

AFLCIO 1989
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The AFL-CIO urges that Thailand's eligibility for special tariff benefits under the Generalized System of Preferences be terminated. Even after one investigation on the part of the U.S. Government and despite follow-up warnings to the Government of Thailand from the U. S. Trade Representative regarding Thailand's practices, wide-scale abuses of internationally recognized worker rights continue.

BACKGROUND

In 1987 and again in 1988 the AFL-CIO filed petitions against the Government of Thailand for massive abuse of worker rights. The review of the first petition resulted in a U.S. Government judgment that Thailand was "taking steps" to afford internationally recognized worker rights, and noted that the Government of Thailand was "attempting to address its worker rights problems in a number of ways." The AFL-CIO's 1988 follow-up petition provided additional information to refute these claims of progress. USTR declined to investigate. In August 1988, a letter was sent by United States Trade Representative Clayton Yeutter to the Thai ambassador in Washington urging that serious attention be devoted to worker rights:

The comprehensive review completed last April resulted in a Presidential determination that Thailand was "taking steps" to provide internationally recognized worker rights. At the same time, however, the Thai Government was made aware of U.S. concerns in several areas, many of which have been the subject of reviews and complaints in the International Labor Organization

and the International Confederation of Free Trade Unions.

Given the continuing concerns in the United States, it is imperative that you continue your efforts to improve the worker rights situation in Thailand and that you address legitimate concerns that are raised in this area.

Regrettably, the Government of Thailand chose to ignore the admonition of the U.S. Trade Representative. It has not addressed "legitimate concerns" of the International Labor Organization and the International Confederation of Free Trade Unions, not to mention the AFL-CIO.

The remainder of this petition will examine once again the Government of Thailand's flagrant violations of worker rights. It will also briefly mention charges made in our original petitions. We believe that this is appropriate, as the fundamentals of the Thai labor situation remain unchanged.

FREEDOM OF ASSOCIATION

The AFL-CIO's 1987 and 1988 petitions were based on standards set in International Labor Organization conventions concerning freedom of association and on organizing in the public sector. They guarantee workers the right to 1) create and join organizations by choice; 2) order the internal affairs of such organizations without government interference; 3) affiliate such organizations to federations and international organizations, and 4) organize into independent public employee organizations free from discrimination and, as individuals, be guaranteed civil and political rights.

A summary of the charges made in our original complaint bears repeating here. The ensuing discussion will address the U.S. Government's original assessment with respect to each point (where it exists) and then offer an update on actual Thai practice today.

-- Thai employees can easily be fired for engaging in union activity and have little protective legal recourse.

-- The fact that Thai union officials must remain as full time employees in the plants where they work restricts choice of leadership, inhibits union servicing functions, and effectively prevents organizing.

-- Unions are effectively limited to representation that is work place or individual enterprise-based.

-- Civil service workers are denied the right to organize.

We have reviewed the comments presented by the Office of the United States Trade Representative (April 1988) in support of its judgment to continue Thailand's GSP status. None of the above listed charges has ever been addressed in USTR explanations regarding the U.S. Government's decisions. There has been no change since 1987 with respect to any of these conditions.

Leaders of national trade union centers and industrial federations, for example, must still hold full time jobs and elected positions in their respective enterprise unions as a precondition for national leadership. This requirement denies them the time to function in national leadership roles. This governmental intrusion into union affairs persists as part of a wider pattern of unwarranted government controls.

As for the union rights of civil servants, there has been no talk of change.

RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

Standards of judgment with respect to these basic rights come from International Labor Organization Convention 98 on the right to organize and bargain collectively which provides that 1) workers should be protected from forms of anti-union discrimination that might inhibit them from joining unions (firings, for example) and 2) employers' organizations not be allowed to interfere with or control workers.

A number of charges the AFL-CIO made in its first petition were overlooked. The following are most important:

-- The Thai Government has broad discretionary power to declare almost any strike illegal.

-- By common practice many employees are forced to sign individual work contracts which remove them from the protection of union contracts as well as such benefits as sick leave and severance pay. Thus many of them are relegated to the status of casual or temporary workers.

