

**Generalized System of Preferences (GSP) Subcommittee
of the
Trade Policy Staff Committee**

1990 GSP Annual Reviews

Worker Rights Review Summary

Case: 011-CP-90

Benin

April, 1991 — TS

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BENIN

The Subcommittee on the Generalized System of Preferences (GSP) of the Trade Policy Staff Committee, continued an interagency review of the petition filed by the AFL-CIO challenging the continuing preference-eligibility of Benin. The challenge was based on allegations brought forward by the petitioners regarding Benin's failure to satisfy section 502(b)(7) of the Trade Act of 1974, as amended:

"...the President shall not designate any country a beneficiary developing country under this section--if such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country..."

For the purposes of the review the term internationally recognized worker rights was defined as detailed in section 502(a)(4) of the Trade Act of 1974, as amended.

The review was conducted under the terms of Part 2007 of the Regulations of the United States' Trade Representative Pertaining to the Eligibility of Articles and Countries for the Generalized System of Preferences Program (15 CFR Part 2007).

The Subcommittee continued its investigation into the allegations keeping in mind the fact that Benin is designated as a least-developed beneficiary country pursuant to Section 504(c)(6) of the Trade Act of 1974, as amended, and the language of the House Ways and Means Committee Report of September 27, 1984 on the Generalized System of Preferences Renewal Act of 1984:

"[I]t is not the expectation of the Committee that developing countries come up to the prevailing labor standards of the United States and other highly-industrialized developed countries. It is recognized that acceptable minimum standards may vary from country to country."

as well as the language of the Conference Report of October 4, 1984 on the Trade and Tariff Act of 1984:

"It is the intention of the Conferees that this definition of internationally recognized worker rights be interpreted to be commensurate with the development level of the particular country..."

As the Subcommittee continued its review, it recalled that the AFL-CIO's original petition alleges worker rights violations under the "Freedom of Association (sic) and the Right to Organize and Bargain Collectively." Specifically, in its June 1989 petition the AFL-CIO states that "the Union Nationale des Syndicats des Travailleurs du Benin (UNSTB) is a government-created and government-controlled mass organization of the People's Revolutionary Party." Additionally, according to the AFL-CIO, "all labor unions in the country must affiliate with the UNSTB." In support of this allegation, the AFL-CIO quotes the U.S. Department of State's Country Reports on Human Rights Practices for 1988:

"The UNSTB frequently plays the role of a mass organization of the People's Revolutionary Party. Workers are not free to organize and join labor unions free of government control. Benin's Constitution states that 'union activities are guaranteed to workers' but 'must be used for the elevation of conscience of the proletarian class.'"

This state of affairs, the Subcommittee recalled, was in flux by mid-1989, a fact noted by both the Subcommittee and the petitioner. In a February 8, 1990 submission to the Subcommittee, the AFL-CIO stated that there had been eleven disaffiliations from the UNSTB and that "the disaffected group is rumored to be considering forming its own umbrella federation, free from government control."

As it reviewed the AFL-CIO's allegations concerning restrictions on the right of association and the right to organize and bargain collectively, as well as allegations regarding the UNSTB's affiliation with the communist-controlled World Federation of Trade Unions (WFTU), the Subcommittee recalled its interim determinations of April, 1990:

"The Subcommittee, in light of the developments reported above, acknowledged that the situation as regards worker rights in Benin is in a tremendous state of flux. The situation, as portrayed by the AFL-CIO in its June 1, 1989 petition, no longer can be said to exist. Positive developments and/or trends in worker rights areas can be identified."

"...while these changes in worker rights practices were deemed worthy of positive consideration, the legal/regulatory underpinnings of worker rights in Benin [have] not kept pace with the positive practical changes...a pendulum-like swing in one direction can easily, and quickly, be reversed. The Subcommittee decided, therefore, that the worker rights case against Benin should be continued under review for an additional year...."

As it assessed the worker rights developments which have occurred since these April 1990 interim determinations, the Subcommittee was pleased to note a number of positive changes. Several of these developments directly addressed the Subcommittee's concern over a lack of progress in reforming the legal/regulatory underpinnings of worker rights in Benin. Some of these changes, which are linked to Benin's ongoing political transition to democracy, are listed below:

- The Approval of a New Constitution in a National Referendum on December 2, 1990. The new Constitution, which went into effect upon approval in the referendum, specifically addresses worker rights issues, including work conditions, just compensation, and the right to strike. It automatically supercedes outdated labor legislation that may be inconsistent with it. According to a translation provided by the U.S. Department of State, Articles 30 and 31 of the new Constitution contain the following language:

Article 30: The State recognizes for all citizens the right to work and to make the effort to create conditions that will permit them to enjoy the benefit of this right and to guarantee to the worker fair compensation of his services and production.

Article 31: The State recognizes and guarantees the right to strike. Each worker can defend, under conditions foreseen in the law, his right and interests, either

individually or collectively or by action of organized labor. The right to strike takes place under conditions defined by the law.

- Ongoing Effort to Revise Benin's Labor Code: According to the U.S. Embassy in Cotonou, a tripartite government-business-labor team presented a draft of a revised labor code to the ILO in July 1990. Passage of a new labor code is expected in 1991.
- Continuing Independence of the UNSTB Labor Confederation: The UNSTB has remained independent of government control and has disaffiliated from the World Federation of Trade Unions. It now represents about 15,000 Beninese workers.
- New Labor Confederation: On February 10, 1991, a new Beninese labor confederation, the "Confederation des Syndicats Autonomes" (CSA), was formed. According to the U.S. Embassy in Cotonou, "Thirty of Benin's independent labor unions...grouped together, including the powerful teachers, postal and telecommunications workers, railway, and transport unions. Teachers' union leader Leopold Dossou...was elected Secretary General of the new organization...He served as Benin's labor representative to the 1990 ILO meetings in Geneva."
- Right to Strike: Beninese labor unions have continued to be able to exercise their right to strike. According to the U.S. Embassy, "a nationwide taxi-drivers' strike (February 7-9, 1991) has ended peacefully...In addition, part-time substitute teachers at Benin's medical-social institute have been on strike since February 11."
- Right to Bargain Collectively: According to the Country Report on Human Rights Practices for 1990, "Unions in the education, hotel, and petroleum sectors exercised these rights frequently during the year, entering into productive negotiation with employers."

After full and careful consideration of the above, the determination of the GSP Subcommittee was to recommend that Benin be found to be taking steps to afford its workers internationally recognized worker rights. The most important factors leading to this determination were the approval of a new Constitution guaranteeing key worker rights, the Government of Benin's ongoing effort to reform the labor code, and the continued improvement in worker rights practices in Benin.