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# INTERNATIONAL WORKER RIGHTS, U.S. FOREIGN POLICY AND THE INTERNATIONAL ECONOMY

## JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON TERRORISM, NONPROLIFERATION AND TRADE

AND THE

SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS, HUMAN RIGHTS AND OVERSIGHT

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# INTERNATIONAL WORKER RIGHTS, U.S. FOREIGN POLICY AND THE INTERNATIONAL ECONOMY

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**WEDNESDAY, MARCH 10, 2010**

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TERRORISM,
NONPROLIFERATION AND TRADE AND
SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS,
HUMAN RIGHTS AND OVERSIGHT,
COMMITTEE ON FOREIGN AFFAIRS,
*Washington, DC.*

The subcommittees met, pursuant to notice, at 2:55 p.m. in room 2175, Rayburn House Office Building, Hon. Russ Carnahan, (chairman of the subcommittee) presiding.

Mr. CARNAHAN. I would like to call to order this joint subcommittee hearing of the Subcommittee on Terrorism, Nonproliferation and Trade chaired by Brad Sherman of California, and the Subcommittee on International Organizations, Human Rights and Oversight chaired by myself. I see Mr. Royce joining us and just apologize at the onset here. We had some votes and other hearings that delayed us, so thank you for your patience in getting started.

First, I think this is an important subject that we are addressing here today, International Workers Rights, U.S. Foreign Policy and the International Economy. We have I think two excellent panels today that can provide us some very good insight, and we will be looking forward to your remarks and also being able to ask you questions. First panel, I would like to welcome Sandra Polaski. She is the deputy under secretary for international affairs at the Department of Labor.

Ms. Polaski served during the Clinton and Bush administrations as U.S. Secretary of State's Special Representative for International Labor Affairs where she was responsible for incorporating labor and livelihood issues into U.S. foreign policy. Next, I would also like to welcome Michael Posner, assistant secretary of state for the Bureau of Democracy, Human Rights and Labor. Prior to joining the State Department, Mr. Posner was the executive director and then president of Humans Rights First, a non-profit, non-partisan internal human rights organization.

Welcome to you both, and we will begin with some opening statements, and I will kick this off as we also wait for Chairman Sherman. I want to thank Chairman Sherman for leading this hearing today and all the witnesses for donating their time on this critical

issue of international workers rights and U.S. foreign policy and the international economy. In the wake of the unprecedented financial and economic crisis, coordinating a speedy recovery and creating sustainable job opportunities has been a matter of the utmost concern for Members of Congress since 2007.

The countless stories of hardworking American citizens struggling during these difficult times are troubling and painful, and they deserve our sincere and focused attention. Additionally, the millions of jobs lost globally threaten to precipitate a dangerous race to the bottom in labor standards in which quality employment opportunities have also suffered. The speed to cycle of declining living standards, diminishing purchasing power, increasingly shrinking markets and further economic decline. The administration, Congress and many others are doing much to turn this around.

As part of this process, we have taken many measures to address our national economic recovery. We must also look beyond our borders and increase our efforts to coordinate significant policy reforms worldwide that will yield concrete benefits to Americans at home by strengthening U.S. trade agreements and trade preferences. Despite these favorable trade relationships, countries still have not consistently adhered to agreed upon labor provisions, and U.S. agencies have been lax in enforcing them.

This ultimately undermines the American worker, undermines potential for economic growth and undermines the respect for basic human rights. From Toyota vehicles to Chinese drywall and children's toys, I also remain concerned about the lack of product safety and enforcement in our trade relationships. This gives unfair market advantage that may end up harming American consumers and that is simply unacceptable and unsustainable.

This April, Secretary Solis will host the first G–20 Employment and Labor Ministers' meeting here in Washington in an effort to pool individual experiences and try to coordinate a collective policy to restore the global economy. I believe this is a vital step with potential to further enhance America's leadership on economic recovery efforts. It is my hope that the meeting will give serious focus to job creation in line with more robust labor rights, protection and transparency.

This year I launched the bipartisan American Engagement Caucus, and last week hosted a congressional briefing on America's image abroad. I believe it is also important for America to continue to be a leader in promoting workers rights, advancing labor standards to foment healthy economies and prosperous societies moving forward. It is imperative that we act now to level the playing field so that everyone can have access to quality sustainable work opportunities and participate fully in the global economy helping to strengthen and expand it.

This will provide tangible, immediate benefits to our domestic economies as well, ensuring strong markets for our exports and giving power back to workers and consumers. As we work to revitalize the American economy and create jobs here, we must aggressively seek new opportunities for U.S. companies to gain fair access to foreign markets. A critical component to that effort is rigorous enforcement of international trade laws and safety standards and to help level the playing field for American workers and protect

human rights around the world. Once again, I thank our witnesses, and I want to ask Ranking Member Royce to provide an opening statement as well.

Mr. ROYCE. Thank you, Mr. Chairman. I chaired the Africa Subcommittee, and I was part of the bipartisan group that authored and pressed and finally passed the Africa Trade Bill. That bill has created desperately needed jobs on that continent. I have toured apparel factories with other members of this House in a number of African countries talking to Africans with new jobs—jobs that are paying women to feed, clothe, and educate their children—jobs that would not exist without liberalization of trade.

I am concerned about well-being abroad, but of greater concern frankly to me is our economy, our own well-being here, and unfortunately, some use the issue of international labor rights to stymie attempts to lower the high barriers many U.S. goods and services face overseas. This makes American workers less competitive. Consider the trade agreement with Korea, which the Democrat congressional leadership and a timid administration has deep freezed.

KORUS promises to increase trade with South Korea by $10 billion a year. As a witness notes today, 40 percent of the U.S. private sector today exports overseas, so KORUS is an American job opportunity that is being lost, a stimulus that is wasting, but it gets worse. While we are frozen, others are pouncing. We will hear that the United States could lose more than 380,000 jobs and $40 billion in export sales if the Korea and Colombian trade deals languish.

Why would that be? Because the EU and Canada are making deals with these countries. National security gets compromised. The epicenters of terrorism are Afghanistan and Pakistan. We have troops in the field. The Islamist terrorism gains if these economies fail, yet the House so weakened a limited Afghanistan/Pakistan trade proposal, including the labor provisions that exceed our own in this country, that it died in the Senate. So there was no economic boost for this critical region.

Some working conditions are truly horrible. It wouldn't bother me if Americans never bought another Chinese made toy. Labor provisions are important. The Africa Trade Law, which I co-authored, includes them, so do other preference programs and trade agreements. In some cases, they need to be wielded better, but in 2007, a bipartisan agreement paved the way for approving trade agreements. That was for Peru, and that was it, and we were done—nothing since. Our competitors are laughing. Stopping liberalization isn't going to help.

Are Colombian workers better off without the Colombian trade deal? I don't think so. American workers absolutely aren't better off without this deal. As much as some would try to legislate prosperity overseas, there are limits to what we can achieve—political, practical and economic limits. To those demanding ever more stringent labor standards, when are they good enough to trade? The American workers who depend on exports want to know. Thank you, and I yield back, Mr. Chairman.

Mr. CARNAHAN. Thank you, and next I want to recognize Mr. Scott for an opening statement.

Mr. SCOTT. Thank you, Chairman Carnahan, and it is a pleasure to be here with you and both of our committees in joining in on this

very timely important issue, and I certainly want to welcome all of our distinguished panelists. The topic of today's hearing is of particular importance as the United States and our trade partners march forward in economic recovery and growth. The encouragement of economic development and the job growth that development brings are issues that I am keenly interested in, and so I thank you once again for providing a forum for these issues.

Our two subcommittees must approach today's topic with a recognition of the delicate balance necessary to best promote American interests abroad, and I think that those are the two key words as we move forward, delicate balance. We have got to promote a trade policy that encourages the responsible growth of American business at home and abroad, but never at the expense of our national security nor in the face of egregious and appalling human rights violations abroad, that is the balance, nor at the cost of the American worker here at home.

As the global markets recover and rebuild, we are presented with the fortuitous opportunity of recognizing the mistakes of the past and strengthening America's status as the prime engine of global economic development. We recognize our past leadership in the world and global economic development, and we recognize the future and that we must maintain our status as the world's leader. We must encourage a rising tide where economic growth coincides with increased living standards and greater democratization. We must eliminate technical barriers to trade and tariffs on U.S. goods.

We must protect intellectual property rights as well as the rights of labor. Quite frankly, nowhere is there a greater example of this delicate balance that we must maintain that in the situation facing us in Colombia. There are so many right reasons that we really need to strengthen our trade partnerships with Colombia, but there is a problem of human rights in Colombia and especially the violation of labor rights and relationships with labor unions where there has been over the past several years a very serious pattern of violence and assassination of labor leaders.

Mr. Chairman, with that, I will yield back the balance of my time, and I hope that we can arrive at a very good discussion of how we move forward while at the same time understanding this delicate balance that our leadership must envelope.

Mr. CARNAHAN. Thank you, Mr. Scott, and next I want to go to the gentleman from California, Mr. Rohrabacher.

Mr. ROHRABACHER. Thank you very much, Mr. Chairman, and let me just identify myself with the remarks of my colleague about his concerns about Colombia. However, let me add to that that the human rights problems of Colombia are minuscule as compared to those in Vietnam where we are rushing forward to try to help them develop their manufacturing base or in China, China. My gosh, the world's worst human rights abuser, and yet a country whose policies we have permitted to be in place even while we gave them most favored nation status.

Let me note that we are now at home in a horrible situation where our people can't find work, where our people are being put out of their jobs, and I trace this right back to many different policies, but one of the most significant policies is that we have had

a one-way free trade policy with the world's worst human rights abuser, and let me note that Nancy Pelosi, Barney Frank, Jesse Helms, Dana Rohrabacher, yours truly, Chris Cox, Chris Smith, Ben Gillman, Gerry Solomon all are people who fought most favored nation status and said it was going to lead to serious economic consequences for the United States and for working people here, and that is exactly what has happened.

Of course, we were told well, if we just had most favored nation status, and we put all our investment there, and we let them use our technology that pretty soon there is going to be a liberalization, and China will no longer be a dictatorship as it is. I call that the hug-a-Nazi-make-a-liberal theory, and it didn't work. China is just as dictatorial today. Actually, it is more dictatorial today than it was 25 years ago, and yet we have built up their economy, and what we have done is created a Frankenstein monster, and to the subject at hand today, how do they treat their labor force?

