

Generalized System of Preferences (GSP)
Subcommittee
of the
Trade Policy Staff Committee
1993 GSP Annual Review

Worker Rights Review Summary

Case: 001-CP-93

BAHRAIN

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1. INTRODUCTION¹

In response to a petition filed in June 1992 by the AFL-CIO, the interagency Subcommittee on the Generalized System of Preferences (GSP) conducted a review of worker rights practices in Bahrain. The purpose of the review was to determine whether Bahrain is complying with the worker rights provision of Section 502 (b) of the U.S. GSP law, which requires beneficiary countries to have taken or be taking steps to afford internationally recognized worker rights.

The GSP program, originally enacted in 1974, provides duty-free entry to eligible products from beneficiary developing countries. The GSP legislation (Title V of the 1974 Trade Act, as amended) defines internationally recognized worker rights as follows:

- a) the right of association;
- b) the right to organize and bargain collectively;
- c) a prohibition against any form of forced or compulsory labor;
- d) a minimum age for the employment of children;
- e) acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health.

The legislative history of the Generalized System of Preferences Renewal Act of 1984 indicates that Congress intended the level of development to be taken into account in assessing the worker rights situations in GSP beneficiary countries. The 1984 report of the Committee on Ways and Means on the renewal act states that:

It is not the expectation of the Committee that developing countries come up to the prevailing labor standards of the U.S. and other highly-industrialized countries. It is recognized that acceptable minimum standards may vary from country to country.

The Subcommittee noted that it is established United States policy that basic human rights are universal and that all governments are required to respect basic human rights, which include the first three cited worker rights, irrespective of social systems or stage of economic development.

¹Worker rights summaries are made public to highlight the principal issues considered by the GSP Subcommittee during the worker rights reviews. More complete discussion on countries' worker rights laws and practices can be found in the Department of State's Country Reports on Human Rights Practices, as well as in various documents issued by the International Labor Organization.

In the course of its review, the Subcommittee examined submissions from the AFL-CIO and other groups, the Bahraini Government, the Department of State's Country Reports on Human Rights Practices (HRR) and reporting from the U.S. Embassy in Manama, Bahrain.

II. PRINCIPLE ISSUES

In the course of the second year of its review, the Subcommittee considered worker rights issues falling under two of the five categories of internationally recognized worker rights: freedom of association and the right to organize and bargain collectively.

Freedom of Association

In its July 1993 Worker Rights Review Summary of Bahrain, the Subcommittee examined several issues related to the right of association: (1) whether unions are allowed to exist; (2) the exclusion of certain groups from labor law protections; and (3) the right to strike. During the second year of its review, the Subcommittee continued to consider the extent to which workers in Bahrain are free to exercise freedom of association.

While the right of association, including the right to strike, is not expressly prohibited by Bahraini law, the Subcommittee noted that trade unions do not exist in practice in Bahrain. Rather, the Subcommittee noted, worker representation is based on a system of Joint Labor-Management Consultative Councils (JCCs), which are made up of equal numbers of management and worker representatives. Twelve such committees currently exist in Bahrain, all of which are in large state-owned industries such as the Bahrain Petroleum Company, Bahrain Aluminum and Gulf Air. The Subcommittee noted that the worker representatives on the JCCs are elected by and from company employees, and "appear generally to genuinely represent worker interests," according to the HRR.

Approximately 70 percent of Bahrain's indigenous industrial work force is represented by the JCC structure, according to the HRR. Information provided by the Government of Bahrain (GOB) indicates that some 30 percent of workers represented by JCCs are expatriate workers, who are eligible to serve as worker representatives and vote in all JCC elections. After examining information provided by the Government of Bahrain (GOB) and the U.S. Embassy in Manama, the Subcommittee found that although it would encourage the movement towards full freedom of association, the JCC structure does appear to provide workers in enterprises where JCCs are functioning with a meaningful vehicle of representation. The Subcommittee also noted favorably that the GOB is currently reviewing proposals to expand the JCC structure

to additional companies or sectors of the Bahraini economy.

The Subcommittee next considered to what extent certain specified categories of non-industrial workers, such as civil servants, domestic workers, seamen and certain agricultural workers, which are not covered by either the 1976 Labor Law or the JCC system, are provided with a means of worker representation. A November 1993 amendment to Bahrain's Labor Law, according to information provided by the GOB, formalizes that all of the workers in the above categories, with the exception of civil servants, have the legal right to seek redress for work-related disputes and grievances through the same mechanism as any other Bahraini worker (i.e., the right to submit any dispute to the Ministry of Labor and Social Affairs for arbitration and, if necessary, to the Labor Courts). In addition, the Subcommittee noted that the General Committee of Bahraini Workers (GCBW), made up of eleven members elected by the JCC labor representatives, can and does negotiate agreements on behalf of non-JCC workers with their employers. Thus, the Subcommittee noted, non-industrial workers that are not covered by the JCC system do appear to be provided with a mechanism of voicing and addressing work-related grievances.

Regarding the right to strike, the Subcommittee noted that the right to strike is not legally acknowledged in Bahrain. According to information provided by the GOB, the success of the JCC process "has brought a long period of labor peace to Bahrain, as workers have been able to achieve improvements without resorting to the widespread strikes that brought the country to a halt decades ago." The Subcommittee did note, however, that some work actions, such as walkouts and strikes, have occurred in the fairly recent past without government interference and with positive results for the workers involved.

Right to Organize and Bargain Collectively

First, the Subcommittee noted that Bahraini law does not contain specific provisions granting workers the right to organize and bargain collectively in the sense established by ILO conventions. As noted in the 1993 HRR: "While the JCCs... are empowered to discuss labor disputes, organize workers' services, and discuss wages, working conditions, and productivity, the workers have no independent recognized vehicle for representing their interests in these or other labor-related issues."

