

UPDATE

**OF THE AFL-CIO'S 2007, 2011 and 2012 PETITIONS TO REMOVE BANGLADESH
FROM THE LIST OF ELIGIBLE BENEFICIARY DEVELOPING COUNTRIES UNDER
THE GENERALIZED SYSTEM OF PREFERENCES (GSP)**

OCTOBER 2014

I. INFORMATION REQUIRED PURSUANT TO 15 C.F.R. § 2007

A. Party Submitting Petition:

AFL-CIO
815 16th Street, NW
Washington, DC 20006
Phone: 202-637-5344
Email: cdrake@aflcio.org
Fax: 202-508-6967

B. Country Subject to Review:

Bangladesh

C. Section of Law Warranting Review

19 U.S.C. § 2462(c)(7)

D. Basis for Petition:

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” to monitor the progress of the Government of Bangladesh towards a set of worker rights benchmarks elaborated in a 2008 demarche. In the subsequent five years, the Government of Bangladesh repeatedly failed to make substantial progress for workers. In June 2013, following a series of highly publicized building disasters, including the fire at Tazreen that claimed at least 117 lives and the collapse of Rana Plaza, where over 1,100 died and another 2,500 were injured, the U.S. government suspended Bangladesh’s benefits under the GSP program.

Bangladesh has failed to make meaningful and consistent progress towards affording internationally recognized worker rights, including freedom of association, organizing and collective bargaining and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health, as is required by 19 U.S.C. § 2462(c)(7) of the Generalized System of Preferences.

The AFL-CIO hereby incorporates by reference all of its prior filings and testimony in this case. This filing should be read as a supplement to those prior filings.

The Government of Bangladesh has not made consistent, tangible progress towards affording internationally recognized worker rights. Despite years of scrutiny, workers who attempt to exercise their rights to freedom of association and collective bargaining face threats, intimidation and physical violence. The continued failure to adequately inspect buildings and enforce fire and other safety laws leaves workers at risk of severe injury and death, speaking to a profound failure to ensure even the most basic acceptable conditions of work. Across worksites and sectors, including garments, Export Processing Zones (EPZs), seafood and telecommunications, the Government has failed to afford internationally recognized worker rights.

I. Ready Made Garments (RMG)/Knitwear Sector

The Government of Bangladesh has not made consistent, tangible progress towards protecting internationally recognized worker rights in the garment sector. While there have been some improvements, union and other worker rights organizations continue to face unacceptable barriers to registration. Leaders and activists are singled out for retaliation, and cannot rely on either labor officials or the police to respond to ongoing threats, intimidation and even physical violence. In this climate, it is not surprising that, out of the 196 unions registered between June 2011 and September 30, 2014, only 8 (or 4%) have collective bargaining agreements with factory management.

a. Failure to Register Unions and Worker Organizations

While there has been a welcome increase in overall union registration, there remain serious problems with the process. The Joint Directorate of Labor (JDL) has absolute discretion to approve applications, and many have been rejected for arbitrary reasons, sometimes outside of the bounds of what is required under the Bangladesh Labour Act (BLA). For example, the JDL recently rejected 5 union applications from workers in East West Group factories. Correspondence from the Government regarding four of these applications is included as Appendix A to this submission. One objection letter cites failure to include attendance sheets for all general meetings of the union, including a list of attendees and their signatures, when there is no such requirement under the BLA.¹ Another states the application does not include the full name of each union official's mother and father, even though the names of both parents are provided. One letter demands that the union "correct spelling mistakes."

Similarly, little progress has been made on creating a database to track the status and final outcome of union registrations. The Government claims that it has contracted with a company called Orange-BD to develop such a database, but attempts to contact the company have not been successful. In an attempt to compensate for the lack of government accountability, the Solidarity Center has created such a database to track the current status of union applications, registrations and rejections between July 2011 and September 2014. Data from that database is attached as Appendix B in this submission. While there are 196 unions registered, researchers found that a mere eight actually had collective bargaining agreements with the employers.