I mean, the fact is that people over there who work over there have no more rights in terms of their economic rights as they do political rights. They live in a society controlled by a dictatorial clique, and if you get in their way, you disappear. People have tried organize unions, et cetera and try to uplift at least the working conditions of their people, find themselves what? With none of the freedoms that we say are so important here, so why are we granting that country most favored nation status, or as happened during the Clinton administration, permanent most favored nation status, and we are trying to push for the whole WTO thing.

Well, with that said, Mr. Chairman, we need some serious talk about our China policy. I believe it is contributing basically to the downfall of the standard of living of the American people, and here is where again freedom and our commitment to freedom and liberty and justice has very serious consequences to the well-being of our country, and our people as I say are being put out of work. You go to the store, and you can't buy anything that is not made in China, and you realize that the people in China, if somebody sticks their head up to complain, it is chopped off.

We need to make sure that we look at this in a serious way. I want to congratulate Brad Sherman, who I know is paying close attention to this issue in his own subcommittee, and I look forward to working together with you, Mr. Chairman, and with Chairman Sherman, and maybe hopefully having a positive impact on this intolerable situation with Communist China. Thank you.

Mr. CARNAHAN. Thank you, Mr. Rohrabacher, and now I want to turn it over to Chairman Sherman for his opening remarks.

Mr. SHERMAN. Thank you. In quick response to the gentleman from California, you asked why did we provide most favored nation status on a permanent basis to China. It is in the interest of Wall Street. It is in the interest of Wal-Mart. That is why we did it. Good to see Mike Posner again, and I want to apologize to both witnesses for me being late. Our caucus had a suddenly-called meeting on an issue very important to me and my district, and I thought I had to be there for at least part of it.

Now turning to the hearing, the United States has a long history of supporting and strengthening labor rights. What I find troubling is that the U.S., in too many cases, has fallen short of its responsi-

bility to be a global leader in protecting these fundamental human rights. For example, the International Labor Organization has adopted eight core conventions enshrining the most fundamental labor rights. These embody universally shared beliefs including eliminating the worst forms of child labor, granting freedom of association and protecting the right to organize.

Unfortunately, America is one of only six nations that has ratified two or fewer of these core conventions. The U.S. position is particularly confusing given that these conventions were ratified by virtually every nation in the world. Currently, Convention 111 eliminating employment discrimination sits before the Senate awaiting ratification. This convention has passed review by the Bush administration and representatives from Labor and Business, and I would hope the Senate would move forward.

Of particular trouble to me is our right-to-work laws in roughly half of our states. This is an abomination in a country that claims to support internationally the right to organize and core labor standards. We should take significant steps to improve our own labor laws. These right-to-work laws are, in effect, a prohibition on effective organizing. They are harmful. They are harmful to the states involved. They are also harmful to states like my own, which allow labor unions to organize, because now we have to compete with the race to the bottom as our companies have to compete with those where the workers would like better wages, working conditions and benefits but are unable to organize to get them.

According to the American Enterprise Institute, the reason that many key ILO conventions have not been ratified is the fear that some U.S. labor laws, particularly the right-to-work laws, would be found to violate international labor standards that have been accepted by the civilized world for close to 100 years.

Now turning to Latin America. When we are looking at countries that are seeking trade privileges or seeking foreign aid, we can do more to assure reasonable conditions for labor.

One example is the Dominican Republic and the Central American Free Trade Agreement, which went into law in 2005. Then President Bush said the agreement would promote democratic governance, human rights and economic liberty for everyone. However, in June 2009, the Washington Office on Latin America published a report which revealed that labor conditions in CAFTA countries have not improved and violations have not diminished regardless of promises made by member countries to improve labor rights and millions of dollars invested by the United States to meet this objective.

I am particularly concerned with one example of this lack of progress, and that is the murder of trade unionists in Guatemala. Unions report the murder of 40 unionists between 2007 and 2009. One such case is that of Pedro Zamora. In 2007, Mr. Zamora was ambushed and shot 20 times in the midst of contentious negotiations with the company. This man, his family and the workers he died representing have yet to receive justice.

Indeed, the authorities have apprehended and tried only one person linked to the crime. However, that person was acquitted for still unknown reasons last year. It is unclear whether the government will appeal that acquittal and whether they will continue to

search for others responsible for the murder or whether it is all a white-wash. The situation in Colombia is worse. Over 500 union members have been brutally murdered during Mr. Uribe's presidency, and many more have received death threats against them or their family. This violence has a profound chilling effect on the ability of workers to exercise their rights. Far too few have been arrested and convicted for these crimes. In 2009, the rate of impunity remained well over 90 percent.

Turning to Southeast Asia and the Middle East. Labor rights violations are not limited to one particular country in the world. They are just a handful of trading partners. Looking at Southeast Asia and Thailand alone, Human Rights Watch recently reported widespread and severe human rights abuses faced by workers including killing, torture in detention, sexual abuse and labor rights abuses such as trafficking, forced labor and restrictions on organizing.

Some of the most glaring examples come from the Middle East. For example, the State Department Annual Trafficking and Persons Report found that many immigrants from South Asia who moved to Oman to work as domestic servants or low-skilled workers find themselves in conditions indicative of involuntary servitude, such as withholding of passports and other restrictions on movement, nonpayment of wages, long hours without rest or food, threats, physical and sexual abuse.

These are conditions that no one finds acceptable. I want to work with my colleagues and with the administration in focusing on these abuses. The State Department will release its annual country reports on human rights. I believe that is tomorrow, and I know Mr. Posner's staff has been working, if not around the clock, at least long hours on that report, so I am particularly interested to learn whether, and how, our foreign assistance programs, including the Millennium Challenge Corporation, are working in the best interests of workers at home and abroad.

This is an opportunity to see what steps can be taken to improve labor rights standards tied to our trade policy, including the standards in the free trade agreements or the Generalized System of Preferences which provide preferential, duty-free entry for thousands of products from over 100 beneficiary countries and territories. Given the troubling labor rights abuses that persist around the globe, I look forward to the opportunity to hear from the witnesses and would also like their comment on the degree to which American laws, particularly right-to-work laws, violate internationally-accepted labor standards. Thank you for the time. I yield back.

Mr. CARNAHAN. Thank you, Chairman Sherman. Now I want to turn to our first panel starting with Michael Posner, assistant secretary, Bureau of Democracy, Human Rights and Labor.

## STATEMENT OF THE HONORABLE MICHAEL H. POSNER, ASSISTANT SECRETARY, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, U.S. DEPARTMENT OF STATE

Mr. POSNER. Thank you, Chairman Carnahan, Chairman Sherman, other members of the subcommittees. Thanks for holding this hearing and for inviting me to testify. I am going to ask that my written comments be submitted to the record.

Mr. CARNAHAN. Without objection.

Mr. POSNER. As Chairman Sherman mentioned, tomorrow we are releasing our annual country reports on human rights practices. In each of the 194 country chapters, there is sections on workers rights providing a detailed look at these issues in the countries you have talked about, China and Vietnam and Colombia, Guatemala and others. While there are some positive trends we see, there also are far too many countries where workers are suffering abuses in various of forms of discrimination.

I list a number in my testimony, but to give an example, in Uzbekistan, authorities continue to compel children to harvest cotton for export. In countries like China and Iran and Cuba and other places, labor activists continue to risk being fired or blacklisted even in prison, and as several of you have mentioned in places like Colombia and Guatemala, labor activists continue to be targeted for violence and even death.

Throughout the world, dangerous working conditions remain all too common. There was a fire last month in an apparel factory in Bangladesh that took the lives of 26 workers, mostly women. The global economic downturn has thrown millions of people out of work, destroyed savings and forced millions to migrate. The burden of this global downturn has fallen most heavily on the world's most vulnerable workers. That is what we are doing here today to describe ways in which we can address their plight.

Women comprise the majority of victims of forced labor and abuse in sweat shops. Domestic workers are particularly vulnerable, and although we have seen some progress on child labor in places like Brazil, the worst forms of child labor continue to darken the future of tens of millions of children around the world. I want to just take the few minutes I have here to talk about a few things that we are trying to do in this administration. Our efforts to address these challenges fall into three broad categories.

The first is labor diplomacy, which I think is a key. Every day we work to advance labor rights by talking directly and frankly with other governments. We raise our concerns on a broad range of issues, and we do so through our diplomats but also through 40 labor-designated positions in the foreign service. We are focused now on reviewing their role and their responsibilities. We are also working with the foreign service institute to provide enhanced training and guidance.

We have increased our training options, and we are working very closely with the Department of Labor and my terrific colleague Sandra Polaski on this. The second thing that we do is to provide technical assistance. Beginning in the 1990s under the partnership to eliminate sweat shops, we have been spending a growing percentage of our time and money in the Bureau of Democracy, Rights and Labor to address these issues through programs where we provide training. We provide legal representation.

We improve multi-stakeholder engagements, and we work to protect vulnerable workers. We now have about $26 million a year in various programs around the world, and again in my testimony, I list some of those. In recent years, the trade agenda also has created opportunities. I am sure we are going to get into that in some of the questions, but in the CAFTA countries, places like Jordan,

Bangladesh, there are opportunities to push within the context of trade agreements for greater protection of rights.

The third area, a broad area where we are working and continue to work and expand our work is in building partnerships and broader engagement. We can't do this alone in the State Department or the Labor Department. It is critical that we involve other Federal agencies and that we work with others outside of government. The ILO, for example, is a terrific partner, and we are pushing for strong action with them on the worst abusers of workers rights including child labor and forced labor.

We are working to strengthen American participation in the OECD guidelines and multinational enterprises, and we are working with John Ruggie, who is the U.N. Special Representative on Human Rights and Transnational Corporations. It is important that the government also seek to push notions of corporate social responsibility. Let me close by saying that we are committed to working with Congress. We are committed to making these priorities for this administration, and we eagerly await your questions. Thank you very much.

[The prepared statement of Mr. Posner follows:]

**Statement of Michael Posner**
**Assistant Secretary, Bureau of Democracy, Human Rights, and Labor**
**U.S. Department of State**
**before the**
**Subcommittees on Terrorism, Nonproliferation and Trade and International Organizations, Human Rights and Oversight**
**Committee on Foreign Affairs**

**U. S. House of Representatives**

**March 10, 2010**

**Introduction**

Chairmen Sherman and Carnahan, Ranking Members Royce and Rohrabacher, and distinguished members of the Subcommittees, on behalf of the Department of State and Secretary Clinton, I would like to thank you for calling this hearing on this important topic.

