ Report available at www.nlcnet.org/elsalvador/0401/arlcover.htm.

⁵ UNITE, The GAP's Global Sweatshop, www.behindthelabel.org/pdf/Gap_report.pdf

(STIT) and proceeded to distribute severance pay, stating that the firm was undergoing a process of reorganization. The administration promised all workers that they would be re-contracted once operations began again, but with reduced benefits, including the loss of annual bonuses and 25 days of vacation leave per year. The legal department of INSINCA instructed workers that in order to receive severance payments, they would have to sign a letter relieving the company of all responsibility. Many of the suspended workers were not re-contracted; those who were have lost the benefits they previously enjoyed.

INSINCA used the mass firing to undermine the union. In addition to the dismissal of hundreds of union members, 12 leaders of the STIT union were also denied access to the factory. INSINCA has refused to re-hire the union leaders.

Under Articles 36 and 37 of the Labor Code, reorganization of production to reduce costs does not constitute legal cause for suspending employees' individual labor contracts. Moreover, Article 47 of the Constitution and Article 248 of the Labor Code prohibit the firing or suspension of union organizers and leaders during their tenure and for one year thereafter. INSINCA's firing of union leaders directly violated these provisions. The company has not even made the pro-forma efforts required by the law to either acknowledge the illegal firing, by paying workers the thirty days salary they are owed for every year of employment, or to make the firing of the union leaders legal by exploiting the loophole of paying the union leaders salaries and benefits for one year until their terms expire, technically maintaining them as employees, but outside of the workplace. The GOES has failed to protect workers effectively against anti-union dismissals in the case of INSINCA.

STIT first appealed to the Labor Ministry, which produced no results; the Ministry's refusal to order an inspection was appealed to the courts. A request to the Fourth Labor Court to declare INSINCA's action a lockout was also rejected.⁶ As of December 2004, no progress has been made against this case and the union is effectively crippled to represent the workers at the worksite.

ANTHONY FASHIONS: case ①

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Anthony Fashions, a subsidiary of the New Jersey based Metrix Computer Cutting, Inc., opened in 1998 in the San Bartolo free trade zone. On December 20, 2002, the company announced that it was suspending production due to a lack of orders for US retailers Liz Claiborne and Leslie Fay. The company failed to pay salaries and end-of-year bonuses to its 700 workers. The back wages (but not the bonuses) were paid on December 30, and on January 6 the company announced that it was closing permanently. At the same time, the company was reorganized under a new name. Anthony Fashion also failed to pay legally required bonuses and pension and social security contributions for the 13 months prior to its shutdown. The workers have filed 320 complaints in the labor courts for the unpaid contributions. The Labor Ministry provided the workers with documentation of the unpaid social security contributions (\$260,000) and pension

⁶ Id.

contributions (\$120,000), but refused to provide them with documentation of unpaid bonuses, without which the workers were unable to pursue their legal claims against the company.

Labor inspectors showed workers a copy of a letter from a representative of the factory owner to the Labor Minister requesting that neither the workers nor their union be given the documentation that they requested to pursue their legal cases. The letter reads, in part:

It is important to tell you that unscrupulous people are using the media to generate negative propaganda against my representative [Anthony Fashion]; said people are supposed trade unionists who have nothing to do with the company that I represent, as they do not even work there; it is for that reason that I ask you to order your assistants to use appropriate discretion with respect to information that this company gives to this Ministry, because said information falling into evil hands would cause the situation of the company to become even more complicated and arrive at a point where the business was unable to pay for itself.

The refusal to provide information to workers about their unpaid bonuses was reiterated on January 17 by the Vice-Minister, who threatened sanctions against labor inspectors who had given information orally. This was a clear violation of the workers' legal right to access to a copy of the inspection results.

On March 19, the Attorney General of the Republic informed the union that 298 individual cases were in danger of being dropped because the owner of the company was outside the country and could not be served. The union explained that it had not been able to take legal action to place an embargo on the company's property because of the Labor Ministry's refusal to turn over information to the Attorney General. Despite a promise by the General Labor Inspector to provide the information, the union soon learned that the plant's equipment was being sold to other free zone companies. The union has appealed to the National Assembly for assistance in compelling the Salvadoran Ambassador to the US to track down the owner of Metrix Computer Cutting.⁷ According to a December 2003 Human Rights Watch Report and evidence collected by CEAL, the workers' criminal complaint against the company for wrongfully withholding their bonuses was dismissed for lack of evidence.⁸ There is a clear link between the government's willful negligence to inform the union representative who had called for a third inspection of its occurrence on January 10, and the impunity enjoyed by Anthony Fashions. The fact that workers did not have access to the January 10, 2003 inspection report made it more difficult to substantiate the charges regarding unpaid bonuses, those allowing Anthony Fashions to flee the country and thus escape its legal liability.