In the absence of collective bargaining agreements, the Subcommittee's review focused on: 1) the degree to which JCCs approximated the right to bargain collectively de facto, and 2) the degree to which workers outside the JCC system are able to negotiate legally-enforceable agreements with employers.

The JCC Structure

The Subcommittee closely examined the nature and operations of the JCC system, particularly regarding: 1) whether agreements reached in the JCCs are legally enforceable, 2) whether workers can bargain on wages within the JCC structure, and 3) whether workers' interests are represented in the JCC system free of coercion by management or the government.

The Subcommittee noted that according to Embassy reporting, the legal authority for enforcing agreements reached through the JCC system is the 1976 Labor Law for the Private Sector and related legislation. Signed JCC agreements, which could also take the form of JCC meeting minutes in some cases, are considered to have the force of contracts, and have been upheld by Bahraini courts. The Subcommittee noted that the individual and collective dispute settlement processes that are in place appear to provide workers with an avenue for addressing employer violations of JCC agreements and resolving disputes. The Subcommittee observed that any individual worker may register a complaint with the Ministry of Labor and Social Affairs (MLSA) regarding violations of JCC agreements or specific labor laws. If no settlement is reached within two weeks, the case must then be submitted to the Senior Civil High Court, which has up to three months to issue a ruling, which may be appealed by either party. According to documentation provided by the GOB of cases resolved in the labor courts, this process appears to be an effective vehicle for the protection of workers' interests.

A collective dispute settlement process also exists, the Subcommittee noted, through which a majority of workers in an establishment or a section of an establishment may file a complaint with the MLSA. If no solution is reached in 15 days, the case is referred to a Board of Arbitration, which includes an employer and employee representative (chosen by the Chamber of Commerce and the GCBW, respectively). The Subcommittee noted that pursuant to the November 1993 labor amendments, if either the GCBW or the Chamber of Commerce fail to name a representative within an allotted time period, the MLSA is then designated to pick a representative on their behalf, thus preventing obstruction by either party of the arbitration process.

After examining documentation provided by the GOB, the Subcommittee concluded that the process for worker grievances appears to function effectively, with workers frequently availing themselves of the established procedures, and with outcomes that are frequently favorable to their interests. In addition, the Subcommittee took note of the fact that the November 1993 labor law amendments provided for increased penalties for employers that commit violations of Bahrain's labor law.

The Subcommittee noted that JCCs appear to be empowered to discuss and negotiate wages, in addition to other conditions of work. According to Embassy reporting, both the Labor Law, as amended in 1981 and the MLSA orders establishing the twelve current JCCs include "determine wages" among the various functions of the JCCs. The Subcommittee noted that wages have been discussed by JCCs, and agreements on wages have been concluded through the JCC system. For example, a wage increase for graveyard shift workers at the Bahrain Petroleum Company (BAPCO) was recently negotiated by the BAPCO JCC, according to Embassy reporting.

The Subcommittee examined the nature of legal protections from employee coercion for workers who participate in the JCC process. Article 166 of the Labor Law provides for automatic fines for "employers who obstruct the process of selection of the workers' representatives on the JCC...or who instruct their own representatives once chosen not to attend the meetings of this committee, or who obstruct its work in any manner whatsoever." Furthermore, the Subcommittee noted, a worker's actions regarding wage proposals and negotiations are not considered legal grounds for dismissal, disciplinary action or other employer action that could constitute employer coercion. Embassy Manama was not aware of any dismissals of workers as a result of their activities in a JCC.

Workers outside of the JCC Structure

The Subcommittee found that both industrial sector workers not currently covered by the JCC structure and workers in non-industrial sectors have several mechanisms for pursuing their interests, although it observed that these mechanisms cannot be considered collective bargaining as established by ILO conventions. First, all workers can bring grievances to the MLSA, after which, if arbitration is not successful, cases move on to the labor courts. Another avenue for workers outside the JCC system is through the General Committee for Bahrain Workers (GCBW), which has a standing committee for non-JCC workers' issues. The GOB provided several examples of cases where GCBW representatives successfully intervened on behalf of non-JCC workers through the negotiation of an agreement favorable to their interests or by helping workers pursue their interests in the labor courts. In addition, as reported in the HRR and shown in documentation provided by the GOB, the press often acts as an ombudsman on labor problems, citing instances in which private sector employers violate labor laws.

III. POSITIVE ACTIONS NOTED

The Subcommittee took note of the following positive actions and developments:

- The passage of amendments to Bahrain's Labor Law in November 1993, which formalize the rights of non-industrial workers regarding grievance and dispute settlement procedures and stiffen penalties for employers who violate the labor laws.
- New information provided by the GOB that: 1) JCCs can discuss wages, and 2) signed JCC agreements are legally enforceable.
- Evidence provided by the GOB indicating that in practice, effective de facto mechanisms appear to be in place for resolution of labor disputes.
- The GOB's current review of proposals to expand the JCC structure.

IV. RECOMMENDATION

In light of the above actions and developments, in addition to the fact that workers in Bahrain enjoy generally good working conditions, wages and benefits, the Subcommittee determined that Bahrain could be considered to be "taking steps to afford internationally recognized worker rights" as required by the GSP law. Accordingly, the Subcommittee recommended that the worker rights review of Bahrain be concluded favorably at this time. The Subcommittee would expect that Bahrain continue to move towards closer compliance with international norms in worker rights, particularly in the area of right of association and the right to organize and bargain collectively.