This hearing is timely. Tomorrow, Secretary Clinton releases the Department's *Annual Country Reports on Human Rights Practices*, which detail the human rights situation in 194 countries. A key section in every country report is a thorough review of worker rights. The Human Rights Report is among the most comprehensive report on worker rights published in the world today.

Though progress has been made in a few countries, such as labor reforms in Kenya and Jordan, in many parts of the world, abuses and tremendous challenges for workers striving to have their rights in the workplace respected continue. In Uzbekistan, for example, authorities continue to compel children and adults to harvest cotton for export. In countries like Iran, Cuba, and China, labor activists continue to risk being fired, blacklisted, and imprisoned, and in other countries, including Colombia and Guatemala, they have been targeted for violence. Throughout the world, dangerous working conditions remain all too common, such as a fire in an apparel factory last month in Bangladesh that claimed the lives of 26 workers, mostly women.

The global economic downturn has thrown millions out of work, destroyed the savings of countless others, and forced millions more to migrate in search of jobs to meet their most basic needs. In this environment, workers are increasingly vulnerable to exploitation in sweatshops and are being forced into low-paying jobs in the informal sector, where national governments are often unable or unwilling to extend basic workplace protections.

The weight of the global downturn has fallen most heavily on the world's most vulnerable workers. These include migrant workers, often excluded from basic

protections and lacking access to judicial remedies. In Malaysia, for example, it is legal to withhold a worker's passport, placing workers in a situation of heightened vulnerability. This practice is prevalent in Gulf countries as well, even if illegal. Women workers, who comprise the majority of victims of forced labor and abuse in sweatshops, have also been disproportionately affected by the downturn. Domestic workers are particularly vulnerable. And although we have seen some progress on child labor issues in recent years in countries such as Brazil, exploitative child labor continues to darken the future of tens of millions of children throughout the world.

These issues are important for this Administration because when worker rights are not respected human dignity is threatened. Worker rights are set forth in the conventions of the International Labor Organization, the Universal Declaration on Human Rights, and other United Nations instruments, and respect for these rights is included in many of our trade and trade preference agreements. But we must continue to fight for workers rights not only because of our international obligations, but also because many products made under exploitative conditions are found in the global supply chains of goods we purchase and use daily.

Labor rights are vital to the promotion of democratic ideals and social harmony. Independent labor organizations are, at their best, incubators of democratic practices at the grassroots level. The financial independence, cross-regional and multi-ethnic representation, broad agendas, and internal democratic procedures make worker organizations valuable partners in many countries in which DRL works. Where worker organizations are ineffective, corrupt, or co-opted, in places like Egypt, Vietnam, and Bangladesh, workers often must take to the streets or carry out wildcat strikes to make their voices heard.

**Labor Diplomacy**

The State Department has worked for decades to strengthen respect for worker rights, to promote the creation of decent work opportunities, and to support independent labor organizations. One of DRL's principal responsibilities is the promotion of worker rights. Among the ways we seek to advance labor rights is by talking directly and frankly with other governments. We are raising labor rights as part of our human rights and broader bilateral dialogues with Vietnam, China, Brazil, and Uzbekistan, among others.

DRL also coordinates the activities of the Department's Labor Officers, who have promoted labor rights since the 1940s in numerous U.S. missions abroad. These officers inform the work of DRL and numerous other offices in the State Department, the Department of Labor, USTR and elsewhere in our government. They also play a vital role in supporting millions of dollars in technical assistance funded by DOL, report on and investigate human rights, exploitive child labor, forced labor, and human trafficking, and spearhead efforts to implement the labor provisions of U.S. trade legislation. In recent years, our Labor Officer in Guatemala showed tremendous courage in researching and reporting on violence against labor leaders, the Labor Officer in Islamabad was instrumental in advocating for the release of more than 150 bonded laborers, and the

Officer in Doha was described as the "USG beacon of hope for foreign laborers" facing deportation, unfair contracts, grievous physical abuses and deplorable conditions.

We currently have 40 labor-designated positions overseas in the Foreign Service. Where formal labor positions are not present in our embassies, labor diplomacy work is carried out by other officers in Political or Economic sections. We provide additional guidance to these officers and try to ensure that labor issues are given proper weight among competing priorities.

We are currently in the process of ensuring that the distribution and responsibilities of labor-designated positions throughout the world match the Administration's priorities. We are also working with the Foreign Service Institute to provide enhanced training and guidance to our Labor Officers. We have increased the training options available to officers over the past year, and we are working with the Labor Department to once again offer regional labor tradecraft training in the field to a wide range of labor reporting officers. I am happy to be here today with my counterpart from the Labor Department, which has been such a strong ally in this work – work I know also enjoys the strong support of Secretary Solis.

The Obama Administration's work to promote labor diplomacy will be aided greatly by the appointment of a Special Representative for International Labor Affairs, which we expect to take place shortly. This individual will take the lead for the Department in promoting strong labor diplomacy and ensuring a high-level focus on labor rights and employment issues. This position, which was last filled between 1999 and 2002 by Deputy Under Secretary Polaski, will also serve to strengthen the traditional ties of my bureau to labor stakeholders, including the global labor movement, as key contributors and partners in labor diplomacy.

**Technical Assistance**

Targeted technical assistance is an integral part of our labor diplomacy efforts. DRL's labor-related technical assistance programs began in the late 1990s under the Partnership to Eliminate Sweatshops program, and today they comprise a growing share of DRL programming under its Human Rights and Democracy Fund. DRL currently administers over $26 million in labor-related programs, which focus on building the capacity of worker organizations, extending effective legal representation, improving multi-stakeholder engagement on worker rights, and protecting vulnerable workers in the informal sector.

DRL seeks to be nimble and to adjust to emerging concerns raised in our human rights reporting and embassy engagement. Current programs are working to address violations in the shrimp processing sector of Bangladesh, strengthen worker organizations in the border region of Pakistan, provide support to migrant workers in China, build the capacity of independent labor organizations in Egypt and Indonesia, and assist former child soldiers in Burundi, Chad, and Sri Lanka.

We also seek to take advantage of synergies with policy initiatives to maximize the impact of our limited funding. In recent years, the trade agenda has created opportunities as well as obligations for engaging on labor rights, and many of our programs are being carried out in countries where trade agreements and trade preference programs are important considerations, such as the CAFTA-DR countries, Bahrain, Jordan, Colombia, Vietnam, and Bangladesh.

DRL programs are improving the lives of workers throughout the world and are helping to advance U.S. policies on a range of sensitive labor issues. In Honduras, a DRL-administered program provided key assistance to an apparel union – helping bring about a landmark collective bargaining agreement as part of an overall agreement to open a new factory and provide employment opportunities to over 1,200 workers. In Bangladesh, a similar project worked within the export processing zones to facilitate democratic elections for worker associations in nearly 80 percent of the factories. In Colombia, a DRL program is helping to strengthen tripartite institutions and improve social dialogue in this conflict-ridden society.

DRL programs have also helped to improve respect for worker rights through innovative supply-chain interventions and support for the development of best practices. Projects we have sponsored have helped to build and strengthen leading multi-stakeholder labor rights organizations and to improve labor monitoring efforts in Central America, China, and elsewhere.

**Partnerships and Broad Engagement**

DRL programs have helped the bureau to enlist a broad range of partners in our efforts to promote worker rights. These are complex problems, and we need to involve every committed voice in understanding and resolving them. As we work to strengthen our collaboration with worker organizations and NGOs, we are also seeking to develop new areas of collaboration with companies committed to improving working conditions. Tomorrow, we are co-sponsoring an event at the State Department with representatives of 40 to 50 leading companies to develop concrete initiatives to improve working conditions in global supply chains. In countries like China and Vietnam, weak civil societies and a lack of independent labor movements make company engagement a particularly promising path for improvement.

We are also broadening our engagement to increase our work in the multilateral arena to advance worker rights, in coordination with the Labor Department and other agencies. At the ILO, for example, we will push for strong action against the worst abusers of worker rights and contribute to the development of a convention on decent work for domestic workers. We will explore possible areas of cooperation with the European Union and other partners, especially in promoting corporate social responsibility and respect for human rights throughout global supply chains. We are also beginning a process to review the U.S. implementation of the OECD Guidelines on Multinational Enterprises with the Department's Bureau of Economic, Energy, and Business Affairs (EEB) and the Labor Department to make the process more robust and inclusive. We

support the efforts of UN Special Representative on Human Rights and Transnational Corporations John Ruggie as he emphasizes the responsibility of corporations to respect human rights.

**Conclusion:**

In her December 14 speech on human rights at Georgetown University, Secretary Clinton remarked:

*Human rights, democracy, and development are not three separate goals with three separate agendas: that view doesn't reflect the reality we face. To make a real and long-term difference in people's lives we have to tackle all three simultaneously with a commitment that is smart, strategic, determined, and long-term.*

As we pursue our global labor agenda, it is clear that the promotion of economic development, decent work opportunities, support for democratic worker organizations, and respect for labor rights are mutually reinforcing. The global recession has brought these connections more clearly into focus, as worker rights have come under attack in weakening job markets. As we move forward, we need to recognize that greater respect for worker rights is an essential component of just and sustainable development.

Mr. CARNAHAN. Thank you, Mr. Posner, and next I want to go to Deputy Under Secretary Polaski.

**STATEMENT OF MS. SANDRA POLASKI, DEPUTY UNDER SECRETARY FOR INTERNATIONAL AFFAIRS, U.S. DEPARTMENT OF LABOR**

Ms. POLASKI. Good afternoon, Mr. Carnahan and Mr. Scott. On behalf of the Department of Labor and Secretary Hilda Solis, I thank you for this opportunity to discuss the role of labor issues in the Obama administration's global agenda. I have also submitted more extensive written comments, and I ask that they be submitted to the record.

Mr. CARNAHAN. Without objection.

Ms. POLASKI. Thank you, and I am also pleased to share this panel with Assistant Secretary Posner. As he said, we work closely together, and I think his vision for the State Department and mine for the Labor Department in the international labor realm strongly compliment each other. Secretary Solis' vision is that we work to provide "Good Jobs for Everyone." When she launched this slogan and this mission for the Department of Labor, one can think very quickly about its impact in terms of the domestic U.S. economy, but this is also a very important part of our agenda internationally as well as domestically.