⁷ CEAL, *Actualización de estado de casos de violaciones a los derechos laborales en El Salvador*, May 2003

⁸ Human Rights Watch, *Deliberate Indifference: El Salvador's Failure to Protect Worker Rights*, December 2003

The Anthony Fashions company, throughout the history of its operations in the San Bartolo Free Trade Zone, was known as one of the most severe violators of labor standards and basic working conditions. While the company deducted Social Security payments from the workers' salaries, they had not paid them over to the Social Security Administration since July 2001. Prior to the closing in December 2002, more than 50 cases had been filed in the Public Prosecutor's Office by pregnant workers from Anthony Fashions who had not been able to obtain health care services through the Social Security Health Care System because their employer had failed to pay in the worker and employer contributions. In the Labor Ministry there were numerous individual cases brought against the company by workers for such concerns as failure to pay wages, failure to provide health certificates to attend medical appointments, etc. Despite the hundreds of complaints filed against Anthony Fashions, there were no measures taken against the company while it was open, leaving even less recourse for workers once it was closed. As stated by Human Rights Watch, "(The Government's) failure to prosecute these cases vigorously, report evidence of such violations immediately to the ISSS for investigation, and create a mechanism so that affected workers can obtain timely access to clinics violates workers' right to health."⁹

The Labor Ministry, in the case of Anthony Fashions, has failed to allow worker participation in inspection visits, provide workers with inspection results necessary for holding the employer responsible, rule on matters within its jurisdiction, or report to social security authorities evidence of social security law violations. This case vividly demonstrates the failure of the labor authorities to focus in on egregious violators and to seek corrective measures prior to the incidence of more severe violations or complete loss of the employment source, as was the case with Anthony Fashions.

SELSA and Lido, S.A. -Case (1)

The Union of Empresa Lido, S.A. (SELSA) was founded on November 22, 1959 and won legal recognition on February 12, 1961. Clause 43 of the collective bargaining agreement between Lido and SELSA establishes that salaries will be reviewed during the first fifteen days of January each year. In 2002, Lido failed to do so and SELSA began direct negotiations with Lido. SELSA brought up several different proposals for increasing worker salaries; Lido did not raise salaries. During the subsequent conciliation period that followed the negotiations, Lido brought forth its own suggestions, including a 5% reduction in worker salaries, in clear violation of Article 30 of the Labor Code that prohibits the reduction of salaries without legal cause.

In order to pressure the company, SELSA organized a one-day work stoppage on May 6, 2002, in which 320 of the 350 workers in the factory participated. The following day, Lido locked out the 11 members of the union executive along with 25 SELSA-affiliated workers, and on May 9, five more affiliated workers were denied entry. In total, 43 union members were locked out, clearly in retaliation for union activities. According to the investigation by Human Rights Watch, Roberto Quiñonez, Lido's general manager, explained to a labor inspector:

⁹ Ibid. p. 25

On May 6, 2002 (workers) were asked who wanted to work and who supported the action of the union (the work stoppage), the latter being those who would not be allowed to enter (the workplace)...(T)he 41 workers (can) make use of their labor rights and file corresponding actions before the competent authorities, as no possibility exists of their reinstallation.¹⁰

Lido brought an action against the workers for illegal work stoppage, but the Second Labor Court ruled that a lockout had occurred. However, the union's request to the Third Labor Court to declare a lockout was rejected. The union also asked the Labor Ministry to extend the conciliation period and to investigate the company's denial of entry to the union members. SELSA relied on Article 47 of the Constitution, Article 248 of the Labor Code, and the collective contract with Lido, all of which state that union members cannot be fired, dismissed, or suspended except for legal cause previously established by a competent authority. Nevertheless, Lido continued to deny workplace access to the 11 union leaders and the 30 SELSA-affiliated workers.¹¹ In cases filed by the forty one barred union members to the Labor Ministry, two times labor inspectors conducted inspections but reported no findings, failing to rule on the alleged violations of Lido of the union members rights.

After more than two years 9 SELSA union leaders continue to be locked out from the workplace. While the company has recognized that the leaders cannot be dismissed and has paid the salaries of the union leaders, they have refused to allow the workers to enter their work site or to represent the members in any way. Payment of severance to the thirty union members was made contingent on workers signing resignations and waiving all claims against the company. The 11 union leaders have been unable to conduct grievance resolution, meet with workers or management, or attend to workplace-based concerns since May, 2002. They have attempted to maintain a dialogue with their employer, though as of this date there has been no progress in gaining re-entry to the workplace. The union leaders state that with no effective union leadership and representation inside the work site the company has committed other types of abuses such as to allegedly coerce members to resign from the union or to violate the clauses of the collective bargaining agreement. While the Labor Ministry has stated that they are taking a special interest in the case, as of December 2004, they had been unable to obtain a solution. The only discussions of re-entry to the workplace were suggestions that the leaders return in two or more groups over a period of some months. Even this "flexible" application of the obligation not to dismiss union leaders as stipulated in Article 47 of the Constitution of El Salvador has not been implemented at this time.

In its examination of this case, the ILO Committee on Freedom of Association reached the following conclusions. First, it determined that the Labor Ministry had no authority to declare the May 7 work stoppage illegal. Second, in view of the ruling of the Second Labor Court that no strike had occurred on May 7, the Committee found it plausible that the company had retaliated against the locked-out workers for anti-union

¹⁰ Ibid. p. 33

¹¹ Id.

motives, and asked the government to obtain a prompt judicial resolution of this question. With respect to the government position that strikes are prohibited during the term of a collective bargaining agreement, the Committee stated that such a prohibition must be compensated by the availability of rapid and effective mechanisms to resolve disputes that arise over the application of the conflict. The Committee also asked the government to promptly investigate the union's claims that its members had been pressured to drop their legal claims. Finally, the Committee requested that the government allow the union leaders access to the workplace.¹²

In the most recent development, a workers' assembly of the Lido union elected two current employees of Lido to serve on the union's Executive Committee in November 2004. Nevertheless, nine of the eleven fired in 2002 continue their struggle from outside the factory.

