AFLCIO 1993

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Rev. 1
Ont: 2

DOMINICAN REPUBLIC

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RIGHT TO ORGANIZE IN THE FREE TRADE ZONES

Despite the passage of a new labor code in May 1992, worker rights are still being violated with impunity by companies in the Dominican Republic's export processing zones, or free zones. After years of vigorous organizing by thousands of workers who have repeatedly and courageously signed union membership petitions, and after years of government promises to protect their rights, the situation remains fundamentally unchanged: there is not a single functioning trade union, nor a single collective bargaining contract, in any of the approximately 420 firms in the 26 free zones employing 140,000 workers in the Dominican Republic. The reason is clear. The new labor code, which theoretically provides protection from firing and other forms of retaliation against workers who seek to form trade unions, is simply not being enforced. The central problem is the notoriously inefficient and corrupt judicial system.

This bleak assessment is publicly being voiced not only by trade union leaders, but by the government's own Labor Minister, Dr. Rafael Albuquerque, the prime author of the new labor code. On May 4, Minister Albuquerque criticized the Dominican judicial system for not punishing companies that violate the country's new labor code. He stated to reporters that over the past year, 222 firms had been cited for violations, and only two had been subject to a labor court decision. The majority of violations were against freedom of association, the minimum wage and rules of overtime. "Workers were being illegally fired for their trade union activities," he said.

The new labor code is worth nothing, he said, "if the labor judges don't apply sanctions when the [Labor] secretary brings a case." He said that companies violate the labor code with impunity. "There's no doubt that the new Labor Code has improved the rights of workers, but it is necessary that the new instrument be applied," he said. (*Listin Diario*, 5/4/93.)

The next day, the President of the Association of Industries, Jose Manuel Paliza, denied that free zone companies are violating trade union rights. He admitted there were a few violations in the zones, but that these were exceptions to the rule born of lack of knowledge of the new Code. He demanded that the Minister remain neutral in such disputes, and keep in mind that the free zones generate many jobs.

Unmoved, Albuquerque again told the press on May 19 that free zone firms are continuing to resist trade unions and warned that continuing violations would eventually lead to trade sanctions by the U.S. He said, "Mr. Paliza must realize that if I make declarations of this type, it's because resistance to trade union freedom will damage our country and the firms in

the free zones." He urged Mr. Paliza to support his efforts to sound the alarm. (*Listin Diario*, 5/19/93)

The Labor Minister's frustration is understandable. In September 1992, anticipating that the new labor code might be sabotaged in the court system, Albuquerque had negotiated a social pact between the business leaders of the Dominican Free Zone Association (ADOZONAS) and the country's six labor confederations. The pact, hailed as a major breakthrough at the time, committed the free zone companies to respecting the new labor code and refraining from firings of union organizers. In return, the unions promised to delay for six months any contract demands. Most importantly, the pact established a new system of conciliation and arbitration to settle disputes outside the court system. Unfortunately, however, free zone companies objected to the pact and pressured the Association to refuse to ratify it.

In the aftermath of the pact's rejection by free zone businesses, companies have continued their practice of firing workers who join unions. The major labor confederation, the CNTD, reports that of the 18 free zone unions legally recognized by the Labor Ministry since October 1990, all but three have been disbanded due to management dismissal of organizers and activists. Those that remain are not allowed to function, and none have contracts. In addition several new attempts at organizing have been met with firings and retaliation: NSS Caribe, a U.S. firm based in the Nigua Free Trade Zone in Santo Domingo, Recreation Footwear, a company registered in Grand Cayman and located in the Santiago Free Zone, and Woo Chang, a Korean firm located in the Bonao Free Zone.

A number of firms have been hauled into court after being cited by the Labor Ministry for violations. However, only two of these have been fully resolved, both in favor of the companies. In the case of Importacion y Exportacion, a Dominican-owned company in the La Vega Free Zone, the judge inexplicably dismissed the case despite the fact that a blacklist used to fire union members was introduced as evidence. Although the firings took place just before the new code went into effect in June 1992, even under the old labor code, firing workers in retaliation for joining a union was prohibited, albeit not sanctioned by reinstatement and fines. In the case of the FAB company in the La Vega Free Zone, the judge not only failed to rule against the company, but instead acted to dissolve the union for technical mistakes in its registration papers.