To provide prosperity and jobs here at home, we need a sound and balanced global economy, one in which workers everywhere are able to share in the benefits of economic growth. If workers in developing countries don't earn sustainable wages, if they don't earn enough to buy the goods that they produce, they won't earn enough to buy the goods that we produce, and we will see a repeat of the imbalances in the global economy that were partially the cause for the current economic crisis.

The crisis has also made it more urgent that we attend to labor rights internationally because I think as Chairman Carnahan indicated in his opening remarks, when there is large unemployment, the bargaining power of labor goes down, and workers become more vulnerable to the most extreme forms of exploitation, including some of those that Mike Posner just spoke about including servitude and trafficking. Today, I would like to talk very briefly in my oral remarks about what the Department of Labor is doing in order to try to raise these living standards and working conditions globally.

We work through three main channels: First of all through trade agreements and trade preference programs; second through technical assistance—projects on the ground in developing countries; and third through policy dialogue with foreign governments. First, the trade framework, something which has been referred to by all of the members who spoke. Our trade preference programs benefit approximately 140 developing countries, and our free trade agreements with labor provisions cover 16 trading partner countries. All of these agreements and trade preference programs include protections for labor rights.

Protecting these labor rights in our trading partners is a reflection of our values as a society, and it also promotes our own economic prosperity in the ways I have already mentioned. By raising

living standards, we hope to build the middle classes of our trading partner countries and trade recipient countries and allow them to buy the things that they produce, that we produce and that other countries produce.

To ensure that our trading partners meet the labor obligations in these preference programs, including AGOA that Ranking Member Rohrabacher mentioned and the other preference programs, ILAB has increased is monitoring and analysis of what is happening on the ground in these countries that enjoy the preference programs and trade agreements, and we are doing this in part by adding significant additional staff this year with additional funds that Congress so kindly provided for us in the Fiscal Year 2010 budget.

In fact, we expect to increase our staff by about 15 percent this year, and we are increasing the intensity and the level of analysis of our monitoring and reporting on these conditions. We are also increasing the level of our engagement with foreign governments. As Mike mentioned, the State Department is in dialogue with foreign governments every day on these issues of human rights and labor rights, and we are as well. We follow up on our analysis by talking to governments, pointing out what the problems are, what is wrong and offering them assistance to deal with these problems and to improve the conditions for their workers.

Second, we also work to bolster worker rights through innovative technical assistance programs on the ground. We particularly look for opportunities to find foreign governments who demonstrate the political will to improve their own workers' living conditions and rights at work. One example of the kind of technical assistance that we are providing is a very innovative program called Better Work, which is a factory monitoring program that we originally launched during the Clinton administration starting in Cambodia.

It is a factory-monitoring program where the ILO goes into the factories in the export processing zones, monitors the conditions and reports what they find completely transparently on the internet for all to see, so consumers know the conditions, workers know the conditions, the international buyers know the conditions, and all governments know them. This has the effect of aligning the incentives facing the buyers, the sellers, the consumers and the workers along with the governments because we provide information that otherwise would not be available.

We launched this program 10 years ago in Cambodia. It has proven to be a dramatic success. Studies have shown that it is the most significant factor in alleviating poverty in that low-income country, and we are now launching Better Work programs in other countries as well. Ranking Member Rohrabacher will be interested to know that Lesotho has asked us for such a program, and we indeed used funds from our last year's budget to launch that program.

We have now hired an executive director for the program, and we expect the monitoring to be up and running in months, and the government of Lesotho and the industry feels that this will be a needed advantage to keep the industry healthy and to allow it to grow and to create jobs in that African country. We have also launched such a program in Haiti, and despite the earthquake, we

are hoping that program can nevertheless proceed and again attract investors and jobs to Haiti where they are so desperately needed.

We are currently exploring the possibility of launching a program like this in Central America, and I know that Chairman Sherman was particularly interested in what has happened under the CAFTA–DR, and we feel that more robust approaches, such as this example, will be needed in order to improve the outcomes for workers under that trade agreement.

We are also working to devise innovative programs to address child labor. Congress has been very generous in appropriating money for DOL to address international child labor issues for the last 15 years, and we are ready to launch a new generation of child labor projects that try to address the root causes of child labor, including the poverty of their families, and we hope to be able to launch the first of these programs very shortly in El Salvador again addressing the concerns that have been raised by members of this committee.

The third channel through which ILAB works is policy dialogue with other countries. Our goal here is to improve labor rights through bilateral engagement and also through multilateral and global engagement. An excellent example of this kind of policy dialogue is the meeting that you referred to, Chairman Carnahan, the meeting of G–20 Labor and Employment Ministers, which Secretary Hilda Solis will host here in Washington April 20 and 21 of this year.

When President Obama met with the leaders of the G–20 countries in Pittsburgh last September at their summit meeting, he suggested that it was important for the heads of state of the G–20 to increase their focus on jobs because this is the most serious challenge facing many of our countries, and he offered to them that Secretary Solis would host their Labor and Employment Ministers to examine what has happened in our labor markets, the policies that we have implemented, to look at the results that we have had from those policies, share experiences and then try to improve global policy so that we can indeed have this raising of living standards and incomes around the world.

On the basis of that meeting, we will make a set of recommendations to the heads of state when they meet in June in Canada. Let me conclude by just noting that I am certain that the administration and the members of this committee all clearly recognize the need for more jobs and for good jobs here in the United States, and I think from the international perspective that you all expressed in your opening remarks, I don't need to say once again that we will not be able to guarantee those good jobs here at home unless we can raise conditions for workers around the world, so I thank you again for this opportunity, and I look forward to your questions.

[The prepared statement of Ms. Polaski follows:]

**Statement of Sandra Polaski**
**Deputy Undersecretary for International Affairs**
**U.S. Department of Labor**
**before the**
**Subcommittee on Terrorism, Nonproliferation and Trade**
**Subcommittee on International Organizations, Human Rights and Oversight**
**Committee on Foreign Affairs**
**U. S. House of Representatives**

**March 10, 2010**

**Introduction**

Chairman Sherman, Chairman Carnahan, Ranking Member Royce, Ranking Member Rohrabacher, and distinguished members of the Subcommittees, on behalf of the Department of Labor and Secretary Hilda L. Solis, thank you for the opportunity to discuss the role of labor issues and workers' rights in the Administration's global agenda.

Let me begin by putting the topic of this hearing in its current context. As you know, the global economy is slowly recovering from a financial crisis that led to a severe recession, which in turn generated a worldwide jobs crisis. The Administration worked swiftly to address the financial crisis with the Congress and our global partners, including the members of the Group of 20 (G20) countries with the largest economies in the world. We need to redouble these efforts to address the jobs crisis. As the President said in his State of the Union address in January, "jobs must be our number-one focus in 2010."

We need sustained job creation, both here at home and abroad; U.S. households cannot continue to be the "consumer of last resort." Our economy cannot become healthy with sustainable growth without a sound and balanced world economy. A very important part of achieving that balance lies in improving the incomes of working households in low and middle income countries around the world, so that they can consume more of what they produce—and more of what we produce.

The Administration is working to help foster this international, broad-based growth in incomes through several channels. It is working to coordinate macroeconomic policies with other leading economies like those of the G20 so that we get multiplier effects at the global level. We are also working to promote good employment policies through our work with international counterparts, including the G20 Labor and Employment Ministers and the United Nations' International Labor Organization (ILO).

We also promote this broad-based growth in incomes through our efforts to ensure that workers in other countries have acceptable conditions of work and are able to exercise their internationally recognized worker rights, including the rights of freedom of

association and collective bargaining, freedom from employment discrimination, elimination of compulsory labor and elimination of the worst forms of child labor.

It is the vision of Secretary Solis that the Department of Labor works to create "Good Jobs for Everyone." Fostering fair working conditions in the global marketplace is one of the Department's five key goals, because Secretary Solis recognizes that if workers around the globe are not able to share in the benefits of economic growth, then our own future prosperity will be jeopardized by an unbalanced global economy. If workers in developing countries don't earn sustainable wages, they can't buy what they produce or what we produce. If they are not able to enjoy their rights, care for their families, and keep their children in school, the economic risks and instability of the old system will remain. These economic risks have the potential to feed political and economic instability.

Today I would like to share with you some of the highlights of how the Department of Labor is working to foster fair working conditions in the global marketplace. We work through three main channels.

**I. Trade Framework to Promote Labor Rights**

First, the Department of Labor, through the Bureau of International Labor Affairs (ILAB), addresses international labor rights in the context of trade. The United States has gradually built a framework for promoting labor rights and improved livelihoods through our trade preference programs and free trade agreements (FTAs). Since 1984, the laws governing our trade preference programs have required that developing countries take steps to ensure respect for internationally recognized worker rights. Today we provide special market access for approximately 140 developing countries through trade preference programs that include such protections for labor rights. Beginning with NAFTA, and in all free trade agreements since, we have included protection of workers' rights as an enforceable part of those agreements, although the list of protected rights and the rigor of enforcement procedures vary. The United States now has FTAs that include labor provisions with 16 countries.

The rights protected by our most recent trade agreements include:

- Freedom of association.
- Effective recognition of the right to collective bargaining.
- Effective abolition of child labor and a prohibition on the worst forms of child labor.
- Elimination of all forms of compulsory or forced labor.
- Elimination of discrimination in respect of employment and occupation.
- "Acceptable conditions of work" with respect to minimum wages, hours of work, and occupational safety and health.

Protecting these basic rights of workers in our trading partner countries is a reflection of our values as a society and it also promotes our own economic prosperity. When workers

in trading partners can enjoy their rights at work, they can enjoy increasing standards of living and become consumers in mutually beneficial trading relationships. This also creates incentives for employers and workers to upgrade skills, rather than encouraging cost-cutting at the expense of fundamental worker rights and livelihoods.

As the economies of our trading partners expand and the living standards of the workers in those countries rise, it helps our own economy grow and create good jobs through exports. And as workers abroad are able to exercise their rights, our workers are able to compete in a global marketplace based on skills and productivity, without having their wages undercut by exploited labor.