On February 17, 2004 SELSA submitted a solicitation to the Legislative Assembly of El Salvador requesting that the Assembly's Labor Commission intervene in the Lido case. SELSA asked the Commission to call for the Inspector General of the Ministry of Labor to issue a resolution that would order the Ministry to comply with the law, specifically by reinstating the members of the Union's Executive Committee, in concordance with the ILO's resolution issued in March 2003, calling for the GOES to take this position with Lido.

On April 26 SELSA began to negotiate a renewal of its collective bargaining agreement, which was concluded in October 2004 without major revisions. One notable exception was the company's firm refusal to include a no-discrimination clause for HIV-positive workers, a proposal that was put forward by SELSA in its draft CBA. On various occasions between May and September 2004, SELSA requested the Labor Inspectorate to conduct inspection of the case. Finally, on September 7, 2004 an inspection was conducted, during which the company claimed that SELSA's leaders were not working at the factory because they had simply decided to not show up to work, a fact disproved in the same inspection's long list of previously discovered facts.

Also over the course of the year, in public venues, the Minister and Vice Minister of Labor spoke of a fine of \$75,000 that the Ministry had levied against Lido to set the example that the State finds the company's refusal to reinstate the union leaders unacceptable. Nonetheless, SELSA members argue that the company has appealed the fine on the basis that it was applied negligently by the Ministry of Labor, demonstrating how it is possible for an employer to evade accountability by exploiting the appeal process in El Salvador. SELSA has solicited certification of the proceedings related to the fine both verbally and in writing, but has been denied access to the information.

SELSA reported the above developments to the ILO's Committee on Freedom of Association on November 25, 2004, and received an official communication from the same on November 30, notifying the union that ~~their~~ allegations and explanations had been received and communicated to the GOES, in accordance with standard procedure.

¹² ILO, Committee on Freedom of Association, Report No. 330, Case No. 2208, paras. 599-605.

Violations of Freedom of Association and Collective Bargaining in the Public Sector

The ILO has recognized that labor law in El Salvador fails to guarantee freedom of association rights for workers employed by the State. At its November 2002 meeting, the Committee made the following recommendations in Case No. 2190 [see 329th Report, para. 492]: “The Committee strongly urges the Government as a matter of urgency to ensure that the national legislation of El Salvador is amended so that it recognizes the right of association of workers employed in the service of the State, with the sole possible exception of the armed forces and the police.”

Over the past three years, the GOES has used public sector “modernization” programs financed by the Inter-American Development Bank¹³ to undermine unions in the public sector, systematically violating collective bargaining agreements and targeting union leaders for dismissal.

Using civil service reforms enacted in December 2001, the Executive gave last minute notice of dismissal to 15,664 public employees. At the same time, the number of workers on temporary contracts was increased. A report by the Government’s Human Rights Procurator pointed out numerous human rights violations in the retrenchment process, including use of dismissals for disciplinary purposes without due process, re-contracting of dismissed workers to perform their previous jobs with reduced pay and benefits, and targeting of union leaders for dismissal.¹⁴

STSEL and CEL - case ①

The Union of Electrical Sector Workers (STSEL) is an important union comprised of four sections, each with a collective contract. Three of these contracts are with entities that have taken over energy distribution (GESAL, ETESAL, and Duke Energy); the fourth is with the semi-autonomous, partially state-owned Rio Lempa Electricity Commission (CEL). Between 1992 and 1999, re-structuring of the electricity sector had an important impact on working conditions, and STSEL played a key role in defending labor rights in this sector.

In 2001, CEL launched a campaign to weaken the union. On September 24, CEL fired a union leader, Mario Roberto Carranza Hernandez. Under Salvadoran law, Hernandez, as a union leader, would normally be protected from dismissal, but, on September 20, 4 days before the firing, the chief of the Department of Social

¹³ See Public Services International, *The IDB, The World Bank, Labor Rights and Health Care Privatization in the Americas*, July 2001, pp. 1-21, available at www.world-psi.org

¹⁴ *Informe Especial de la Señora Procuradora para la Defensa de los Derechos Humanos sobre la supresión de plazas en el sector público, ocurrida por consecuencia de la aprobación, sanción, promulgación y vigencia de la Ley del Presupuesto General de la Nación (2002), de la Ley de Salarios (2002), y de las reformas a la Ley del Servicio Civil*. 6 February 2002, available at www.pddh.gob.sv/supresion.htm

Organizations in the Ministry of Labor classified Hernández as a confidential employee subject to dismissal, without completing a number of the legally required procedures.

On November 12, 2001 CEL fired six workers, including a member of the union executive board, from the central offices. On March 19, 2002, eight affiliated workers were fired from the hydroelectric plant. On April 1, three workers were fired from CEL, two of them union leaders. In total, 23 members including five executive members were fired as part of the campaign. In addition, CEL pressured workers to disaffiliate from STSEL, resulting in the withdrawal of 48 members between December 14, 2001 and April 15, 2002.