Only the second of these points has been addressed in the USTR explanations of its decisions on Thailand. In April 1988, the USTR stated:

The Thai Ministry of Interior is preparing to seek parliamentary passage in 1988 of a new Labor Protection Law. The 170 section Labor Protection Law that has been drafted over the past three years would consolidate existing labor protection laws under one bill. It will incorporate sweeping reforms of existing labor protection measures recommended by the tripartite committee on manpower development...

The Thai Government is also considering, as an interim measure, issuance of a Ministerial Notification that carries the force of law that will serve to implement the proposed consolidated Labor Protection Law until it is approved by Parliament.

Among those conditions USTR claimed the law would change was "the legal distinction between temporary and permanent workers for labor protection purposes." Its response noted that "The Prime Minister's office has asked the tripartite National Labor Development Advisory Board (NLDAB) to review Thai labor federation concerns regarding the labor regulations consequences (trade union rights) of the legal distinction between permanent and temporary workers."

As this petition is filed a full 14 months later, we note the following evidence of inaction:

* If any review took place its results have not been made public. More importantly, no actions have been taken to eliminate the growing practice of forcing workers to sign individual short-term contracts. In fact, a Thai labor research group, the Arom Pongpangang Foundation, confirms that the problem is getting worse.

The latest word is that the problem will be considered only within the context of comprehensive labor law reform. This would require, among other things, Parliamentary scrutiny and passage, a process that could take years. The problem was reportedly discussed at a mass meeting between representatives of workers and government on April 23, 1989. That the subject of short term contracts was discussed is welcome, but the AFL-CIO approaches such news with caution. Change has yet to come about.

* The promised Labor Protection Law in which USTR has invested so much hope was never introduced in the Parliament. Whether or not such a law will be introduced during the latter half of 1989 is unknown at this time. Even if it is, no knowledgeable authority in or out of government is willing to set a timetable for its enactment, given the lethargic pace of the legislative process. For its part the Thai labor movement has offered a package of reform proposals to all appropriate government agencies, parliamentary committees and political parties.

* No Ministerial Notification was ever issued and the idea of having one has been dropped, supposedly in favor of the comprehensive labor law reform.

SAFETY AND HEALTH

The AFL-CIO's original 1987 petition on Thailand contained charges that Thailand's occupational safety and health laws overlooked a number of important areas and that even where legal coverage did exist, implementation was largely ignored.

In its April 1988 explanation of the decision to extend Thailand's GSP eligibility, the Office of the United States Trade Representative relied on the Thai Government's promises to improve the government machinery dealing with safety and health:

Thailand established the national occupational safety and health center in 1983 to promote voluntary compliance with health and safety laws. By 1990, it will open three regional centers to supplement the national headquarters in Bangkok.

The national center was indeed established five years ago, but there is no evidence that it has had any effect on conditions which affect the health and safety of workers. Furthermore, over two-thirds of all industrial workers are employed in small-scale industries, which fall outside the scope of government occupational safety and health inspection. According to Department of Labor statistics, there were 43,644 industrial injuries in 1987, an increase of over 45% since 1982. And the Director General of the Department of Labor reported in January that there had been 55,000 industrial injuries in 1988 (The Nation, January 26, 1989), an increase of 26% in just one year. The fatality rate per 10,000 workers due to industrial accidents has also been steadily rising in the past decade.

A recent study by the Japanese Asian Productivity Organization of 24 small-scale textile mills in Thailand (with an average of 25 workers each) revealed:

- Nearly 75% had no provision for workers to sit down during shifts of work.
- Only 4 of the 24 factories came close to the recommended level of light (330 lux).
- Only 30% achieved a noise level within the standard of 90 dB(A)
- Eleven of the 24 factories exceeded the maximum heat level of 86 degrees Fahrenheit.

The study also reports: "There is no systematic attempt to clean...The [work] area is dirty as well as untidy...Working conditions are such that any hazard is increased...There are no provisions for emergency care after accidents...Workers do not have access to or use protective devices such as ear plugs..."