Worker organizations also continue to face barriers to operation. We note with concern that the Government of Bangladesh took several years before finally approving registration for the Social

¹ *The Bangladesh Labour Act, 2006*. Chapter XIII, § 178-179.

Activities for the Environment (SAFE) in August 2014. In June 2014, the Bangladesh Cabinet approved the “Foreign Donations (Voluntary Activities) Regulation Act, 2014,” which imposes onerous restrictions on non-governmental organizations (NGOs) and has drawn criticism from international human rights organizations.² The Act gives the Director General of the Non-Governmental Organization Affairs Bureau (NAB) and executive administrative officers direct control over NGO activities. Under the Act, NGOs that receive foreign funding register must register with the NAB, but there are no timeframes within which NAB must approve or deny registration. NAB can “inspect, monitor and assess the activities” of NGOs and revoke registration or shut down organizations entirely. The Act cements rather than curtails government control over civil society and facilitates continued interference with the legitimate operations of worker organizations and other groups trying to advance human rights in Bangladesh.

b. Failure to Address and Remedy Ongoing Threats, Intimidation and Violence

The Government of Bangladesh has not demonstrated any concerted or systematic effort to remedy severe forms of retaliation against trade unionists. Workers face threats, harassment and violent physical attacks without adequate response from law enforcement. 46 cases of severe anti-union action are contained in Appendix C of this submission.³ The cases include the following:

- When workers in the East West Group factories organized, more than a dozen union leaders were abducted, beaten, robbed and/or told they would be killed if they continued union activities. Federation leaders were also threatened. The Bangladeshi police were notified, but refused to file cases on behalf of the workers.
- After a union submitted a charter of demands, Raaj Washing Plant Ltd. summoned the union’s general secretary to a meeting, where he was beaten and told not to return to the worksite. The employer then filed false criminal charges against both the general secretary and another union activist, claiming that they stole property. Other union members were terminated, and 36 workers were prevented from working due to their union involvement.
- After workers had a meeting with organizers at the Chunji Knit Ltd. factory, four organizers and one worker leader were assaulted by a group of unidentified men. One organizer was beaten so severely he required hospitalization. The assailants tried to pull a female organizer away from the group as they threatened her with rape. Following the attack, factory management advised the parents of the worker leader that they should keep their son away from union organizing activities. Police took over a week to register the case, and only did so after the federation’s president went to the police station six times, several federations held a major human chain protest, and a letter was hand-delivered to the Home Minister. To date no investigation has been completed. Chunji

² See, e.g., Human Rights Watch, Bangladesh: Withdraw Restrictive Draft Law on NGOs, July 6, 2014 *available at* <http://www.hrw.org/news/2014/07/05/bangladesh-withdraw-restrictive-draft-law-ngos>

³ Please see *Appendix C* for data on when factory management first targeted a given factory’s union in relation to the targeted union’s dates of application for registration as well as official registration.

management filed a case against federation leaders, organizers and workers alleging theft, which it recently agreed to withdraw in a Memorandum of Agreement it signed with Bangladesh Federation of Workers Solidarity.

- At Pioneer Knitwear Ltd.'s factory, a federation leader was severely beaten and left for dead. In the following two days, his brother-in-law was attacked and left with a fractured hand and both his house and the union's office were ransacked. Other federation leaders were threatened that they would be killed on sight. The unidentified individuals involved in the break-in stole lists containing the names of 1,200 workers who had signed D forms in favor of unionization. Those workers subsequently received phone calls from management, threatening dire consequences. U.S. representatives raised the case with Government officials from Bangladesh during an official visit. In response, the Commerce Minister claimed union officials were spreading misinformation, a charge for which he has since apologized. The President of the Bangladesh Garment Manufacturers & Exporters Association said that such statements should be met with sedition charges.

Trade unionists confronted with violence and other criminal acts cannot rely on law enforcement for protection. Despite high rates of retaliation against workers, only eight cases have been filed with law enforcement, and none have been resolved. Critically, there is still no evidence of any progress in the investigation of Aminul Islam's murder, despite years of delay and pressure for the international community. The lack of resolution of this high profile case reflects many more less publicized failures to pursue justice for victims of attacks.