The attack on STSEL accelerated with the firing of its General Secretary, Alirio Romero, and the General Secretary of the CEL section, Sará Isabel Quintanilla, on October 18, 2002. These actions clearly violate Article 47 of the Salvadoran Constitution, Articles 204 and 208 of the Labor Code, and the collective contracts.¹⁵ As of this writing the union leaders have not been reinstated.

Obstacles to Legal Recognition and Massive Firings at the Ministry of Finance

The Salvadoran Ministry of Labor's repeated actions in denying legal recognition of SITRAMH (Sindicato de Trabajadores de Ministerio de Hacienda), the Finance Ministry workers' union, points out two distinct problems: first, impediments to the formation of unions in the public sector, and, second, the retaliatory firing of union members.

The use of legal formalities by the GOES to deny legal recognition to worker organizations has been condemned repeatedly by the ILO.¹⁶ Yet the GOES continues arbitrarily to block union requests for recognition. In May 2001, a group of employees of the Finance Ministry held a general assembly to constitute their union, SITRAMH. On May 15, 2001, the group presented a request for legal recognition of the union to the Ministry of Labor, which under law had 30 days to review it. On June 26, the Ministry issued a document rejecting the union's application. This document was full of errors, including mistakenly referring to union members as workers of the Ministry of the Interior rather than the Ministry of Finance. On June 27, SITRAMH appealed the Ministry's denial of recognition; the Ministry responded with a second rejection. The Ministry argued that the Labor Code did not apply to employees of the Finance Ministry and that the Constitution prohibits the formation of unions by public sector workers. The Constitution does prohibit certain categories of public employees to strike. But Article 47 of the Constitution explicitly recognizes the right of all workers to form unions.

In December 2001, massive firings of Finance Ministry workers began and some 217 positions were eliminated. Among those fired were 14 constituent members of SITRAMH and 14 members of the existing Association of Finance Ministry Employees

¹⁵ Id.

¹⁶ See ILO Committee on Freedom of Association, *Complaint against the Government of El Salvador presented by Communications International (CI)*, Report No. 313, Case(s) No(s). 1987 (1999).

(AGEMHA). Other AGEMHA executive members were shifted from permanent to contract positions.¹⁷ As of December 2004, the situation has not changed for employees of the Ministry of Labor, who still want to form a union but have no hope that this will be possible under the current legislative framework, and certainly not possible without severe repercussions, in the form of firings, for those that push the issue.

Obstacles to Legal Registration at Rosales Hospital

In 1995 the hospital employee union, SIGESAL, held a strike at Rosales Hospital, the main hospital in country's the public health care network. While the strike was resolved through negotiation, in the period that followed, the union's executive council elected for 1995-1996 was denied legal recognition by the Ministry of Labor, motivating SIGESAL to file a complaint at the Trade Union Freedom Committee, registered as Case Number 1874.

In their findings in 1996, the Trade Union Freedom Committee made several recommendations, among them:

“The Committee urges the Government to take measures to recognize the transformation of the trade union of the Hospital Workers of El Salvador to an industry union and immediately proceed to newly register the Executive Committee that has been elected. The Committee asks the Government to keep it informed on progress on this case.”

Subsequently, SIGESAL held an election for its Executive Committee in 2000, upon which they were once again denied legal registration. Most recently, on November 4, 2004 the union submitted registration for its executive committee elected for the period 2004-2005, to which the Ministry of Labor never sent an official reply. SIGESAL has sought legal support for its position in the Inter-American Charter of Social Guarantees (of which El Salvador is a signatory), whose founding document Article 26 states, “the conditions required for the constitution and functioning of professional organizations and unions should not limit freedom of association.”

Currently, SIGESAL has 200 members at the Rosales Hospital and is widely recognized at the hospital and by national and international bodies as the legitimate representative of the workers. However, the Ministry of Labor continues to deny SIGESAL legal recognition.

Firings of Members of SITINPEP and Proposed Pension Reform

The Union of Workers of the National Institute of Public Employee Pensions (SITINPEP) was also affected by the Government's restructuring plans. During 2001, the Institute developed plans for cutbacks in personnel without consulting the union, in violation of clauses in the collective bargaining agreement that require the union to be provided with this information and despite numerous information requests. In December, the Institute announced the elimination of 150 positions (100 more than the Assembly had

¹⁷ CEAL, *Recopilación de las principales violaciones*

authorized). Of 92 employees who received dismissal notices, 55 were union members, including three former union executive members whose tenure was protected under Article 47 of the Constitution and Article 248 of the Labor Code. INPEP followed these dismissals with a campaign of intimidation intended to persuade the remaining union members to renounce their membership. Of 136 union members, 55 were fired, 29 accepted severance, and 12 gave up their membership, leaving only 49.¹⁸ The Human Rights Procurator's report on INPEP cites numerous violations of the collective bargaining agreement, the Institute's regulations, the Constitution and the Labor Code.¹⁹ Likewise, the ILO Committee on Freedom of Association has asked the GOES to ensure that INPEP management respects the collective bargaining agreement and has requested an investigation into the firings.²⁰

While El Salvador's pension system is considered one of the most expensive systems in Latin America and may merit reform, the reforms being proposed to the Savings Law for Pensions, known as Decree 347, will have catastrophic impacts on all Salvadoran workers, and particularly those who work at the National Pension Institute of Public Employees. The proposal to replace the current public system with a private system has a projected cost to the state of \$134 billion dollars. The government argues that this shift would generate a savings of \$7.5 million dollars in 2005 alone due to the reduction in number of retirees brought about by the new requirements.²¹