Building on this framework of labor rights provisions in trade agreements, we are now working to significantly improve how we ensure that our trading partners are meeting their obligations. Unfortunately, the focus on monitoring and enforcing the labor provisions has varied over time. In order to achieve the full potential of these provisions, ILAB, in coordination with the Office of the U.S. Trade Representative, is increasing its monitoring and analysis of compliance with workers' rights in countries that benefit from U.S. trade agreements and trade preference programs. We are stepping up our engagement with foreign governments and, when necessary, will invoke the consultation and dispute settlement procedures in FTAs and consider the removal of benefits under preference programs.

We are pursuing a two-track strategy of more robust monitoring and enforcement while at the same time extending the offer of deeper engagement and more assistance to those countries that demonstrate the political will to protect their workers' rights and improve their living standards.

**II. ILAB's Technical Assistance Programs**

The second channel through which we work is the development and deployment of innovative technical assistance programs. We have many trade partner countries that have the political will to improve the rights and incomes of their workers but may lack the technical knowledge or the human or financial resources to address these challenges. With these countries, we are forging partnerships to deliver technical assistance that will help them devise sustainable policies, laws and programs to improve working conditions and labor rights and to protect vulnerable groups like children from labor exploitation.

ILAB must be very strategic in how we leverage our strengths to make the most of the United States' influence and assistance for labor programs abroad. Let me briefly explain some of the key ways that we are doing that.

We have partnered with the ILO to replicate a program called *Better Work,* a model of how to effectively align the incentives faced by factory owners, buyers, governments and workers to improve rights and livelihoods. It is a transparent factory monitoring program that is conducted by a credible monitor (i.e. the ILO). Better Work makes the results of the factory inspections public, enabling international buyers to direct their orders to

factories that are making improvements on worker rights and working conditions. As orders shift based on this information, the good factories expand, better jobs are created, and buyers are able protect their reputations. Originally started in Cambodia, ILAB is now funding new *Better Work* programs in Haiti and Lesotho and is exploring the possibility of launching such a program in Central America. Our strategy is to design and test innovative approaches that, if successful, we can then share with a wide network of donors and recipient countries to replicate on a much broader scale than we can accomplish alone.

We are also improving our efforts to reduce exploitative child labor. ILAB has been a leader in the worldwide effort to eliminate the worst forms of child labor. Congress has made this work possible by appropriating approximately $780 million for this purpose since 1995. In the Obama Administration, we are placing a much greater emphasis on addressing the root causes of child labor, including the poverty of the families and households of the children who face labor exploitation, and lack viable education opportunities. For example, we are exploring new strategies with developing countries that assess the services and support that those governments need to be able to effectively address the problems of exploitative child labor.

**III. Sharing Policy and Learning from Experience**

A third channel through which ILAB works is to collaborate with other governments to exchange information on labor policies, analyze the results of those policies and practices, and coordinate efforts to improve employment creation and the quality of jobs. In the Obama Administration we are significantly expanding our efforts on this third front.

An excellent example is the upcoming meeting of the G20 Labor and Employment Ministers, which Secretary Solis will host at the Department of Labor in April. When President Obama met with his G20 counterparts in Pittsburgh last September, he urged them to focus more intensively on the issue of employment in response to the jobs crisis. He proposed, and they accepted, that Secretary Solis should host the first ever meeting of these Ministers, who together represent the workers in 85% of the global economy. The goal of the April meeting is to compare the experiences of the 20 countries, to learn from each other's policy innovations and their impact, and to explore ways to coordinate activities to the benefit of the overall global economy. We recognize that combined efforts have the potential to lift the global economy and create more jobs in all of our countries.

I cannot overemphasize the potential and importance of this coordination of labor policies at the global level. While our trade agreements and technical assistance programs can improve the working conditions, labor rights and livelihoods for millions of workers and vulnerable people globally, better global labor and employment policies can affect hundreds of millions of workers and their households.

To achieve this, we are working within the Administration to ensure that workers' interests are represented in developing and implementing U.S. global economic policy. We work collaboratively with U.S. firms, labor unions, and non-governmental organizations to align efforts and accomplish what each of these entities can do best. And we work closely with international organizations such as the ILO, as well as in bilateral relations with foreign governments, to develop and promote effective policies.

**Conclusion**

Let me conclude by noting that the Administration and, I am certain, the Members of the Subcommittees clearly recognize the need for more jobs, and good jobs, here in the United States. But I think you will agree with me that the need for more and better jobs at the global level is also an imperative for us because of our values and because of our own interests in terms of economic growth, stability, and security. Our vision is to help build a new foundation for a sustained recovery of the global economy, a more balanced pattern of global trade in the future, and respect for the rights of workers—everywhere in the world.

Thank you again for inviting me to participate in this hearing, Chairman Sherman, Chairman Carnahan, Ranking Member Royce, Ranking Member Rohrabacher, and distinguished members of the Subcommittees. I am happy to answer any questions you may have.

Mr. CARNAHAN. Thank you very much, and we want to start with questions with Chairman Sherman.

Mr. SHERMAN. Thank you. These hearings are very important, but when it rains, it pours. I represent Northridge. They are having hearings right now on natural disaster insurance, so I will leave the room for a bit. I will be fully briefed on what you say. I will be back in touch by phone, and I thank Chairman Carnahan for letting me go first with my questions here.

Mr. Posner, let us say a particular country simply had a law prohibiting labor organizing. Would that fact alone cause some negative comment in the Human Rights reports?

Mr. POSNER. Yes. In the course of preparing the Human Rights reports, we look at a range of the fundamental rights that you have identified that the ILO has identified, and countries like China and Vietnam that prohibit people from organizing.

Mr. SHERMAN. Thank you. What about for the Millennium Challenge Account? If a country just prohibited labor organizing, would that count against it in its total effort to qualify for the Millennium Challenge Account?

Mr. POSNER. I think the Millennium Challenge Account looks at a range of indicators or factors of which political civil rights broadly are one. I don't think they have a particular standard that looks precisely at labor, but it is in broader context, yes.

Mr. SHERMAN. So it would almost be up to a State Department decision whether the right to organize is a human right. Do you have a position on that? I know that Millennium Challenge Account requires respect for human rights. Does that include the right to organize?

Mr. POSNER. Yes. I think there is now in fact, and I have had some discussions with people at the Millennium Challenge Account, there is I think a review of the various indicators that they are using, and one of the things we are discussing is broadening the human rights indicators beyond the democracy indicators from I think Freedom House that they use, but that is very much part of our discussion.

Mr. SHERMAN. Democracy and slavery can co-exist. We proved that in this country unfortunately 150 years ago, and a country that has slavery and democracy should not qualify. Returning though to your standards of the human rights reports, let us say a country didn't officially ban all labor unions, but had some ruse or some provision in effect to accomplish the same thing. Would you then adversely comment on that law in the human rights reports?

Mr. POSNER. Yes, and we do routinely look at both legal prohibitions but also practical impediments to people being allowed to organize and to represent their interests as workers.

Mr. SHERMAN. I know you can't do it, but I want you to issue a human rights report chapter on the 20 some states that have right-to-work laws. By the standards you have told these subcommittees here today, the United States should be adversely commented upon in any human rights report issued by any country that follows the same standards as the United States State Department. There are two Generalized System of Preferences petitions pending. One is against Sri Lanka. I believe that has been pending for 2 years.

The unions only want a hearing on their case, and for the U.S. Government to engage with the Government of Sri Lanka to adopt a work plan to enact needed legal reforms and to address persistent problems in enforcement. As far as I know, no agency has challenged the facts or merits of that Sri Lankan petition. Why, nearly 2 years later, can the United States not decide to accept the petition and develop a plan with the Government of Sri Lanka to address the issues in that petition, and I will address that to whichever witness. I believe it is more of a State Department question.

Ms. POLASKI. Chairman Sherman, you are right. That petition has been outstanding for a while. It is a live petition. It has not been dismissed, which means that it has the potential to be utilized to produce improvements. We in the new administration have stepped up our efforts to look at that situation and to engage, and I am afraid I don't have any real progress to report to you now, but I can assure that we are in a discussion in the interagency process about the need to address the allegations that are in that petition.

Mr. SHERMAN. Will it take another 2 years or another 2 months?

Ms. POLASKI. I hope it will not be 2 years. I hope it will be closer to 2 months.

Mr. SHERMAN. I believe my time has expired.

Mr. CARNAHAN. I want to recognize Ranking Member Royce.

Mr. ROYCE. Thank you. Let me ask this question. The World Bank has estimated that developed world agricultural subsidies cost poor economies about $60 billion a year. These subsidies seriously harm the livelihood of workers abroad. What is the administration's position on U.S. agricultural subsidies, specifically their impact on workers in the developing world?

Ms. POLASKI. Ranking Member, I don't fully understand the question. Would you mind repeating it, please?

Mr. ROYCE. Well, we have agricultural subsidies in the United States to the tune of $60 billion a year.

Ms. POLASKI. Subsidies?

Mr. ROYCE. Subsidies, yes. Taxpayer subsidies, and that clearly affects the well-being of farmers that are competing in the rest of the world with a situation where rather than rely on markets, we have produced a taxpayer subsidy here in the U.S. It is one of the reasons we have difficulty liberalizing trade with other countries around the world because of these subsidies that we run here. I am asking for the position of the administration or their thoughts on reducing these subsidies in exchange for reducing other impediments so that we can liberalize trade around the world. It would be beneficial to populations, especially in Africa where so many people rely on this as a livelihood.

Mr. POSNER. Congressman Royce, these are issues that I am sure representatives of the Department of Agriculture deal with all the time. I am glad to take the question and then have them respond.

Mr. ROYCE. Well, let me put it this way. This is a worker issue because West African cotton workers are getting hammered by our cotton subsidies, which cost American taxpayers very dearly to the tune of $60 billion for all subsidies. Meanwhile, the President's trade plan reports on all the aid that we are providing to West Af-

rica's agricultural sector, which also costs our taxpayers dearly, so we fund efforts to build capacity with one hand, and we decimate Mali's and Niger's competitiveness with the other. I hope this is an issue that can be seriously looked at. I would hope that you would think that through in terms of what kind of sense that would make.

Under the GSP Program, Colombia enjoys duty-free access to the U.S. market for the vast majority of its goods. That access continues regardless of the status of the pending Colombia trade agreement, and that agreement primarily lowers Colombian barriers to U.S. goods and services, so by not approving this agreement, we are maintaining a very unbalanced commercial relationship with Colombia, essentially giving it a free ride.