In the only case in which the court ruled in favor of the workers, that of the Bibong Apparel Company in the Bonao Free Zone, a judge ordered the company to rehire 7 illegally fired workers. The company simply refused to obey the court order and appealed the case. The court then levied a substantial fine against the company which was never paid. As of May 26, no further action had been taken and the company continued to operate without the illegally fired workers.

In other cases now under court review, no decision has been reached. Trade unionists, as well as many other observers, are skeptical about the possibility of obtaining justice through the court system. The perception, widely held, is that many judges are up for sale to the highest

bidder, and that companies, with their vastly greater resources, can delay or thwart decisions even when workers are in the right. Many labor attorneys say in private that it is common practice for corporate defendants to pay lawyers sufficient fees to cover the expenses of "greasing the wheels of justice." Whether true or not, the perception of corruption in the justice system is sufficient to deter many workers from exercising their right to join unions.

For all the hope and expectation created by the passage of the new labor code, the result to date is this: there are still no functioning unions with collective bargaining contracts in the free zones. Trade unionists firmly believe that without outside pressure or the threat of trade sanctions, the new labor code will not be implemented.

The following cases are illustrative of the pattern of systematic violation of workers' rights to organize union in the Free Trade Zones of the Dominican Republic. The fact that these violations have taken place in zones located throughout the country strongly supports the Labor Minister's view that the government's failure to implement the new law allows employers to violate it with impunity. The selected cases also illustrate the array of tactics that employers have used to fire hundreds of workers for union activity in the year following passage of the new labor code. As the owner of the Karson Manufacturing firm in the La Romana Free Trade Zone told a group of workers, "There are no unions here and we'll pay the lawyers whatever we have to make sure it stays that way." In the absence of more vigorous action by the Dominican government to enforce its own law, this prediction is all too likely to come true.

San Pedro de Macoris Free Zone

H. & J.S.A. - On April 30, 1993, the H & J firm fired Elias Puente, the secretary general of the legally constituted union, which had been officially recognized some ten months earlier and from which moment Mr. Puente and other union leaders were constantly harassed by management. The immediate cause of Mr. Puente's termination was his insistence, at all times within his legal mandate as a union leader, that the firm make good on approximately US$68,000 it had fallen in arrears in payments to the social security system covering its employees.

San Pedro Macoris Modas S.A. - On April 16, 1993 Pedro Emiliano Gonzalez was fired for no apparent cause. The company's notice of termination lists no specific charges. On this very same day, however, the company had been notified that its employees had legally constituted a union and Mr. Gonzalez' name had appeared as a member of the executive board. Mr. Gonzalez was the union's press secretary.

Bonao Free Zone

Bi-bong Apparel Corp.- On July 2, 1992, this firm signed an agreement with representatives of the union. The firm agreed to four points: 1) recognize the union, 2) install within two weeks three refrigerators for use by workers, 3) renovate and improve the workers' dining area, and 4) provide a dinner meal to employees who worked late. Coming just a few weeks after

approval of the new labor code, this agreement appeared to be an important breakthrough. Within two weeks of having signed the agreement, however, the firm unilaterally declared it null and void and proceeded to fire seven union leaders: Bonifacio de Jesus, Catalino Rosario, Raul Acosta, Ignazio Nuñez, Rafael Mena, Efrain Rodriguez and Aurelio Her..andez. At the time, representatives of the firm told union representatives that the decision to abrogate the agreement was the result of pressure from "higher authorities." The firm was subsequently ordered to rehire the seven union leaders, which it refused to do and which decision it appealed. An appeals court subsequently levied a judgment against the firm of US$88,000. As of this writing, the firm has not paid the fine or rehired any of the illegally dismissed workers and no settlement has been reached in the case.

Woo Chang Dominican Industrial Co. Ltd.- On November 12, 1992, one month after receiving formal notice of the formation of the union, the firm fired two union leaders, Fernando Lima and Francisco Manzueta. Approximately two months later five other leaders -- Eduardo Adolfo Abad, Leonardo Cabral, Justo Emilio Cabral, José Marte and Justo Rosario -- were fired. According to the company, all of the dismissed employees, with the exception of Justo Rosario, had resigned from their union positions and were therefore no longer protected by the labor code. A subsequent inquiry by the union, however, determined that three of the workers had signed a routine voucher that was later altered to appear that it represented their resignation from the union. A fourth was pressured into resigning after being threatened with physical violence by company and local military officials. Mr. Rosario, the secretary general of the union, refused to resign or to sign the vouchers that were subsequently altered. He was fired the same day for insubordination.