The new language proposed for the Decree establishes that individuals may retire when: the balance of the individual savings account for pensions is sufficient to finance a pension equal to or greater than 60 percent of the basic salary; when the individual has contributed to the system for 30 years, continuously or discontinuously, independent of age; or when the individual has reached 60 years of age (for men), or 55 years of age (for women), while having contributed into the pension savings system for a minimum of 25 years, continuously or discontinuously.²² Prior to the amendment of the decree, individuals could retire upon 30 years of service or reaching the age of 55 for women or 60 for men, whichever came first. The new changes will bring about two negative outcomes: individuals will not be able to retire, even when they are 55 or 60 years of age, if they have not contributed to the pension savings system for 25 years; and people who have reached 30 years of service and contribution to the system will not be able to retire if they are not 55 or 60 years of age.

The amendment of decree 347 violates workers' acquired rights as well their due process. It is notable that the protection of the law is often afforded to protect the rights of companies, but not so to protect the rights of workers. An evaluation of the proposed changes by Carmen Meza-Lago in 2002 provides statistics that demonstrate technical

¹⁸ Id.

¹⁹ Expedientes de la Procuraduría para la Defensa de los Derechos Humanos No. 01-0946-01 y No. 01-0023-02 sobre el caso de INPEP.

²⁰ ILO Committee on Freedom of Association, Report No. 328, Case No. 2165, paras. 236-242, 245-248, 251.

²¹ Carmelo Meza Lagos and CEPAL

²² Published in the Official Register, Diario Oficial N° 336, June 4, 2004, and in the Official Register N° 126, Number 364, July 7, 2004.

flaws in the proposed pension plan. Amounts paid into the system are not increasing as built into assumptions of the proposed changes. More concerning, private pension systems have failed by providing lower levels of coverage for retirees, because “life long employment,” or the 25 years with one employer required by the new law, is increasingly rare. Dozens of cases of legal analysis presenting the unconstitutionality of Decree 347 have been submitted to the Supreme Court. While the Decree is scheduled to go into effect on January 1, 2005, the Supreme Court has still not issued an opinion.

The change in the pension system will have a disproportionate effect on the employees of the National Pension Institute of Public Employees, who are represented by the SITINPEP union. INPEP’s employees will face the progressive erosion of the Institute’s responsibilities and decreasing amount of payment into the public pension system.

SITCOM and SUTTEL:

On April 2, 2003, communications workers petitioned the Ministry of Labor to register the Industry Union of Communications Workers (SITCOM). The union was reportedly formed by thirty-five workers from the Telecommunications Company of El Salvador, S.A. de C.V. (CTE); one from the radio station, *Radio Clave*; one from Telecommunications and Electric Services (SETELCOM); and one from Electrification and Communications, S.A, on March 23, 2003.²³

Afterwards, the ministry notified the four employers and sought to confirm “the [union] founders’ status as employees and . . . the principal activity of [each] company,” as required by law.²⁴ On May 22, 2003, based largely on the companies’ responses, the Ministry of Labor rejected SITCOM’s petition. The ministry cited three key reasons for its rejection: SITCOM failed to fulfill the requirement that an industry-wide union include workers from at least two companies engaged in the same activity;²⁵ the union’s provisional president was not employed by CTE at the time of union formation; and four members were “employees of confidence” and, therefore, ineligible to unionize alongside other workers.²⁶ Based on these factors, the ministry found that the workers failed to form an industry-wide organization and fell short of the mandatory minimum number of workers required to unionize.²⁷

On May 30, 2003, SITCOM petitioned the Ministry of Labor to reverse its decision. The petition asserted that all four companies for which SITCOM workers are

²³ Resolution from the Ministry of Labor to Angel Edgardo Moreno Guardado, provisional president, SITCOM, May 22, 2003.

²⁴ Resolution from the Ministry of Labor to Angel Edgardo Moreno Guardado, provisional president, SITCOM, May 22, 2003.

²⁵ Labor Code, article 209.

²⁶ Labor Code article 206 prohibits “mixed unions, that is, those comprised of employers and workers.” In refusing to count four alleged “employees of confidence” as SITCOM affiliates, the Ministry of Labor liberally interpreted this prohibition to bar mixed unions of “employees of confidence” and workers.

²⁷ Resolution from the Ministry of Labor to Angel Edgardo Moreno Guardado, provisional president, SITCOM, May 22, 2003.

employed were, and still are, engaged in the same primary activity of communications. It also criticized the ministry because it did not give the union an opportunity to counter the companies' official responses to their registration request.²⁸ At this writing, the Ministry of Labor has yet to respond to SITCOM's petition.

The Ministry of Labor, in this case, denied union registration based on the employers' versions of events and did not investigate the matter or seek workers' views. Furthermore, the ministry relied on outdated international guidelines when it concluded that SITCOM failed to fulfill the criteria to qualify as an industry-wide union.