How does this serve President Obama's goals of doubling U.S. exports? Let me ask how many U.S. sales do you estimate are being lost because of high Colombian trade barriers, which would be reduced if this were to pass, and why isn't the administration aggressively backing the Colombian FTA?

Ms. POLASKI. If you don't mind, Ranking Member, I would like to go back a moment to your previous question, which for some reason it took me a moment to understand about the agricultural subsidies. I did want to point out that in President Obama's proposed budget for Fiscal Year 2010 he did suggest a number of serious modifications to the subsidies programs that I think went some distance to addressing the concerns that you have expressed. However, they were not enacted in the final analysis, and I do not know if they are in the new budget, but my guess is that there would be such measures in the budget proposal for this year.

Mr. ROYCE. I would hope to see more leadership by the administration on this issue, and also on the issue of Colombia, the nonpartisan Congressional Research Service (CRS) reports violence against trade unionists has declined dramatically since President Uribe took office. That was in 2002. We are 8 years past that. In 2008, the Washington Post noted that the number of murdered trade union members, now that is members, not leaders, was less than .2 percent of the 17,000 murdered Colombians, and it concluded this hardly suggests a campaign on anti-union terrorism in Colombia. Do you agree with that conclusion?

Ms. POLASKI. We have been relieved I think is the right word to see that there has been a decline in the rate of murders against trade unionists in Colombia, and that decline has persisted over a number of years. Unfortunately, there was a slight increase over the last few years, although not to the levels that we had seen earlier. What we are doing there is a couple of things. We are working together with USTR together with the State Department and other agencies to try to develop a list of the measures that we think would effectively address the existing problems including the violence that does exist.

It is down, but it is certainly not eliminated. Specifically, the impunity, the problem that most of those murders that have occurred over the years have not been resolved, the vast majority have not been resolved, and we feel that to have any deterrent effect, you have to address the murders that have happened in the past and the problems with labor law. We are working actually to produce

a set of very concrete benchmarks that the Colombian Government can implement in order to progress to the point that this legislation would be acceptable to Congress.

Mr. ROYCE. And the impact, the barrier are on U.S. goods going into Colombia by failure to pass this legislation because Colombia goods come into our market.

Ms. POLASKI. Understood. Understood, and I would go to Mr. Scott's comment that there is a delicate balance between the economic opportunity and the basic human rights and labor rights that we have to keep in mind as part of the overall picture.

Mr. ROYCE. Well, your untenable position that Uribe is standing in the way of labor rights, which I don't believe, the Post doesn't believe, I don't think you really believe it, as opposed to discussing a government like China's is to me phenomenal, but I yield back, Mr. Chairman.

Mr. POSNER. Can I just add a word on it? I think what Sandra Polaski said is that we are very mindful of the fact and share your assessment that the level of violence against trade unionists has gone down. It is still at a very high and unacceptable level. That doesn't mean that it is the sole responsibility of President Uribe. It is a condition in the country. It is a violent place. There is still between 25 and 40 labor leaders killed every year.

Those levels are highly unacceptable for any society, and they are threats. There is a range of other issues beyond the murders that we are determined to look at. That is a piece of the puzzle. It does not determine entirely how we set a trade policy with Colombia, but it is an important piece. That is all.

Mr. ROYCE. No, no. I am just looking at Vietnam versus this and the absolute antithesis, and frankly, a lot of those labor unions' labor leaders are people that I would agree with. My grandfather was a labor union organizer. I am just saying the fact that Vietnam gets one standard given the appalling, unbelievable conditions and repressions that goes on in that country, and you have an elected democrat here, Uribe, where because of what happened 10 years ago, you can't get past figuring out how to address that, it just seems rather odd to me. I yield back, Mr. Chairman.

Mr. CARNAHAN. Thank you. I want to recognize Mr. Scott.

Mr. SCOTT. Thank you very much, Mr. Chairman. Let me pick up on what my good friend, Congressman Royce, has opened here and the situation with Colombia and see if we can't get a little more light on this. I went down to Colombia myself with then Secretary Rice about 2 years ago and visited with Uribe, the entire administration. The sad fact of the matter is that what we have here is not just a casual situation regarding labor leaders.

It is a targeted effort, and it is manifested within an arena of a lot of violence. There is drug trafficking. There is the FARC down there. Here is the issue. The issue is that to what extent is the government involved in this, and there have been some indication that that is true. When I was down there, I put that question directly to President Uribe and the administration. There have been eyewitness accounts where the soldiers themselves have shot and killed trade unionists.

It has been in the news there, and since 1988, there have been 2,756 labor trade unionists killed. That doesn't count others that

have been wounded and all of the other things that are happening. Secondly, it is not just that, but it is when the culprits get caught. There is no trial. There is impunity. The question is how can we have a trade policy as we want to, I want to? To what degree do we bring down our standards if we engage in a trade pack with a country with this kind of record?

The question becomes what can the United States do, what can we do, to help workers in Colombia who are fighting for their rights? What more can we do to get the government itself to take a more active, aggressive role in bringing fair justice to these trade unionists because if you have impunity, and they are allowed to get away with it, and there is some complicity within the government itself, those are things that we can correct, so the question is what are we doing to correct and give the actual help down to Colombia that we need.

Mr. POSNER. It is a good question, Congressman. I am glad you are continuing this line. There is I think an opportunity. As you know, President Uribe is not going to seek a third term, and we are in a transition, which is going to provide on a range of issues an opportunity to renew and open up discussions on human rights and a range of other issues. One of the challenges, which you have identified so well, is that it is not just that there is a high level of violence, but there has been a history of impunity, and it is weak judicial system by Colombia, who I have met with, have acknowledges as much.

We can and should be doing more to strengthen it. We can and should be doing more to work with labor leaders and organizations concerned about these issues in Colombia. We are doing some of that. I think we could do more. I think there really are opportunities here to break the cycle of violence, but it is longstanding. It has been at a very high level, and it is something that is going to require more than a few months of effort, but we are determined to do it.

We are interested. We are committed to it, and I think you are right to keep pressing us. This is an area where there is a serious issue, one that needs to be addressed and one where we can and should be doing more.

Mr. SCOTT. Yes, and just want to emphasize for the record so we really know how serious this is, that of those more than 2,700 killings, more than 95 percent of them have had no convictions. That is astounding that over this period of time out of all of those killings, 95 percent of them, in other words less than 5 percent of them have been resolved. Ninety-five percent of the killers have gone free, and so I think that is the fundamental question we have got to ask.

I wanted to ask this other question. In June 2009, the Washington office on Latin America published a report that revealed that the labor conditions in the DR CAFTA countries have not improved and violations have not diminished regardless of promises made by member countries to improve labor rights and the millions of dollars invested by the United States to meet that objective, and moreover they found that the labor situation in Central America was deteriorating further due to the global economic crisis.

My question is would you recommend that the United States support efforts to strengthen labor rights and combat impunity in the DR CAFTA countries by negotiating the agreement and increasing the weight of penalties for labor violations?

Mr. CARNAHAN. If the witnesses would yield, I am going to ask you to answer that as briefly as you can because we do need to get on to some of the other members.

Ms. POLASKI. Yes. I would just say, Congressman, that you are absolutely right that we can do more in CAFTA–DR. Of course, the crisis has hit those countries and the workers in those countries as it has hit us and a number of other countries, and so a part of that is addressing the overall economic recovery, but we think that there is much more we can do in the region, and I mention specifically that we are looking at launching the type of factory monitoring program that was so successful in Cambodia, and we have had a good reception in at least one Central American country, which would put a spotlight on conditions in the factories there.

We think that it could be very successful. We have had other countries come forward and ask for very innovative child labor programs, so we think that if we look separately at each of those countries, and where is the political will and what are the opportunities, we can probably make some very, very good progress in some countries, and if we can't make progress, then of course we have to think about utilizing the various enforcement mechanisms that we have in that agreement.

Mr. CARNAHAN. Thank you. Mr. Rohrabacher?

Mr. ROHRABACHER. Thank you very much, Mr. Chairman, and if we are focusing on Colombia, let me just note the statistics we have been talking about here are from 1988. Frankly, I don't know what is relevant from something 22 years ago when the country was in the middle of a revolution. I mean, there was a lot of people being killed there absent of the labor union movement, but is it my understanding from the witnesses today that yes, Colombia has had problems, and they still have problems, but the trend line is something that is positive, is that correct?

Ms. POLASKI. Congressman, I think that the number of murders is down. I would agree with my colleague, Mike Posner, that 40 murders a year of trade unionists is 40 too many, so even though the trend line is down, it still is extremely high. It is still the most dangerous place in the world to be a trade unionist, and the progress on impunity, the progress on prosecuting the perpetrators of those crimes has not really improved, so that is one point.

Mr. ROHRABACHER. Yes, but let me just note that when you are talking about Colombia, when you have the revolutionary and violent revolutionary situation that they had, quite often that spills over into other areas of social life where you have people who are organizing unions who now you have got armed groups of people who are for hire there, and quite often there is "us versus them" mindset that creates this, and again it should not be tolerated. I am not tolerating. I am just suggesting that if we are going to take a look at countries of concern, I think Colombia is improving its situation.

I see no improvement in Vietnam. I see no improvement in China. Let me ask about China. I remember when I was younger

I spent the summer of 1968 in Czechoslovakia, which was quite a volatile situation then as well, but I remember that the trade unions were upset because they could not form a union because they were told well, we have one big union in communist countries. This is the workers' union, and all it was was a front for the communist party, which of course suppressed anybody who was making any demands at the workplace. Is that the situation in China as well that nobody is permitted to have a union except the big communist party-controlled union?

Mr. POSNER. Yes. This is not a trivial detail in the way the Chinese Government operates. Central party control of all institutions, including labor, there is a central union, which is really a part of the party government apparatus, and no unions are allowed to form.

Mr. ROHRABACHER. Right. Well, that happened in Cuba, too. We know that when Castro took over, forgetting all these kids who are wearing these Che Guevara shirts don't understand the Che Guevara personally took trade union leaders out and shot them, murdered them by the hundreds, trade union leaders because they were starting their communist party All Workers Union. What is significant today however is the fact that our people here are being put out of work because we permitted a respectable trade status with a country that does not permit unions other than the one that is controlled by the government.

Let me just note that I do disagree with my good friend, Brad, on right-to-work laws. There is a jump here. I happen to believe that people have a right to join a union, and I think that they don't have that right in places like China. Well, it is one thing to say that. It is another thing to say well, everyone has to join the union. I don't believe that you should be able to force people to join the union.