Workers report that police are often uncooperative or unresponsive when approached with labor-related cases. Recently, local police in Jaidebpur actively prevented union leaders from recording factory management actions in the station's General Diary. A copy of a letter written by union leaders to the police superintendent detailing the case is attached as Appendix D in this submission. In two other recent incidents, police refused to accept First Information Reports. This behavior is enforced by a lack of accountability in the police chain of command.

Too often, the criminal justice system still fails to support workers, and instead functions as a tool to suppress lawful activities. Charges against labor leaders stemming all the way back to 2006 – case 51/06, noted in both the 2011 and the 2007 AFL-CIO petitions – are still pending, even though withdrawal was a condition of a tripartite agreement signed years ago. The Bangladesh Government has made repeated assurances, but has failed to back up its words with concrete action to ensure worker rights are respected.

c. Failure to Respond to Anti-Union Activity

In most cases alleging anti-union activity, the Joint Directorate of Labor (JDL) has demonstrated a lack of either capacity or will to enforce the law and protect workers. The JDL has complete discretion to file charges against employer, and it often chooses not to do so. On the rare occasion that it decides to file a case, it can take months or even years to render a judgment.⁴ Cases dating back to January 2013 are still pending. The Government usually fails to allocate

⁴ Please see *Appendix E: JDL and Police Responses to 46 Severe Anti-Union Incidents*.

lawyers to pursue the case, which significantly weakens the Department of Labor's ability to process cases.

Government statements and documents present an inaccurate picture of the JDL's record. The Government claims that it investigates complaints and takes necessary action in all of cases. Appendix E attached to this submission refers to 46 severe cases, 32 of which were referred to the JDL. Only one case was fully resolved through action by the JDL, and an additional two were partially resolved. The underlying issues in some other cases were resolved through a federation negotiating directly with factory management, while some have not been redressed. In a February 2014 document, the Government highlighted cases 70/2013 and 231/2013 as examples of the JDL's protection of worker rights.⁵ In fact, both cases have been pending and unresolved in the labor courts for more than one year, as detailed in Appendix F attached to this submission.⁶

d. Failure to Promote Transparency and Accountability in Enforcement

The Government has not made any significant steps towards building a transparent, publicly accountably database of anti-union discrimination and other unfair labor practices and how they were resolved. This is a critical step to assessing the Government's progress and ensuring transparency and accountability.

e. Failure to Develop Adequate Trainings For Law Enforcement and Employers

The Government claims to have developed a mechanism to train industrial police officers in Bangladeshi labor law, the UN Human Rights Charter and the Geneva Convention. However, requests to share the content of these training have not yielded any details. This program is critical to prevent police harassment, intimidation and violence against labor activists and unions. The uneven gains in this respect show that this program merits scrutiny and input from civil society to ensure it is effective.

Likewise, with the exception of a one-day joint program⁷ with the International Labor Organization (ILO), there is no evidence of any trainings aimed at owners and factory management to ensure employers understand and respect labor law and worker rights.

f. Failure to Include Credible Worker Representatives in Labor Reform Process

The AFL-CIO is deeply concerned with the composition of the Rules Committee that the Government formed to draft and implement the rules of the Bangladesh Labour Act (BLA). This Committee has the vital task of mending current deficiencies regarding freedom of association and collective bargaining, but the representatives chosen to represent labor were not drawn from democratic unions or other organizations that represent workers. Instead, the two individuals

⁵ "Working Paper for the Meeting on GSP, presided by Hon'ble Commerce Minister." The Ministry of Labour and Employment, 12 February 2014. Web. 26 March 2014.

⁶ Please see *Appendix F: Bangladesh Labor Law Cases 70 and 231 (2013)*.

⁷ "Employers' Seminar on Freedom of Association and Collective Bargaining emphasizes training on rights and responsibilities." The ILO, 24 April 2014. Web. 14 May 2014.

selected are both politicians. Sukkur Mahmud is President of Jatiya Sramik League, the Awami League's labor wing; and Quamrul Ahsan is both General Secretary of the Bangladesh Garments Workers Employees Federation and a politburo member of the Bangladesh Workers Party, an Awami League ally.