1. Criteria for an "Industry-Wide Union"

The Ministry of Labor determined that CTE was a member of the communications industry, but that the other three companies employing SITCOM members were engaged in "activities different from 'communications.'"²⁹ In reaching its conclusion, the ministry relied on a 1989 definition of "communication" set forth in the United Nations' "International Standard Industrial Classification of All Economic Activities" (ISIC):

Communication services rendered to the public whether by post, wire or radio and whether intended to be received audibly or visually. Services for the exchange or recording of messages are also included. Radio and television broadcasting studios and stations are classified in [another] group.³⁰

However, this definition has been revised twice since 1989. In the latest revision, from 2002, the categories of "telecommunication services," "pay telephone services," "radio beacon and radar station operation," "other telecommunication," and "radio and television programme transmission," that were separate and distinct categories in 1989, have been combined into one class under the heading "telecommunications."³¹ According to the 2002 criteria:

This class ["telecommunications"] includes: transmission of sound, images, data or other information via cables, broadcasting, relay or satellite; telephone, telegraph and telex communication; transmission (transport) of radio and television programmes; maintenance network; internet access provision; public pay-

²⁸ Petition for reconsideration from Angel Edgardo Moreno Guardado, provisional president, SITCOM, to Jorge Isidoro Nieto Menéndez, Minister of Labor, May 30, 2003.

²⁹ Resolution from the Ministry of Labor to Angel Edgardo Moreno Guardado, provisional president, SITCOM, May 22, 2003.

³⁰ Resolution from the Ministry of Labor to Angel Edgardo Moreno Guardado, provisional president, SITCOM, May 22, 2003; United Nations Department of Economic and Social Affairs, *International Standard Industrial Classification of All Economic Activities* (1989), ST/ESA/STAT/Ser. M/4/Rev. 2, E.68.XVII.8, group 7200.

³¹ United Nations Department of Economic and Social Affairs, *International Standard Industrial Classification of All Economic Activities* (2002), ST/ESA/STAT/Ser. M/4/Rev. 3.1, E.03.XVII.4; United Nations Department of Economic and Social Affairs. *Correspondences for ISIC Rev. 3.1 code 6420*. (No date). Available: <http://unstats.un.org/unsd/cr/registry/regso2.asp?Cl=17&Co=6420&Lg=1> [July 16, 2003].

telephone services. This class excludes . . . production of radio and television programmes, whether or not combined with broadcasting.³²

Thus, the ministry based its rejection of SITCOM's status as an industry-wide union on an obsolete, narrow definition of the communications sector. Had the ministry applied the 2002 standard, it may have led to union registration. For example, whereas the ministry asserted that "*Radio Clave*['s], . . . principle activity is broadcasting, an activity classified under the group . . . 'Radio and Television Transmissions,' rather than "communications," under the 2002 guidelines, "Radio and Television Transmissions" is explicitly cited as a "telecommunications" activity.³³

In addition, the former general secretary of the El Salvadoran Association of Telecommunications Workers (ASTTEL), who assisted in the SITCOM organizing drive, asserts that both SETELCOM and Electrification and Communications, S.A, are companies formed by former CTE workers and are regularly contracted by CTE to perform projects and services. He argues that these smaller companies, which "perform the same work as CTE" are, like their "mother corporation," also part of the communications industry.³⁴ The ministry failed to identify the main activities of these two companies in its rejection of SITCOM's registration petition.

2. Minimum Number of Workers to Form a Union

The labor ministry also found that SITCOM failed to meet the mandatory minimum of thirty-five workers to form a company union at CTE. The ministry noted that CTE had submitted a document "proving the termination of the individual labor contract" of the provisional president of SITCOM on February 1, 2003—roughly seven weeks prior to the union's founding assembly. CTE also asserted that the union included two "group leaders," one "supervisor," and an "assistant"—four "employees of confidence," who were barred from unionizing with CTE workers.³⁵ Another three workers were disqualified because they did not work for CTE and, therefore, according to the ministry, were not communications workers. By excluding these eight workers from the initial thirty-eight founding members of SITCOM, the ministry concluded that SITCOM only had thirty founding members—five workers short of the mandatory minimum required for union registration.³⁶

³² United Nations Department of Economic and Social Affairs, *International Standard Industrial Classification of All Economic Activities* (2002), ST/ESA/STAT/Ser. M/4/Rev. 3.1, E.03.XVII.4, class 6420.

³³ United Nations Department of Economic and Social Affairs, *International Standard Industrial Classification of All Economic Activities* (2002), ST/ESA/STAT/Ser. M/4/Rev. 3.1, E.03.XVII.4; United Nations Department of Economic and Social Affairs. *Correspondences for ISIC Rev. 3.1 code 6420*. (No date). Available: <http://unstats.un.org/unsd/cr/registry/regs2.asp?Cl=17&Co=6420&Lg=1> [July 16, 2003].

³⁴ Telephone interview with Luis Wilfredo Barríos, ex-general secretary, El Salvadoran Association of Telecommunications Workers, July 16, 2003.

³⁵ El Salvadoran labor law, however, does not define "employees of confidence." See Report from Orlando Zelada, supervisor, Department of Industry and Business Inspection, to the head of the Department of Industry and Business Inspection, September 7, 2001.

³⁶ Resolution from the Ministry of Labor to Angel Edgardo Moreno Guardado, provisional president, SITCOM, May 22, 2003.