I think in our country that the fact that you have been able to force people to join unions rather than depend on people joining up and being solid and having solidarity together voluntarily has led to corruption within our own union system where some union bosses have known that people have to join anyway, and that does not work to the benefit of a very effective union system in our own country, so I just wanted to make sure I got that on the record because I certainly don't believe that right-to-work laws are a violation of anyone's right who wants to join a union voluntarily.

I might add I joined a union voluntarily. I was a member of the Communication Workers of America, and I helped unionize my shop when I was working as a young journalist, and my boss got what he deserved, et cetera, but the fact is that I had a right to do that, and I made sure that as we did that, that everybody in that shop knew well, don't worry. I mean, officially you have to join, but that is not what this is all about, and by the way, everybody in my shop joined that union. It was a perfect voluntary situation, so as we move forward, I hope in this discussion, Mr. Chairman, that we realize the implications are over there, and the implications are here.

Yes, we are concerned about the human rights in China, in Vietnam, Colombia and other countries. We are also concerned in countries that violate human rights of their working people whether or

not that means that our people here end up out of work, and the wages here get bid down because we are permitting a free trade status with countries that are fundamentally not free. I would suggest free trade between free people is a good thing, a win-win.

One-way free trade or free trade with a dictatorship undermines the well-being of our own people except it does enrich our corporate elite, who end up giving themselves big bonuses for short-term profit as their own companies go under because they have invested their money over in China where eventually it becomes the property of the Chinese. Thank you very much, Mr. Chairman.

Mr. CARNAHAN. Thank you, Mr. Rohrabacher. Now I would like to recognize Congresswoman Jackson Lee for 5 minutes.

Ms. JACKSON LEE. Mr. Chairman, let me thank you and the ranking member for an instructive and important hearing, and I ask the witnesses to accept my apologies. We are on the floor debating the resolution regarding Afghanistan. I would like to track the line of reasoning of my colleague from Georgia and also say to my distinguished colleague from California we don't have an atmosphere in America where people are forced to join a union.

It may be that in the energy of organizing, it is a vigorous campaign, but in the current 21st century and 20th century, union organizing has been open and transparent and up for acceptance or rejection, but more importantly, I don't know the last time when a governmental entity killed a union leader because of their organizing here in the United States. There is certainly history in any movement where loss of life occurs, and I think what we are talking about today is a completely different set of circumstances which has to do with the oppressive, appointed and directed killing of individuals who are seeking worker and human rights.

I associate those two forces together, human rights and worker rights, and I would like to try to probe what is the sense of the administration's position. I have seen the President put a whole new face on American foreign policy, and I, for one, am celebrating. I think it has been invigorating. I think it has been positive, and I think we get things done, so my question is does the administration view workers' rights as consistent and equal to human rights?

In that instance where we are conflicted, where we are in conflicts such as the continuing conflict now waning in Iraq, the rising conflict in Afghanistan that many of us are asking for an assessment and reconsideration, but my colleague spoke eloquently about Colombia and the right to justice for those who lost their lives, my question is that if we send our troops in harms way, shouldn't one of the elements of the purpose of us being there, certainly not to dominate by an exact, if I will, copy of America's Government and policies and Constitution, we can do that, but the basic simplicity of worker rights and human rights, so would you give an assessment of what you think human rights and worker rights are in Iraq and Afghanistan?

Would you also assess what you think human rights and worker rights are in the Mid East, in particular places like Oman where they are just symbolic of those who come to work in domestic positions and lose their passports and are held in involuntary servitude, and the other point that I would make if you would comment on because we in Congress need to be your friend, what is

the legislative fix that we need in order for worker rights and human rights to be in the forefront of any conflict that we engage in?

We are putting American treasure on the ground. We are losing American treasure, and we leave these countries in the same condition that we found them, abusing human rights and abusing worker rights, and might I add to that as to whether or not you have seen any progress in China, who we worked with since the PNTR was passed under the Clinton administration? The concept of that was to open opportunities so there could be some role-modeling so that China could see how things flowed in the Western world, not to take them out of completely out of their governmental structure, but look at the issues of religious freedom, worker rights and human rights.

Mr. POSNER. At least three different subject that are connected, and let me try to take them one at a time. In December, Secretary Clinton gave a speech at Georgetown where she outlined the intersection and the indivisibility of human rights, democracy and development, and when we talk about these concepts, and when she talks about these concepts, and the President does, we have a broad notion of democracy and human rights, which includes the right of civil society to function, rule of law, the right of trade unions to operate, free press, transparency and the lack of corruption, the right to vote.

There is a broad spectrum of things that are brought under that concept, which I think certainly includes notions of the rights of workers, and so I think we have a good framework and a good foundation to work on these issues within that context. When you talk about Iraq and Afghanistan, I think realistically the reports will show that conditions for workers are poor, but we are in war situations. We are in I think in moment in Iraq with an election just having occurred where we need to be and should be spending more time trying to nail down some of the commitments the government has made and make them real.

We are going to be in the next months, as we withdraw our own presence there, trying to build up these democratic institutions, and I think if our efforts there are to be validated over time and history, one of the things we need to be holding ourselves accountable to is that we live our values and that we try to impart standards like the rights of workers there, so that will be I think an important piece of what we need to be doing.

Ms. JACKSON LEE. If I may? Those areas will always be conflicted, and if we don't make the point forcefully or firmly that shedding our blood equals to certain values such as human rights and workers rights, we will still leave them in the same condition that we found them in.

Mr. POSNER. Yes, I very much agree. You mentioned the Gulf states, Oman and others. The problem you identify is particularly severe that of domestic workers, a lot of them brought in from other countries and living in and working in situations that are just totally deplorable and unacceptable. It is part of what we are trying to do. It is part of a broader human rights effort. There is an office in the States Department looking just at trafficking that

is very focused on these issues, but these are places, and these are issues we need to put a lot of attention. They are critical problems.

The last bit on China, there are some interesting developments, but it is still a very restrictive environment. What I said before is the principal piece, the government tightly controls the ability of workers to organize. It doesn't allow people to organize freely outside of the state-run, party-run central union. There are a range of other problems, health and safety, forced labor, re-education through labor camps, lots and lots of problems with people working long hours, usually young women. It is a very serious set of issues, and I think we owe it to ourselves and again as part of a broader human rights policy to make these issues front and center.

Mr. CARNAHAN. The gentlewoman's time has expired.

Ms. JACKSON LEE. Mr. Chairman, may I just yield to you just for one moment, and I will be very quick?

Mr. CARNAHAN. Proceed.

Ms. JACKSON LEE. This looks like a framework for legislation. We have all spoken eloquently over the years. We are members of human rights caucuses, and when I hear this, and I know there is a report coming out, it just looks like it is begging for some sort of emphasis in our trade negotiations. The city of Houston has become a repository for human trafficking. We have task forces and local authorities looking at people coming in from South and Central America.

I would just say that if we can work together with the administration, it is heart in the right place and maybe need some extra resources or regulatory scheme, we have a problem on the condition of workers and the condition of human rights around the world as evidenced by the testimony of the Secretary, so I yield back and hope we can work together on some framework that is a little stronger that what apparently we have presently now.

Mr. CARNAHAN. I do as well, and I thank the gentlewoman, and I want to recognize gentlewoman from California, Ms. Watson.

Ms. WATSON. Thank you, Mr. Chairman, and I think this is a very relevant hearing. I would like to thank the witnesses, as well make a comment and then raise a question. At a rubber plantation in Harbel, Liberia, U.S. corporation Firestone National Rubber Company has had a long history of poor working conditions, child labor abuses and requiring workers to meet exceptionally high daily production quotas. After years of neglecting workers' concerns, Firestone in the year 2008 made a positive step forward by addressing these issues and signed a new collective bargaining agreement.

The agreement included a number of improvements including lowering production quotas, higher wages, greater safety productions. However, the agreement has not been fully implemented, and employees report still being told to produce at the old quota levels. As a result, because a single individual cannot produce at such unrealistic levels, workers are forced to bring wives and children to work to help them meet the demand. Children are once again forced to work against their will, so what has the United States done to try to end child labor practices or otherwise improve working conditions on this plantation? Both of you, could you give us a response?

Ms. POLASKI. I can just say, Congresswoman, I am not aware of that particular situation, but I can promise you that we will look into it, and we will see what possible ways we may intervene in order to try to improve that situation. We have done a lot of work on child labor issues in West Africa generally, but perhaps not as much in Liberia, and so we will look into that, and we will get back to your office with our results.

Ms. WATSON. All right. In this particular issue with Firestone, you might not have the details on that. Mr. Posner, would you? Okay. Well, what do you suggest that we should do to end other instances of unfair child labor practices or to improve the working conditions where U.S. companies are not addressing this issue. Do you have any ideas what we can do in that regard?

Mr. POSNER. Yes. Just a couple of things. I think one of the most interesting and to me innovative and exciting opportunities we have is work we are doing with the Government of Brazil and the International Labor Organization on this issue of child labor. The Government of Brazil has begun to work with some of its neighboring countries, and is now looking also to work with some of the Portuguese-speaking countries in Africa. We are helping to fund that.

We are working in a tripartite arrangement with the International Labor Organization, which is really expert in this area, but it is the kind of innovative approach that I think really has the potential to bear results. With regard to companies in particular, I think this administration, and I am particularly interested in trying to push harder for companies to accept their individual and collective responsibility.

The government can do so much. The ILO can do more, but we need also to have partners in the corporate community who take their responsibilities seriously. Some of the issues in West Africa, for example, involve cocoa production and cocoa farming in the candy industry. We have got all kinds of issues with apparel and toys and low-wage labor-intensive industries throughout the world, in Asia, Latin America. There need to be greater efforts by more companies to take these things seriously, and I think we in the government need to be pushing for that so that they take their responsibility in this new global economy.

Ms. WATSON. When I came into the committee, I think you were discussing Colombia, and that issue has come to our attention on the floor of the House. We have hesitated in dealing with Colombia because we feel they have not complied with the wishes for change in their child labor laws, so this tends to be a concern not only in Central America but in some of the poorer countries in Africa, so I would like to see us take a position to discourage companies from doing business where they violate the child labor laws or don't have any laws concerning children or even women.

I would hope that as you look these issues that we will set up some standards, and maybe the program you just described, Mr. Posner, we could use that as a standard for Colombia and some of the others. Thank you so very much, and I yield back, Mr. Chairman.

