

**BEFORE THE UNITED STATES
TRADE REPRESENTATIVE**

**TESTIMONY OF CELESTE DRAKE, TRADE POLICY SPECIALIST
ON BEHALF OF THE AFL-CIO
IN SUPPORT OF THE PETITION TO REMOVE**

BANGLADESH

**FROM THE LIST OF ELIGIBLE BENEFICIARY DEVELOPING COUNTRIES
PURSUANT TO SECTION 19 USC § 2462(d) OF THE GENERALIZED SYSTEM OF
PREFERENCES (GSP)**

JANUARY 2012

I. INTRODUCTION

I first want to thank the Trade Policy Staff Committee for accepting for review our petition with regard to Bangladesh's failure to afford internationally recognized worker rights, as is required pursuant to Section 19 USC § 2462(d) of the Generalized System of Preferences (GSP). I also thank you for the opportunity to testify today.

On June 22, 2007, the AFL-CIO filed a worker rights petition with the Office of the U.S. Trade Representative (USTR) to remove Bangladesh from the list of eligible beneficiary developing countries under the Generalized System of Preferences (GSP) pursuant to 19 U.S.C. § 2462(d). USTR accepted the petition for review on September 6, 2007. USTR subsequently placed Bangladesh under "continuing review," which has succeeded in pushing the Government of Bangladesh (GOB) and employers to take some steps forward.

However, progress has not been swift or steady in either the ready-made garment (RMG) or shrimp-processing sectors, and workers continue to be denied the opportunity to exercise of their fundamental rights to freely associate, organize, and collectively bargain. In light of ongoing and serious violations of internationally recognized worker rights in these sectors, the AFL-CIO urges the United States Government (USG) to suspend Bangladesh's trade preferences under GSP unless the GOB takes immediate and substantial steps to address each of the concerns raised herein.¹

This testimony will highlight developments that have occurred since AFL-CIO's prior submissions, as well as update and clarify information submitted in the AFL-CIO's December 30 Update.

II. READY-MADE GARMENT SECTOR

A. Failure to Allow Unions to Register

Unfortunately, there has been no significant improvement in the RMG sector since the AFL-CIO filed its initial GSP petition in 2007.

Since the April filing, five unions in the ready-made garment sector have applied to register their unions. Three unions were officially rejected, one union's registration is pending (Rastas Apparels Ltd. Workers Union), and one union was accepted.

Workers at Masco Industries, complying with all the requirements of law, formed a union on August 1, 2011 and the union filed an application for its registration with the Registrar of Trade Unions on September 13, 2011, with 46.66% of the 600 company workers as union members (280 workers). The Registrar of Trade Unions rejected the application by letter dated October 27, 2011.

¹See also Letter to Mr. Juan Somavia, Director-General, International Labor Office from the General Secretary of the International Trade Union Confederation, August 31, 2011. This letter constitutes the ITUC's official submission to the ILO's Committee of Experts.

Workers at Crossline Factory Ltd., complying with all the requirements of law, formed a union September 14, 2011, with over 50% of the 650 employees as union members (326 members). The Registrar of Trade Unions rejected the application by letter dated October 26, 2011.

Workers at Global Trousers Ltd. Workers Union, complying with all the requirements of law, formed a union June 24, 2011 and filed a registration with the Registrar of Trade Unions on July 20, 2011, with 35.66% of the 1200 company workers as union members (428 workers). The application was accepted and the union received its registration August 18, 2011.

However, subsequently, the management of Global Trousers Ltd. has filed a Writ Petition No. 8168 in the Supreme Court of Bangladesh challenging the inaction of the Director of Labor as per section 190 of the Bangladesh Labour Act, 2006. The High Court on September 28, 2011 issued a *Rule Nisi* (an order “to show cause”) upon the Director of Labour, Joint Director of Labour, and Global Trousers Ltd. Workers Union and stayed the operation of the registration certificate Reg. No. Chotto-2601 dated August 8, 2011 for a period of three months. The stay has been extended for another six months. Because of the stay order, the union is unable to function legally.