The workers strongly disagree with the ministry's conclusions. According to the former general secretary of ASTTEL, the "employees of confidence" actually perform the same jobs as the other workers, have similar work contracts, are not managers and, therefore, should not have been classified as "employees of confidence."³⁷ In the case of the provisional president's labor contract termination, CTE allegedly withheld the worker's salary until he agreed to tender a "voluntary" resignation. The former ASTTEL general secretary explained, "The provisional president was pressured because of his salary. He gave in and signed a 'voluntary' resignation, [back]dated . . . so it did not fall after the union's formation." Afterwards, he received his back pay and severance. Since that time the other two provisional leaders of the SITCOM union have also been dismissed by the company. While the Labor Ministry officials have stated in meetings with the union officers that they enjoyed the protection from dismissal under Article 47 of the Constitution, they have not been reinstated nor has the GOES been effective in obtaining their reinstatement.

While the Labor Ministry has held a number of meetings with the union officers and their advisors they have still not made a final resolution on the petition to revoke the denial of legal recognition. Labor Ministry officials including the Labor Minister himself have made numerous suggestions to the union officers that they form another union, conduct another General Assembly and try again to obtain a new legal status. However, should the workers decide to hold another General Assembly the founders of SITCOM would not be able to participate as founders of a new union, since there is a legal prohibition for 6 months after an attempt to form a union is made, for the same workers to attempt to form another union. As a result the workers would be forced to seek out new founding members, elect leadership different from the leaders they chose in the SITCOM attempt and present all of the paperwork again to the Labor Ministry in order to possibly gain a new recognition. Many of these telecommunications workers came from the workplace based union SUTTEL and remember the 1999-2001 struggle to obtain recognition of their union in which they were forced to conduct three General Assemblies, had to bring a lawsuit against the Labor Ministry for failure to recognize the union and had to obtain a Supreme Court order to be recognized before they could begin union representation in the CTE-Telecom, after the 1998 privatization process. At that time the SUTTEL case was subject of GSP petitions as well as an ILO complaint.

The ILO points to the case of SUTTEL-SITCOM as one example of the excessive and arbitrary requirements for the formation of unions. These legal requirements constitute another impediment to workers in their attempts to unionize and collectively bargain. In response the ILO's resolution, the government has refused to implement the recommended reforms to these requirements. Moreover, the Ministry of Labor actually provided false information to the ILO in order to avoid complying with the ILO recommendations to reinstate two SUTTEL union leaders.

³⁷ Telephone interview with Luis Wilfredo Barríos, ex-general secretary, El Salvadoran Association of Telecommunications Workers, July 16, 2003.

Most recently, in May 2004, union members of SUTTEL accused employers at the former state enterprise ANTEL, currently owned and operated by CTE-TELECOM, of violating their fundamental rights at work, including harassment for union organizing and unpaid overtime. According to union leaders cited in the Salvadoran press, anti-union pressure by management is so severe that workers who are not affiliated to the union fear conversing with a leader or member of SUTTEL because “if rumors start about you wanting to join it will be known by all – up to the highest boss. The company and its anti-union actions impede the development of free unionism. Workers are intimidated, meddled with and terrorized.”³⁸ In addition to anti-union pressure, the company is requiring that its employees work over eight hours a day without paying overtime and does not cover workers’ per diem when they travel to other counties for work. *Force imposed*

Child Labor

Despite protections in Salvadoran law, child labor continues to be a serious problem. There are an estimated 440,000 working children, and at least 60,000 children ages 10-14 provide part of the necessary income for their families’ survival. Protective legislation has had little impact in the face of poverty, for “in El Salvador the laws and regulations concerning child work *are widely disregarded by poverty-stricken families and unscrupulous employers*, even when work is hazardous and clearly forbidden by law.”³⁹ A report from the UN High Commission for Human Rights’ Committee on the Rights of the Child issued on June 4, 2004 noted with concern “that child labour continues to be widespread in El Salvador. The Committee is particularly concerned about the high number of child domestic workers, who are vulnerable to abuse and hindered in continuing their education, and about children working in sugarcane plantations and in other hazardous conditions.” In response, the UNHCHR Committee recommended that the GOES take an action also called for in the increased protection of adult workers, to strengthen the labor inspectorate, financially and technically.⁴⁰

A series of sectoral assessments by the ILO’s International Program for the Eradication of Child Labor (IPEC) illustrate the problems faced by child workers. In the fishing industry, for example, most child workers work 7-8 hours per day. About 20% also attend school, but only 4% complete ninth grade.⁴¹ They are hired on daily contracts, usually verbal, and the majority are paid cash and/or a share of the catch at the end of the day.⁴² The majority of child workers believe that the payment they receive is never enough. Children are exposed to serious physical hazards ranging from shark attacks to use of explosives.⁴³ Worker rights are unprotected as there are no unions and the labor contracts are volatile and short in duration.

³⁸ Co-Latino Newspaper, “Trabajadores de TELECOM Denuncian Arbitrariedades”, May 13, 2004

³⁹ ILO, International Program for the Elimination of Child Labor (IPEC) Country Profile: El Salvador, p.1, www.ilo.org/public/english/standards/ipec/timebound/salvador.pdf

⁴⁰ UNHCHR Committee on the Rights of the Child, 36th Session, Concluding Observations: El Salvador, June 4, 2004

⁴¹ IPEC, *El Salvador/ Trabajo Infantil en la Pesca: Una Evaluación Rápida*, (March 2002), pp. 17-18, www.ilo.org/public/spanish/standards/ipec/simpoc/elsalvador/ra/pesca.pdf

⁴² Id., pp. 32-33.