La Vega Free Zone

Ambar S.A.- On March 29, 1993, three weeks after receiving notice of the formation of the union, the firm Ambar, S.A. fired union leaders José Manuel Perez, Ramon Cesar Antonio Rivas, Ambriorix Ayala Vasquez, Maria Altagracia Rivas, Joselino Jimenez, Luis Marte, Gilberto Manuel Rodriguez Hernandez, Gilberto Vasquez, Geovanny de Jesus Jimenez Mota, Felix Javier Perez Cepeda and Juan Martinez.

Santiago Free Zone

Southern Investments International S.A. - On June 31, 1992, two weeks after the formal certification of the union, the firm fired every single one of the 25 workers identified as union leaders in papers submitted to the labor ministry and the company. (See Attachment E).

Industria Rayan. - On August 4, 1992, three weeks after certification of the union, the firm fired all 16 workers whose names appeared on the paper submitted to the labor ministry and the firm. (See Attachment F).

La Romana Free Zone

Karson Manufacturing. - In August 1992, shortly after learning that a union had been formed, the firm called in the entire executive board and fired them. When other workers objected, the entire work force of 66 people were dismissed on the spot (see Attachment G). During this encounter a company official told union leaders that he would pay his lawyers whatever was necessary to prevent a union from being established. According to union officials, similar firings have taken place in recent months at other firms in the La Romana zone. Firms cited include Adoro Manufacturing, Romana Industria, Costura Dominicana, Gin Wong Inc., Jacca Ltd., and Cari Flo.

Not included in this list are several cases, such as those of On Time Caribe, Ltd. in the Las Americas zone and the F.A.B. Corporation in the La Vega zone, where union leaders who were fired subsequently denied that they were members of the union, despite documentation indicating otherwise. In these specific cases a combination of psychological pressures and monetary inducement of individual workers succeeded in nullifying the union's legal efforts to protect its members against employers' reprisals for organizing activities. This widespread practice is further evidence of employer's intent to systematically evade the new labor code, and of the government's unwillingness or incapacity to force compliance.

CONCLUSION

In light of the lack of progress in affording internationally-recognized worker rights to workers in the Dominican Republic Free Zones, the AFL-CIO calls for a termination of country's GSP and CBI status.

ATTACHMENT E

Todos fueron cancelados de NS-3

RELACION DE DELEGADOS PARTICIPANTES EN LA ASAMBLEA CONSTITUTIVA DEL SINDICATO DE TRABAJADORES DE LA EMPRESA SOUTHEM INVESTMENTS INTERNATIONAL, S.A., DE LA ZONA FRANCA INDUSTRIAL DE SANTIAGO, 12 DE JUNIO/1992.

NOMBRE	CEDULA
1. Danilo Ferreiras	142665 - 31
2. Bolivar Alisandro Espinal	6806 - 43
3. Virgilia Margarita Mercado	108808 - 31
4. Wisinio Hiraldo	25480
5. Miguel Angel Cabrera Perez	1322 - 43
6. Juan I. Ferreiras	104648 - 31
José Radhamés Espinal	27004 - 36
8. Ramón E. Espinal	426 - 121
9. Quilvio Teodoro Gonzalez	6307 - 102
10. Arcadio Arias	10702 - 73
11. Antonio Gómez Diloné	75600 - 47
12. Bernardo Almonte	23041 - 39
13. Porfirio Ant. Marino Reynoso	70883 - 54
14. José Abreu	159101 - 71
15. Miguelina Ant. Nuñez	166631 - 31
16. Luis Martínez Almonte	17809 - 39
17. Leonardo García Jimenez	26768 - 39
18. Miguel Antonio Guzmán	144636 - 31
19. María Rodriguez	158780 - 31
20. Bernardo Henriquez	18566 - 38
21. Leonardo Alonso	157474 - 31
Angelita Durán (22)	34023 - 31
23. Francisco Cabrera	7234 - 94
24. Angela María Mercado	79119 - 31
25. Oscar Rodriguez	142825 - 31

Por la Comisión Electoral:

CESAR PEREZ
Presidente

MATEO VALDEZ
Secretario

DANIEL VEGAS
Miembro

ATTACHMENT F

dc. no 1

REPUBLICA DOMINICANA

SECRETARIA DE ESTADO DE TRABAJO

AÑO DEL QUINTO CENTENARIO DEL DESCUBRIMIENTO Y EVANGELIZACION DE AMERICA

DGT-DES.NUM.2903

Santo Domingo, D.N.
19 de Agosto de 1992.

