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**BEFORE THE UNITED STATES
TRADE REPRESENTATIVE**

**PETITION TO REMOVE UGANDA
FROM THE LIST OF BENEFICIARY DEVELOPING COUNTRIES
UNDER THE GENERALIZED SYSTEM OF PREFERENCES (GSP) AND THE
AFRICAN GROWTH AND OPPORTUNITY ACT (AGOA)**

**SUBMITTED BY:
AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL
ORGANIZATIONS (AFL-CIO) AND UNITE HERE
June 15, 2005**

Petition 2005 AR Case# 011-CP-05
by AFL-CIO & UNITE HERE
WR GSP/AGOA Petition on Uganda

From: Anne Knipper [Aknipper@aflcio.org]
Sent: Wednesday, June 15, 2005 4:58 PM
To: FN-USTR-FR0441
Cc: Elizabeth Drake
Subject: "2005 Annual GSP Review - Petition"

Attached are the AFL-CIO petitions.

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Information Required Under 15 CFR part 2007

1. Petitioners: AFL-CIO and UNITE HERE
2. Country: Uganda
3. Sections of Law Warranting Review: 19U.S.C. §2462(b)(2)(g); 19 U.S.C. §2462(c)(7); 19 U.S.C. §3703(a)(1)(F) and 19 U.S.C. §3703(b).
4. Reason for Filing: The Government of Uganda has not taken and is not taking steps to afford internationally recognized worker rights, and the government of Uganda is not making continual progress towards establishing internationally recognized worker rights.

This petition is being submitted a week beyond the annual deadline established by the Trade Policy Staff Committee for petitions regarding country eligibility for GSP benefits. In the past, the Trade Policy Staff Committee has accepted GSP petitions submitted beyond deadline on a case-by-case basis. This petition merits review because of the grave nature of the violations cited, the lack of action by the government of Uganda to address these violations, and the harm caused to Ugandan workers by the continued denial of fundamental workers' rights. The petitioners urge the committee to follow past practice and accept this petition for review.

Introduction

The AFL-CIO and UNITE HERE petition for the withdrawal of Uganda's status as a beneficiary developing country pursuant to 19 U.S.C. § 2462(d) on the grounds that the government of Uganda has not been and is not taking steps to afford internationally recognized worker rights as defined at 19 U.S.C. § 2467(4). Any country ineligible for GSP benefits is also ineligible for the benefits of AGOA pursuant to 19 U.S.C. §2466a(a)(1)(B). In addition, Uganda's failure to make continual progress towards establishing internationally recognized worker rights constitutes independent grounds for AGOA ineligibility.

This petition demonstrates the government of Uganda's systematic denial of workers' rights to freedom of association and collective bargaining. Despite repeated criticism from the International Labor Organization (ILO), U.S. State Department, and International Confederation of Free Trade Unions (ICFTU), the government of Uganda has refused to bring its labor laws into compliance with international standards on freedom of association and the right to organize and bargain collectively.¹ In addition, the government of Uganda has continued to starve its labor courts and inspectors of the

FOA

¹ See, e.g., International Labor Organization, Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Convention No. 98, Uganda, 2004; International Labor Organization, Committee on Freedom of Association, Complaint against the Government of Uganda presented by the International Textile, Garment and Leather Workers' Federation (ITGLWF), Report No. 316, Case No. 1996, 1998; U.S. Department of State, *2003 Country Reports on Human Rights Practices*; International Confederation of Free Trade Unions, *Annual Survey of Violations of Trade Union Rights*, 2004.

resources and authority they need to enforce those rights that are protected by the law. Finally, the government has allowed employers to violate workers' fundamental rights with impunity, sometimes actively aiding employers in their violations of workers' rights. This record reveals a deep disrespect for workers' fundamental rights in Uganda – the government's indifference and even hostility to workers' rights deprives workers' of their basic right to join and form unions and to bargain with their employers for fair wages and working conditions. MNSTO

Ugandan Labor Laws Fall Short of ILO Standards

Labor law in Uganda has been repeatedly criticized by the ILO Committee of Experts and Committee on Freedom of Association, the U.S. State Department, and trade union activists. Many of onerous restrictions on workers' rights that remain in Ugandan law were enacted as part of the Trade Union Decree of 1976 under the regime of Idi Amin, and they severely curtail the ability of workers to form and join unions, bargain with their employers, and exercise the right to strike. Ugandan labor law fails to meet minimum standards on freedom of association and the right to organize and bargain collectively as defined by the ILO. Despite specific requests from the ILO, the Ugandan government has not taken steps to afford its workers these rights nor made continual progress to bring its laws up to international standards.

- Ugandan law requires a minimum of 1,000 members to form a trade union, effectively denying many workers in small enterprises, particularly in the service sector, the right to unionize.
- Labor law only grants bargaining rights to a union if it represents 51 percent or more of the work force, establishing a de facto bargaining monopoly in the work place and erecting a prohibitively high barrier to workers seeking to bargain with their employer.
- Some categories of workers in non-essential services continue to be excluded from the labor rights granted by Ugandan law, including prison officers.
- According to the U.S. State Department, Ugandan law “does not prohibit anti-union discrimination by employers.”
- Regulations governing the right to strike make it nearly impossible to mount a legal strike in Uganda. Workers are required to exhaust “every effort” for reconciliation before going on strike, and employers can delay a strike even further by litigating legal determinations in the Industrial Court and appealing to higher courts. Workers forced to call an illegal strike to defend their interests risk dismissal, arrest, and threats of violence.