⁴³ Id., pp. 25-31.

In the harvesting of sugar cane, child labor is pervasive, with nearly 70% of the workers under 14.⁴⁴ In 2003, at least 5,000 workers in the sugarcane industry were children. Most are paid cash for a workday that begins at 6 a.m., followed by school for those who attend.⁴⁵ As a June 2004 report by Human Rights Watch on child labor in the sugarcane industry documents, children's health and safety are not guaranteed in sugarcane cultivation, and plantation foremen turn a blind eye to the fact that children as young as eight cut cane.⁴⁶ IPEC studies describe the difficulties faced by child laborers in the urban informal economy,⁴⁷ domestic service,⁴⁸ and garbage scavenging.⁴⁹ A study on commercial sexual exploitation of children and adolescents found that nearly 40% start commercial sexual relations before the age of 14.⁵⁰ The UNHCHR Committee expressed concern about the lack of effective GOES programs to address the number of sexually exploited and trafficked children, including a lack of information on assistance and reintegration programs for children who have been subject to sexual exploitation and trafficking in El Salvador.

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The issue of children domestic workers has also received increased attention, as sobering statistics and seeming GOES indifference are noted by international observers from the UNHCHR to Human Rights Watch. In El Salvador, 95 percent of the estimated 21,500 domestics aged 14 to 19 are girls and women. These girls may labor 12 hours or more, up to six days a week, for wages of \$40 to \$100 a month. They are particularly vulnerable to physical abuse and sexual harassment from members of the household in which they work. The Salvadoran labor code excludes domestics from many of the most basic labor rights, notably the eight-hour workday and the 44-hour workweek guaranteed other workers. Domestics commonly receive wages that are lower than the minimum wages in other sectors of employment. The exclusion of all domestic workers from these rights denies them equal protection of the law and has a disproportionate impact on girls and women.⁵¹

Conclusion

This petition demonstrates that systematic and serious violations of fundamental worker rights continue in El Salvador. The GOES has repeatedly failed to comply with its international obligations to respect and enforce workers' rights. The GOES has:

⁴⁴ IPEC, *El Salvador/ Trabajo Infantil en la Caña de Azucar: Una Evaluación Rápida* (February 2002), p.20, www.ilo.org/public/spanish/standards/ipec/simpoc/elsalvador/ra/cane.pdf

⁴⁵ Id., pp. 31, 26-27.

⁴⁶ Human Rights Watch, *Turning a Blind Eye* (June 2004)

⁴⁷ IPEC, *El Salvador/Trabajo Infantil Urbano: Una Evaluación Rápida* (February 2002), www.ilo.org/public/spanish/standards/ipec/simpoc/elsalvador/ra/urbano.pdf

⁴⁸ IPEC, *El Salvador/Trabajo Infantil Doméstico: Una Evaluación Rápida* (February 2002), www.ilo.org/public/spanish/standards/ipec/simpoc/elsalvador/ra/domestic.pdf

⁴⁹ IPEC, *El Salvador/Trabajo Infantil en los Basureros: Una Evaluación Rápida* (March 2002), www.ilo.org/public/spanish/standards/ipec/simpoc/elsalvador/ra/garbage.pdf

⁵⁰ IPEC, *El Salvador/Explotación Sexual Comercial de Niñas, Niños y Adolescentes: Una Evaluación Rápida* (March 2002), www.ilo.org/public/spanish/standards/ipec/simpoc/elsalvador/ra/sexexp.pdf

⁵¹ Human Rights Watch, "No Rest: Abuses Against Child Domestics in El Salvador," January 15, 2004

- Failed to reform its labor laws to meet the core labor standards despite repeated recommendations from the ILO, the State Department, and international labor and human rights organizations, and in defiance of the 1998 ILO Declaration on Fundamental Principles and Rights at Work and the requirements of the GSP statute;
- Provided no remedies for repeated acts of anti-union discrimination, retaliatory firings, and illegal lockouts of union activists in the maquilas;
- Allowed public sector agencies to undermine unions – in some cases taking advantage of public restructuring and privatization plans to do so – by refusing to recognize a legitimate union, pressuring workers to disaffiliate from their union, breaking up union meetings, targeting union activists for suspension, and illegally locking out union members by forcibly evicting them from the workplace; and
- Failed to remedy and even denied serious health and safety lapses in the maquiladoras producing for export.

Through delays, refusals to provide effective remedies, and active animosity the GOES has directly aided private exporters in denying their workers freedom of association and the right to organize and bargain collectively. The GOES has also directly violated public sector workers' rights, thus dragging down standards for all Salvadoran workers and the Salvadoran labor market as a whole. The murder of a U.S. trade unionist and related ransacking of a worker rights organization that had the temerity to publicly denounce the murder are indicators that worker rights are not trampled with impunity in El Salvador, worse, there appears to be an erosion of progress made in the protection of worker activists. All of these actions provide ample evidence that the GOES has not been and is not taking steps to afford its workers their internationally recognized worker rights. Accordingly, El Salvador's GSP benefits must be withdrawn. Ineligibility for these GSP benefits should also disqualify El Salvador from benefits under the Caribbean Basin Economic Recovery Act and the Caribbean Basin Trade Partnership Act.