DESPACHADO 2 0 AGO 1992

Señores
Directivos del Sindicato de
Trabajadores de la Empresa
Eryan de la Zona Franca In-
dustrial de Santiago de los
Caballeros,Rep. Dom.

Distinguidos Directivos:

Cortésmente, los comunicamos que habiendo exa-
minado la documentación presentada, incluida su acta de asamblea Cons
titutiva de fecha 1ro. de Julio de 1992, y encontrando que se cumple
con las formalidades de ley, hemos procedido tomar la debida nota y -
realizado los asientos de lugar, se procedio a expedir el registro ba
jo el NO. 65/92, de fecha 19 de Agosto de 1992, cuya directiva quedó
formada de la manera siguiente:

HECTOR RAFAEL.....	SECRETARIO	GENERAL,
HENRY UREÑA.....	"	ORGANIZACION,
MARTIN CARDENAS.....	"	ACTAS Y CORRESP.,
ROBERTO MENA.....	"	EDUCACION,
MARIA JIMENEZ SOLANO.....	"	QUEJAS Y CONF.,
VICTOR ORDEÑO.....	"	PRENSA Y PROPAG.,
JOSE MINAYA.....	"	ASUNTOS SOCIALES,
ANA CRECENCIO.....	"	FINANZAS.
VOCALES		
JESUS MARIA HERNANDEZ.....	1er.	VOCAL,
FRANCISCO PILATE.....	2do.	VOCAL.
COMISARIOS		
MAXIMO VEGA.....	1er.	COMISARIO,
JUAN BUENO.....	2do.	"
ELVIS HERNANDEZ.....	3er.	"
COMITE DISC.		
RAMON ANT. VARGAS.....		JUEZ PRESIDENTE,
RAFAEL PEREZ.....		SECRETARIO,
JOSE NARCISO RODRIGUEZ.....		FISCAL.

ATTACHMENT G

KARSON MANUFACTURING

NOMBRE

MAXIMO SANTANA
PABLO ENCARNACION
GREGORIO PEGUERO
MARGARITA RAMIREZ
JOVINA GUERRERO
JUANA NUNEZ
NOEMI AVILA
ALEJANDRINA MEJIA
JACKELIN JAVIER
DIGNA C. RODRIGUEZ
RAMON MERCEDES
MARIBEL SILVESTRE
ANA L. BAEZ
VICENTA MEDINA
IRIS B. RONDON
TAMAR M. MARTINEZ
JOSE A. AQUINO
FRANCISCA CANELA
EDUARDO MARTINEZ
TERESA VALDEZ
ANGELA MARTINEZ
AIDA QUIRUDIS M.

QUINTINO MORLA
REYNALDO MOTA
JUAN FELIX BAEZ
LUIS M. RUIZ
INGRI VARGAS
LENNIE PRESINAL
MARTINA HERRERA
MARINA DE LA CRUZ
ESTHER OLEA C.
FRANCISCO DEL ROSARIO
JOSE F. MERCEDES
JUAN R. MEJIA
ESPERANZA DEL ROSARIO
SANTA MARTINEZ
KETTY N. DE LOS SANTOS
MARIA C. RAMOS
NERY CAMPECHANO
JOSEFA BERAS
SANTA UBIERA H.
DAVEIVA CORDERO
MILAGRO PAREDES
VIVIAN J. TEJEDA

JOSEFA JIMENEZ
GUARIONEX MARTINEZ
FELICIA COPLIN
AMARILIS BAUTISTA
HILMA VALENZUELA
MARIA TERESA V.
DEISI R. BENITEZ
MARCIA A. RODRIGUEZ
JACKELIN ALVAREZ
ALTAGRACIA CLAVEL
HECTOR JUAN R.
MIOSOTI HEREDIA
MERCEDES ACEVEDO
SONIA X. VASQUEZ
LUISA S. HIDALGO
RAMONA JAVIER
FELINDA GUZMAN
ROSALIA MARTES
RENE R. TORREZ
MARIA ESTHER CEDENO
NILSON AQUINO
CARMEN MARTES