The draft was supposed to be shared with civil society and finalized by April of this year. To date, no draft has been circulated, and there is no indication that there will be an open or transparent process to solicit input from the public. This closed process is reflective of wider trends towards exclusion of worker voices when determining labor policy.

II. Government Inspections for Labor, Fire and Building Standards

To date, the Bangladesh University of Engineering and Technology (BUET) has failed to publicly disclose a single comprehensive report from any garment factory.⁸ Under an agreement with two public-private multi-stakeholder groups BUET, under the supervision of the National Tripartite Committee (NTC), was tasked with inspecting 1,500 factories. So far, the Department of Inspection for Factories and Establishment has only publicly disclosed 148 summaries of BUET's preliminary assessments on structural, fire and electrical safety inspection reports. In contrast, the two private actors have published more than 400 comprehensive reports.⁹

Both of the private actors have begun to complete inspections and publish finding. The persistent failure to begin the crucial task of public audits calls into question the Government's commitment to ensuring building safety.

The Government of Bangladesh cannot demonstrate increased fine and other sanctions for failure to comply with labor, fire or building standards. This is critical to deter future violations, but there is no information forthcoming from the Government on how these programs are being implemented and enforced. There is no public information on the number or types of penalties issued, including how many businesses have been issued suspended licenses or certifications of failure to comply and how many individuals – if any – have been given prison terms. This continued lack of transparency makes it impossible to verify the Government's claims that it is stepping up enforcement and calls into serious question commitment improving compliance.

Under the agreement, the Government of Bangladesh was supposed to recruit and train 200 new labor, fire and building inspectors, but to date that has not been completed, and there is no news on progress.

The Government claims that it has 'strengthened' various agencies, including the Department of Inspections for Factories and Establishments, the Directorate of Fire Service and Civil Defense, the Capital Development Authority, the Chittagong Development Authority and the Department of Labour. However, these proclamations have not been accompanied by any display of actual measures undertaken to build agency capacity.

⁸ Department of Inspection for Factories and Establishment, (n.d.). Web. 07 October 2014.

⁹ The Accord on Fire and Building Safety in Bangladesh, (n.d.) and the Alliance for Bangladesh Worker Safety, (n.d.). Web. 08 October 2014.

The Government committed to build a publicly accessible database of all garment factories “as a platform for reporting labor, fire and building inspections.” This was supposed to include information on identified violations, any fines and sanctions administered, factories closed or relocated, violations remediated, and the names of lead inspectors. While there is a database with summaries of preliminary assessments that include recommendations for fire safety corrective actions, there are no records of compliance or a tracking system, both of which are critical to assessing progress towards building safe workplaces and accountability in the monitoring system.

Similarly, the Government committed to building a database containing information on unions, including federation and trade union information, labor-related cases, training related to labor welfare, conciliation and minimum wage implementation. As discussed in the previous section, the GOB claims it has contracted with a company to develop this system,¹⁰ but efforts to contact the company have been unsuccessful.

The GOB claims that it has established a hotline for workers to confidentially and anonymously report violations,¹¹ but to date there is no operational hotline. This is particularly critical given serious deficiencies in the Bangladesh Labour Act regarding the ability to anonymously file complaints. Even if the hotline was operational, there are no provisions for following up on anonymous complaints, no timeframes or protocol for how to provide evidence.

III. Export Processing Zones (EPZs)

The Government of Bangladesh has not brought EPZ law into conformity with international standards, nor has it created a rigorous or transparent process for doing so. Workers who organize continue to face harassment, threats and dismissals with impunity.

The Government created a working group to revise EPZ labor laws. The group’s membership was not made public and attempts to ascertain the names were unsuccessful. On July 7, 2014, the Bangladesh Cabinet approved, in principle, a draft of the “Bangladesh EPZ Labour Act” without sharing a draft with civil society. The Solidarity Center submitted detailed suggestions on how to bring the law into conformity with internationally recognized worker rights, contained as Appendix G to this document, which were ignored.