Together these laws make it extremely difficult for workers in Uganda to form unions, to achieve recognition, to bargain with their employers, and to strike legally. The government of Uganda achieved partial labor law reforms in 1993, but the deficiencies listed above were left intact. Ten years later, workers' rights continue to lack adequate legal protection. Even though the Ministries of Justice and Labor of Uganda have both declared that the current law violates guarantees for freedom of association in the Ugandan Constitution, the law's onerous requirements continue to be cited by government agencies and by employers in denying recognition to trade unions. The Ugandan government has refused to respond to recommendations for reform from the ILO that have been outstanding since 1998, and has failed to make progress in harmonizing its laws with international labor standards.

Ugandan Government Fails to Enforce Labor Laws

The government institutions responsible for enforcing Uganda's labor laws routinely fail to defend workers' rights. While a lack of resources is partially to blame for this failure, it also represents a lack of political will based in the government's deep indifference, if not outright hostility, to worker organizing and bargaining through freely formed trade unions. The U.S. State Department and the ICFTU have both decried the refusal to effectively enforce workers' rights in Uganda. The State Department notes that, in 2003, the government of Uganda "failed to enforce the rights of some employees to join unions in newly privatized industries and factories," "the right to organize was rarely defended by the Government," and "the Government seldom defended" the right to strike.

- The Industrial Court (IC) is responsible for hearing labor disputes, yet, according to the State Department, it "lacked funds and rarely convened," thus depriving workers of effective recourse when their legal rights are violated.
- The Ministry of Gender, Labor, and Social Development generally refuses to allow a legal strike unless the IC – which is often not in session – finds that onerous legal requirements have been met first.
- The Ministry of Labor fails to enforce uniform legal interpretations protecting workers' rights throughout its agencies. Though the Ministry has stated that restrictive provisions of the Trade Union Decree of 1976 are unconstitutional and thus invalid, the Ministry's own Registrar of Trade Unions has cited those very provisions to deny registration to legitimate trade unions.
- Finally, the Ministry itself is so decentralized and understaffed that effective inspections and enforcement efforts at the local level are nearly impossible. In fact, local Labor Ministry officers are often supervised more closely by their local district councilors – including employers'

representatives – than they are by the Labor Minister. As a result, local Labor Officers who do seek to enforce the law and hold employers accountable may face harassment, demotion or pay cuts at the hands of local councilors rather than incentives and rewards from the Ministry of Labor.²

Unfortunately, the failure of the Ugandan government to enforce workers' rights does not stem only from a lack of resources, staff, and organization. At times, government officials have aided employers in denying workers their rights by refusing to enforce the law, denying registration to legitimate unions, and deploying security forces to intimidate striking or protesting workers.

The attached letter from the General Secretary of the International Textile, Garment and Leather Workers Federation (ITGLWF), Neil Kearney, details two recent cases in which the Ugandan government refused to effectively protect workers' rights. The ITGLWF letter lays out ample grounds for reviewing and terminating Uganda's eligibility for GSP and AGOA benefits, and is incorporated as part of this petition. As the letter demonstrates, the government's failure to effectively enforce the law in the Tri-Star Apparel and Southern Range Nyanza cases enabled employers to fire workers for union organizing, threaten workers with violence, and avoid recognizing or bargaining with legitimate trade unions with full impunity.

The Tri-Star case is particularly troubling. A recent report on the case found that young women at the factory were sometimes forced to work eighteen hours a day and abused by managers. When the workers protested, they were confronted by riot police and then fired. According to the report, a local newspaper quoted the President of Uganda as not only supporting the firings but also ordering them himself, claiming their protest actions would have "scared off investors."³

Conclusion

The AFL-CIO and UNITE HERE urge the U.S. government to accept this petition for review and withdraw GSP and AGOA benefits for Uganda until it fully meets the workers' rights criteria of both programs. In order to receive these benefits, the government of Uganda must demonstrate that it is taking steps to afford internationally recognized workers' rights and making continual progress towards compliance with these rights. The U.S. government should work with Uganda – with ILO assistance as needed – to re-establish its eligibility for preferential trade benefits by:

- Reforming its labor laws to meet ILO standards;

² International Confederation of Free Trade Unions African Regional Organization (ICFTU-AFRO), *A Survey on Human and Trade Union Rights in Uganda Undertaken in October 2004* (unpublished manuscript).

³ Andrew Rice, "Letter from Uganda," *The Nation*, No. 6, Vol. 279, p. 28 (August 30, 2004).

- Increasing funding and staffing of the Industrial Court and the Labor Ministry to ensure that they can effectively enforce the law;
- Reviewing the structure and management of the Labor Ministry to ensure that labor officials can vigilantly enforce labor laws and are rewarded for doing so; and
- Holding employers in the Tri-Star and Southern Range Nyanza cases accountable for workers' rights violations and making immediate progress on pending cases involving nearly a dozen more factories cited by the ITGLWF.

Workers in Uganda continue to struggle to exercise their most basic labor rights. They are constrained by antiquated labor laws, indifferent government agencies, and hostile employers. In order for Ugandan workers to benefit from the trade preferences that the GSP and AGOA programs provide as intended by the U.S. Congress, those workers must be able to form unions of their choosing and bargain with their employers for a fair share of the wealth they produce. The U.S. government has an important opportunity to help those workers achieve recognition of their basic rights, and to ensure that U.S. trade preference programs are truly supporting equitable and democratic development in Sub-Saharan Africa.