Furthermore, at a time when Thailand is experiencing a construction boom, safety and health standards in the construction industry are grossly deficient. The Thai press regularly reports on construction accidents resulting in injury or death. A recent example is provided in an article in the April 2, 1989 issue of the Bangkok Post, describing how a collapsed scaffold injured five workers including two women and two 14-year-olds who were carrying cement up to the fourth floor. The government took no action. Why? Because the injured workers filed no complaint -- not surprising, since as casual workers without job security they would have been fired if they dared to complain.

Another example of Thailand's failure to address the safety health problem is documented on film: A Canadian television crew which visited Thailand in 1988 has produced a film on the widespread exposure to asbestos in certain industries. According to the producer, he found that safety precautions are virtually absent, and that hardly anyone, in government or in the unions, had any idea of the hazards of handling asbestos. Furthermore, a government official told him that, even if he had information about the dangers of asbestos, he could do nothing about it because he did not have the resources. (The AFL-CIO is obtaining a copy of the film and will make it available to those interested.)

CHILD LABOR

The Thai Government admits there is a problem, but its recognition has not resulted in a crackdown on offenders.

The widespread Thai practice of using child labor was thoroughly discussed in both the AFL-CIO's 1987 and 1988 petitions against Thailand. Our charges were based on standards set in ILO Convention 138 urging 1) the establishment of a national policy to prevent child labor abuses and 2) the need for laws to guarantee enforcement. While the ILO acknowledges that countries may have different standards, it establishes 14 as the absolute minimum age. Thai law sets twelve as the minimum working age, a fact noted by the Office of the USTR.

With its decision to reject the AFL-CIO's 1987 petition (the

1988 petition was not reviewed) the Office of the United States Trade Representative reported:

Various Thai government bodies...have intensified their efforts to increase public awareness of the problem of child labor as a crucial first-step towards reaching a solution. These efforts include conducting studies,...seminars and conferences, and developing innovative educational materials.

Unfortunately, increased public awareness of the problem has not translated into extensive enough government action to improve protection against the exploitation of children. A 1988 report by the government's National Youth Bureau reveals that a half million children are employed in factories with incomes ranging from \$62 to \$240 per year. And while additional inspectors have been hired, albeit a grossly inadequate number, even the Vice Minister of Interior has conceded that the Labor Department had failed to effectively contain child labor abuses. (Bangkok Post, April 5, 1989)

Although the Thai Government has acknowledged that a problem exists, it has taken no concrete steps to address the issue.

The number of child workers in Thailand jumped 34% between 1983 and 1987. (During this same period exports rose by almost 84%.) This large-scale influx of children into the work force inevitably affects the employment opportunities and wages of their parents.

Multinationals throughout Asia recognize Thailand as a huge pool of cheap labor. When a Hong Kong toymaker, Kader Enterprises Ltd., which employs 12,000 workers in the Peoples' Republic of China, began getting pressure to regulate labor

abuses (seven-day work weeks of 14-hours and periodic 24-hour shifts for young girls), a Kader manager responded: "If you don't allow us to do things our way, we'll close down our Chinese factories and move to Thailand." (Business Week, October 31, 1988)

Surely this Administration must be aware that the widespread use of child labor in both the formal and informal sectors is not Thailand's only worker rights problem, but this massive exploitation of children is gaining Thailand world-wide notoriety.

CONCLUSION

The U.S. Government has been tough on Thailand with regard to intellectual property rights, which protect the interests of American corporations. It has been lenient on rights affecting Thai workers. This leniency harms the pro-democratic forces in Thailand in their struggle to win overdue and long-discussed reforms benefiting the country's workers.

Excuses that make sense for an underdeveloped rural country with no toe-hold in the manufacturing sector no longer apply to Thailand. Its thriving economy daily becomes more integrated into the global economy. Because of its new status in the world, Thailand could easily make progress on internationally recognized worker rights if the U.S. Government made good use of the practical incentives that Congress provided under U.S. trade law.

The Government of Thailand has neglected to take the "steps" anticipated in the course of previous reviews. This neglect

justifies withdrawal of the Thailand's GSP privileges granted by the United States.