Given the lack of transparency surrounding the draft’s adoption, it is perhaps unsurprising that the protections do not conform to international standards, or meet the requirement in the Bangladesh Action Plan that the Government modify the law to ensure “workers within EPZ factories enjoy the same freedom of association and collective bargaining rights as other workers.” In the draft, EPZ workers are still prohibited from forming unions.¹² Employers, however, now have the right to form employers’ associations.¹³

¹⁰ “Working Paper for the Meeting on GSP, presided by Hon’ble Commerce Minister.” The Ministry of Labour and Employment, 12 February 2014. Web. 26 March 2014.

¹¹ “Implementation Status of National Tripartite Plan of Action on Fire Safety and Structural Integrity in the Ready-Made Garment Industry of Bangladesh.” Ministry of Labour and Employment, 15 March 2014. Web. 07 July 2014.

¹² “Bangladesh EPZ Labour Act, 2014” (draft), Chapter IX: Right to Association. Government of Bangladesh, July 2014.

¹³ “Bangladesh EPZ Labour Act, 2014” (draft), Chapter IX, § 122. Government of Bangladesh, July 2014.

Worker Welfare Associations (WWAs) remain under strict control by the Bangladesh Export Processing Zones Authority (BEPZA). The minimum wage board still has minimal worker representation.¹⁴ The prohibitions on building links with non-governmental organizations continue. Additionally, the BEPZA has not issued any regulations to facilitate the formation of federations in the EPZs. These barriers, combined with continuing restrictions on freedom of association and collective bargaining, mean workers still have very limited opportunities to advocate for improved working conditions.

The Government claims that WWAs enjoy collective bargaining rights,¹⁵ and the EPZ draft labor law revisions maintain restrictions on freedom of association and collective bargaining. Worker representatives have reported continued difficulty negotiating contracts and retaliatory actions that the Government has not remedied. Workers report negotiating agreements that management subsequently refuse to sign or ignore without consequence. Many report retaliation for trying to organize WWAs or negotiate for increased benefits and wages, including termination of would-be WWA officials and sympathetic workers. Management is required to consult with the BEPZA before terminating a worker, but WWAs do not have the opportunity to present their perspective before management authorizes termination of WWA members.

The draft also severely restricts worker access to legal remedies.¹⁶ The fact that EPZ Labour Courts and Appellate Tribunals have significantly less power than other labor courts does not conform to international standards or honor the Government's commitment to ensure full and equal rights. Workers are not entitled to seek reinstatement when terminated, and can only file criminal cases with prior permission from the BEPZA's Executive Chairman, which effectively prevents aggrieved workers from filing criminal charges for any offense, including unfair labor practices. There is no express provision that allows individuals to appeal cases.

Workers that attempt to exercise their rights continue to be harassed, pressured, terminated and otherwise stymied by employers, with no response from the Government. In February, the BEPZA was contacted regarding cases at Helicon and Chunji Industries Ltd. At Helicon, all members of the Executive Board of a newly elected WWA were forced out of their jobs. Management officials claim that all fifteen left voluntarily, while workers allege they were pressured. Chunji Industries Ltd. gave the newly-elected President of their WWA a "promotion" to a different position, which meant he could no longer represent workers. When he protested the promotion, he was told he could not return to his old job. When these tactics were raised with the BEPZA, there was no response.

Additionally, we note with concern the disturbing recent news that Youngone Corporation, which has its own EPZ in Bangladesh, recently signed a \$20 million agreement with Uzbekengilsanoat, the Uzbek-government controlled association responsible for cotton

¹⁴ "Bangladesh EPZ Labour Act, 2014" (draft), Chapter VII. Government of Bangladesh, July 2014.

¹⁵ "Working Paper for the Meeting on GSP, presided by Hon'ble Commerce Minister." The Ministry of Labour and Employment, 12 February 2014. Web. 26 March 2014.