B. Detainment, Arrests, and Torture of Bangladesh Center for Workers Solidarity Staff and Other Labor Leaders in the RMG Sector

Charges from June 2010

As of December 31, 2011, the charges against Babul Akhter and Aminul Islam of BCWS in Ashulia PS: 33 (06) 10 dated June 12, 2010, filed by Md. Eusuf Majumdar, AGM, NASSA Basic Complex of NASSA Group under section 385/386/387 of the Penal Code were dismissed by the Judicial Magistrate of Dhaka on May 30, 2011. However, the other charges of unlawful assembly, theft, property damage, and criminal intimidation, stemming from June 18, 2010 against Kalpona, Babul, and Aminul in other ten cases are still pending.

Charges from July 2010

The courts have imposed charges against Kalpona Akter and Babul Akhter for creating road barricades and property destruction began on June 29, 2011 (Speedy Trial Case No. Adabor 31) and November 17, 2011 (Speedy Trial Case No. Tejgaon 36 & 37). Charges (without any apparent basis) against them for several other criminal violations, including destruction of property, rioting, assaulting a public servant, attempted murder, and unlawful assembly, stemming from incidents occurring on July 30 and 31 of 2010 are still pending.

III. EPZs

Although the EPZ sector has been the one area in which Bangladesh has made some progress since 2007, the AFL-CIO continues to receive reports of new violations of recognized worker rights in this area. Companies have refused to negotiate with existing Worker Welfare Associations, and retaliation against WWA leaders has occurred. Despite promises by the Bangladesh government to strengthen the law governing the EPZs to provide for more conformance to ILO standards, this has not been done. Therefore, the AFL-CIO continues to have very serious concerns with regard to labor rights in the EPZs.

A. Failure of BEPZA to Negotiate

The Dhaka/Beijing Dyeing and Weaving Industries Union's WWA (Workers Welfare Association) was formed in 2007, and workers elected Aksed Ali as President and Md. Altaf Hossain as Organizing and Publication Secretary. In April 2009, the WWA submitted a list of 12 demands to management, and when management refused to negotiate, the WWA referred the dispute to the conciliator of the BEPZA for conciliation. An agreement was signed on June 30, 2009, which included a clause requiring the formation of a Provident Fund, including the fund's rules and constitution, within fifteen days.

After a delay, and following several requests made by the WWA, the BEPZA's Industrial Relations Manager and Councilors prepared draft Provident Fund Rules and reportedly forced the WWA to sign it. One clause in the rules stipulates that to be entitled to the employer's contribution, a worker shall have served that company for at least seven years. The WWA protested this clause, as well as other provisions such as the co-mingling of Provident Fund monies, and made numerous requests to the BEPZA authority to resolve these issues. Finally, on June 15, 2010, employer representatives and WWA representatives held a meeting and agreed to resolve the Provident Fund issues within 45 days.

To date, Provident Fund issues have not been resolved, and WWA representatives Ali and Hossain have been excluded from any discussions where management and the BEPZA were discussing the Provident Fund. The WWA informed the DEPZ and the BEPZA Chairman about these issues verbally, and in writings dated December 26, 2010 and July 12, 2011.

The AFL-CIO has received no reports of any new collective negotiations or completed CBAs since our last update.

B. Unlawful Termination of the Organizing and Publication Secretary of Dhaka/Beijing Dyeing and Weaving Industries Union's WWA

In October, 2010, the BEPZA published a new wage structure for the workers in the EPZs. The management at Dhaka/Beijing Dyeing and Weaving Industries refused to pay workers as required by the new regulations, which created unrest among the workers. The WWA wrote to the BEPZA on November 25, 2010 to try to force management to come into line with the new BEPZA wage structure. While the BEPZA resolved the matter, the company fired 24 workers, and, because of his active participation in the WWA protecting the interests of the workers, asked Altaf Hossain, the Organizing and Publication Secretary of the WWA, to resign. When Mr. Hossain refused to resign, management, in the presence of BEPZA officials, continued to pressure him to resign. Mr. Hossain continued his opposition to the management's pressure to resign and fled the premises. When Mr. Hossain arrived on the premises the next day, management told him that he would not be allowed to work for the company and that if he came again, he would be implicated in a criminal case. Mr. Hossain then received a letter dated August 16, 2011 informing him that his services with the company had been terminated, effective August 11, 2011.

Neither the GOB nor the BEPZA has resolved the matter even though these facts, on their face, present a compelling argument that Mr. Hossain was discriminated and retaliated against due to his activities on behalf of fellow workers.