¹⁶ "Bangladesh EPZ Labour Act, 2014" (draft), Chapter XII: EPZ Labour Court and EPZ Labour Appellate Tribunal. Government of Bangladesh, July 2014.

purchases.¹⁷ In signing the agreement, Youngone Corporation is supporting the notorious forced-labor system in Uzbekistan's cotton industry, itself the subject of a GSP petition by the International Labor Rights Forum. Currently, two companies significantly invested in the Uzbek textile sector, Daewoo International and Indorama Corporation, are under investigation for alleged violations of U.S. law prohibiting a company from importing into the United States any product made with forced labor, following the Cotton Campaign's petition for enforcement of the Tariff Act last year.¹⁸ In light of these reasons, on July 23, 2014, the Cotton Campaign formally wrote to Youngone Corporation and requested that it cease its partnership with Uzbekyengilsanoat.¹⁹

IV. Shrimp Processing Sector

While the 2013 Memorandum of Agreement on "Promotion of ILO Core Labor Standards and the BLA 2006 in the Bangladesh Shrimp and Fish Processing Plants" laid out important progressive steps to ensure freedom of association in the shrimp processing sector there remain significant barriers to implementation. Most critically, there has been no progress in enforcing the labor reforms with respect to contract workers, who make up the majority of workers in the sector.

No steps have been taken to comply with the requirement of public reporting on anti-union activities or other unfair labor practice complaints, labor inspections completed, factory information and locations, status of investigations, violations identified, fines and sanctions levied, remediation of violations, or the names of the lead inspectors. This lack of transparency makes it incredibly difficult to assess whether any progress has been made in implementation.

V. Telecommunications

The Government of Bangladesh's general failure to promote internationally recognized worker rights cuts across sectors and industries. Of particular concern are recent developments in the telecommunications sector, where workers attempting to bargain have been met with repeated retaliatory actions from the employer. Far from ensuring internationally recognized worker rights, the company has engaged in a sustained campaign to deny workers' ability to organize and bargain collectively and the Government has not responded.

Employees at Grameenphone, owned by Norwegian company Telenor, have spent the past two years struggling to gain recognition of a union to represent their interests. The Government has repeatedly denied the application on technicalities, frequently claiming information that had been included in the application was absent.

The company's sustained efforts to suppress the union have been supported by Government inaction. The night after the union's initial application was submitted, Grameenphone terminated

¹⁷ Fibre2fashion News Desk-India, "Uzbekistan, Korea Sign Textile Cooperation Agreements." Fibre2fashion, 19 June 2014. Web. 23 July 2014.

¹⁸ M.M. Fischer-Daly (personal communication, July 17, 2014)

¹⁹ Letter to Sung Ki-hak, President and CEO of Youngone Corporation, Ltd. The Cotton Campaign, 23 July 2014. Web. 23 07 2014.

163 employees, including seven union officials. Management issued new employee review policies and began scoring union supporters poorly, and set up a 'participation committee' to blunt organizing efforts. It announced restructuring plans that targeted pro-union workers and those with seniority.²⁰ After an organized international campaign, the company dropped its plans, signed a global framework agreement, and publicly declared it would recognize the union once it gained registration from the state. However, the company continued to fight in court. After prolonged court proceedings, the Labour Appellate Court ordered the Director of Labour to register to union. However, the Government refused to issue formal recognition for the union. In that time, the company reneged on its promises and filed a writ with the High Court to stay the decision, which has since been granted. The continued delays and obstructions demonstrate an unwillingness on the part of the Government to ensure fundamental worker rights in the telecommunication sector, part of a broader lack of concerted effort that cuts across industries and sectors.

Conclusion

The Government of Bangladesh has not made consistent, tangible progress towards affording internationally recognized worker rights, and should not be offered GSP benefits until it has done so.

²⁰ Letter from the International Trade Union Confederation to Jon Fredrik Baksaas, Telenor Group & Tore Johnsen, Grameenphone, regarding Violations of Fundamental Workers' Rights at Grameenphone, July 26, 2012

The entire AFL-CIO submission including the Appendices can be found at:

<http://www.aflcio.org/content/download/144121/3721111/GSP+Bangladesh+Update+2014.pdf>