C. Lack of Labor Conciliators in the EPZs

The AFL-CIO understands that there is currently no conciliator in EPZs, even though conciliation is vital for the resolution of industrial disputes in the EPZs. In one case, a WWA (Chunji Knitwear) raised an industrial dispute and submitted demands to the management. The management refused to negotiate or bargain with the WWA for so long that the dispute was eventually referred to the BEPZA Chairman to resolve through the conciliator. Because there is no conciliator, the dispute remains unresolved.

D. BEPZA Rules and Regulations Regarding Federations

A federation of Workers Societies/Workers Associations cannot be formed until BEPZA has first issued regulations. There is still no progress yet from BEPZA to finalize such regulations.

E. Wages and Working Conditions in the EPZs

In many fundamental areas, workers in EPZs receive fewer benefits than non-EPZ workers.

Non-EPZ Workers	EPZ Workers
1. Get 14 days sick leave with full wages .	1. Get 14 days sick leave with half wages . (Rule 8, Part-V, Instruction-1 of BEPZA)
2. In case of resignation from service, a worker completing 5-10 years of service gets compensation/gratuity (service benefits) @ 14-30 days wages for every completed year of service.	2. In case of resignation from service, a worker does not get any compensation/gratuity (service benefits) for his past service.
3. In case of dismissal (termination with cause/for misconduct) from service, a worker gets compensation/gratuity (service benefits) at a rate of 14 days wages for every completed year of service.	3. In case of dismissal (termination with cause/for misconduct) from service, a worker does not get compensation/gratuity (service benefits) for his past service.
4. A worker gets one day annual leave for every 18 days worked during the previous year.	4. A worker gets one day annual leave for every 22 days worked the previous year. (Rule 11, Part-V, Instruction-1 of BEPZA)
5. In case of Maternity Benefits, a female worker gets 16 weeks leave on gross wages .	5. In case of Maternity Benefits, a female worker gets 16 weeks leave on basic wages .(Rule 10, Part-V, Instruction-1 of BEPZA)

Under BEPZA Instruction 2, “wages should at first be computed and determined in US dollars and then payment made in taka currency.”

The BEPZA circular of October 10, 2005 stated that “conversion of monthly wages, salaries, and other benefits of the workers and employees from US dollar to local currency (i.e., the taka), the official exchange rate of the first working day of the respective month will be applicable.

In the last few months, several EPZ enterprises have refused to pay workers wages following the above instruction and circular of BEPZA. As such, workers are deprived of huge amount of money every month.²

As reported by a local newspaper (the Daily Prothom Alo) on December 11, 2011, workers of Helicon Packaging (BD) Ltd. held a protest in the factory on December 10, 2011 demanding wages in accordance with the BEPZA instruction and circular.

IV. SHRIMP

Despite some signs of progress in the shrimp sector in 2009 and early 2010, by August 2010, the AFL-CIO noted that progress for shrimp worker rights not only halted but was being reversed by shrimp processing companies, which began to destroy nascent unions, continued to use subcontracting arrangements and failed to comply with wage and hour regulations.

By April 2011, the AFL-CIO noted that the situation continued to worsen. In our April 2011 update, we wrote, “We understand that industry representatives continue to pressure the local directors of labor not to register properly established unions. Further, the factory owners where the unions were busted recently held a press conference to publicly denounce the labor organizations that had helped the workers to form the unions, as well as to denounce the local labor authorities.”

As of this writing, only one union out of the original unions previously registered is still functioning, in the sense that the original office bearers of the union are still in their jobs. In a recent stakeholder meeting in Bangladesh, it was stated that three more unions had been registered, but it is completely unclear whether these are actually “yellow,” management-organized units or not. None of these latest events represent progress, and in fact demonstrate an apparent regression in the commitment to protecting labor rights in the shrimp sector.

V. CONCLUSION

Unfortunately, Bangladesh has not yet taken sufficient steps to afford internationally recognized worker rights though it has been given more than ample time to make needed changes. GSP benefits should be suspended unless the GOB agrees to a binding, comprehensive work plan and demonstrates evidence of **immediate** and **substantial** implementation.

²Note that the exchange rate has changed since June, 2011. As of this writing, \$ 1≈Taka 78/79, but \$ 1=Taka 74 in June.