Mr. CARNAHAN. Thank you. I wanted to ask a couple of quick questions. Then, I am going to yield for an additional question to

Mr. Sherman. Then, we are going to move on to our second panel. Let me ask you both quickly. We have seen stories and heard over and over again about problems with vehicles from overseas, harmful drywall, toys, baby formula, you name it, lack of product safety provisions and enforcement in our trade provisions, certainly its impact on American consumers but also in terms of leveling the playing field for American businesses and workers. To what extent is the administration incorporating these product safety considerations with our trading relationships? Let me start with Ms. Polaski.

Ms. POLASKI. Thank you. The administration is very concerned obviously about the quality of the products that we import, the products that we produce domestically and that we import in terms of their product safety and the potential effect on consumers, and we have had, as you mentioned, a number of very frightening experiences including with imports. We have not yet incorporated product safety requirements into our trade agreements.

That is the threshold, a new frontier, if you will, that one could consider, Members of Congress, members of the administration could consider going forward. I do know that the Food and Drug Administration is paying a lot of attention to the products that are coming and looking for ways for them to try to, if you will, use the borders as an extra line of defense against harmful products not penetrating the country and getting to our consumers, but in terms of it being a condition of our trade agreements, that does not exist at this time, Congressman.

Mr. CARNAHAN. And, Mr. Posner?

Mr. POSNER. Yes. The only thing I would add is that I think it is often the case that countries that have weak regulatory protective systems for workers are also countries that are falling behind in terms of product safety and these other issues you are describing. It is part of a package. Our ultimate goal, our long-term goal is to encourage the creation and help create strong democratic institutions in countries that domestically deal with these issues in a fair way. Labor rights, workers rights, product safety, they go together. It is part of infrastructure of government.

Mr. CARNAHAN. I just want to close my questioning by saying I think this is a relatively new area. It is something I think that has gotten consumers' attention, and it should be part of our overall strategy really focusing on that product safety. Again, I think it is smart for how we approach our trade agreements. I think it can make a big difference for our workers and our businesses here at home in leveling that playing field and addressing some of these problems we have seen in terms of this race to the bottom in standards across the board whether it be labor, environment or safety standards. Thank you, and I am going turn next to Chairman Sherman.

Mr. SHERMAN. Thank you. One question. The United States has ratified two of the ILO conventions, Convention 105 on the prohibition of forced labor and Convention 182 on the prohibition of the worst forms of child labor, and that is only two out of eight fundamental, or core, ILO conventions. The ones we have not ratified concern such issues as freedom of association, collective bargaining and prohibitions on forced labor discrimination in employment.

The U.S. is among the company of China and Iran in having failed to ratify Convention 87 on freedom of association. Do you think that such a record affects the credibility of our nation with regard to advocating for respect for international labor standards and human rights, and is there any reason why the U.S. Government should not move forward to ratify Conventions 100 and 111 with regard to equal pay and nondiscrimination in employment? Mr. Posner?

Mr. POSNER. Let me start with the good news. The administration has identified as a priority the ratification of Convention 111. It is before the Senate. We are going to be working with the Senate on the President's committee on the ILO as a tripartite Federal advisory committee from State, Labor and Commerce. It is on their agenda. There is going to be more activity on this going forward, so this is the place to start.

I think as you know in general, there is a long history of the United States being very reluctant to ratify a whole range of treaties on a whole range of subjects. We take the view that we ought to be in full compliance before we consider ratifying. Lots of other governments say let us ratify the treaty and then bring ourselves up to the standard. That is almost a theological difference, but it is also tied with a whole range of other things. I don't view these in isolation. I think they are part of a broader pattern, and it is something that over time hopefully one at a time beginning with Convention 111 we can begin to chip away at.

Mr. SHERMAN. I would say those countries that ratify and then bring themselves into compliance at least have brought themselves into compliance, and our theological approach of not bringing ourselves into compliance and then not ratifying is embarrassing at least to me.

Mr. POSNER. If I could just add one thing. It is I think important also to say that the spirit and intent of a lot of the ILO Conventions we are very much supportive of. We are supportive of the ILO as an institution, and the fundamental rights that are identified in that declaration are things that we very much embrace as a society, and we embrace them by and large domestically and certainly in our international dealings as well.

Mr. SHERMAN. I get to have just the last word and say we only embrace the right to organize in half of our states, and I yield back.

Mr. CARNAHAN. Thanks, gentlemen, and I thank the panel. We will excuse you and turn now to our second panel. I want to welcome our next panel through a brief introduction, then turn to your testimony followed by questions, and we expect we may have some votes somewhere not long after 5:00, so we will try to move this along and appreciate you being here and for your patience today.

First I want to welcome Mr. William Lucy. He is chair of the AFL–CIO, Executive Council Committee on International Affairs. Mr. Lucy is the international secretary and treasurer of AFSCME and founder and president of the Coalition of Black Trade Unionists. Also, we have with us Dr. Bama Athreya, executive director of the International Labor Rights Forum. Dr. Athreya has worked on labor rights issues for two decades focusing on Latin America and Asia.

Finally, we have Mr. John Murphy, vice president of International Affairs at the U.S. Chamber of Commerce. Mr. Murphy previously served as executive vice president of the Association of American Chambers of Commerce in Latin America. Welcome all of you, and we will start this panel with Mr. Lucy.

**STATEMENT OF MR. WILLIAM LUCY, CHAIR, EXECUTIVE COUNCIL COMMITTEE ON INTERNATIONAL AFFAIRS, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS (AFL–CIO)**

Mr. LUCY. Thank you, Mr. Chairman. Chairman Carnahan——

Mr. CARNAHAN. Mr. Lucy, be sure you check your mic there. I am not sure we have it on yet.

Mr. LUCY. Thank you. I want to thank you for this opportunity to testify today on behalf of the 11.5 million members, working men and women of the AFL–CIO. The subject of this hearing promoting international worker rights is one of which many of us have spent half a lifetime working on. This hearing could not be timelier. We remain mired in the middle of a global economic crisis, the worst in over 80 years. The human toll of rising unemployment, poverty and inequality is truly staggering.

The ILO has reported that worldwide unemployment increased by roughly 34 million workers in the year 2009 and that an estimated 100 million women and men fell into absolute poverty that same year. Many of those fortunate enough to be employed are vulnerable, facing reduced hours, wages and benefits and a highly uncertain future. Even before the recession however, workers worldwide and especially as Secretary Posner pointed out migrant workers were in serious trouble.

The inability of workers to organize and bargain collectively due to labor flexiblization fierce and often illegal employer opposition and the lack of effective enforcement by governments has led to perilously union density in many parts of the world as existing unions were broken or busted and new unions were unable to form. The results have been the absence of workplace democracy accompanied by poor working conditions and wages insufficient to support a decent livelihood.

Massive unemployment creation now needs to be a macro-economic policy priority at the national and global level. Millions of people around the world simply need jobs. The AFL–CIO has recommendations for re-balancing the global economy and creating millions of new jobs in the short and long term. I will not address those here, but however we know integral to a balanced economic recovery is the creation of not just any jobs but quality jobs. This will not be possible in the absence of full respect for fundamental labor rights.

It is on this issue that I will direct the balance of my comments. We urge Congress and the Obama administration to consider recommended reforms in the following three areas, which we view as vital to effectively promoting international worker rights. The details of these recommendations are set forth in our written testimony, which is before the committee. First, we need to make certain that the U.S. agencies charged with promoting international

labor rights have the mandate, resources and personnel necessary to carry out their respective missions.

This includes substantial funding increases in the International Labor Affairs Bureau, or ILAB, the Department of States' Bureau of Democracy, Human Rights and Labor, the National Endowment for Democracy and Labor Programming at USAID. These core agencies have responsibility for the promotion of international workers rights through research, reporting, in-country programs and the enforcement of the labor provisions of preference programs, trade agreement and other instruments.

A strong commitment to labor diplomacy should include placing more foreign service officers trained and committed to labor affairs in our embassies around the world. These labor offices promote workers rights and serve as an important contact point for working people across the globe. Foreign assistance funding must also be directed at programs that build sustainable worker-led institutions and strengthen the capacity of these organizations to defend fundamental democratic and worker rights.

Second, the administration has at its disposal a number of trade and investment tools that can be employed to create the political space for legal reforms and for workers to exercise their fundamental labor rights without fear of reprisal. It is important that we strengthen these tools to better promote international labor standards abroad. We urge the Congress to work this year to pass trade preference reform, which must include stronger labor eligibility criteria and establish a regular, transparent process for the acceptance and review of complaints.

It is also essential that the model bilateral investment treaty be strengthened substantially beyond the weak non-derogation language that currently exists. Additionally, any new free trade agreements must make progress beyond the May 10, 2007, agreement. While May 10 marked a substantial step forward, there remains some room for improvement. Enforcement of labor provisions of trade agreements is also critical.

Right now, the Mexican Government is engaged in a formal assault on independent democratic unions and core labor rights exemplified by the recent attacks on the Miners and Electrical Workers Unions. The U.S. must act now to hold the Mexican Government accountable. We also remain steadfastly opposed to the pending trade agreement with Colombia until we see substantial progress with regard to violence against trade union leaders and high levels of impunity for those crimes as well as comprehensive labor law reform and a sustained demonstration of the will to enforce those laws.

The discussion just a while ago sort of left out the fact that these are targeted activities, and we think that the country should be called to task by the discussions between ourselves and then with regard to the agreement. Third, the Obama administration needs to work globally to create and enforce fair rules for the global economy, to foster sustainable growth and broadly shared increases in the living standards and purchasing power of working people around the world.

This will require constructive engagements with a number of international institutions. In April 2010, G–20 labor ministers will

meet in Washington, DC, to lay out a roadmap for addressing the job crisis globally. This is a critically important meeting that deserves serious attention by U.S. policymakers. Internationally, trade unions are calling on the G–20 to address external account, financial and social imbalances with particular emphasis on adopting strong social protection measures.

Unions are also calling for a regular and meaningful consultations as the G–20 continues its work on adopting and promoting policy responses to the jobs crisis. We also urge the inclusion of the ILO as an essential institution in formulating and coordinating global policy responses. Finally, but not least, the U.S. must give serious consideration to the ratification of core ILO conventions. To date, as was pointed out earlier, the U.S. has only ratified two of the eight that are considered core conventions.

By doing so, the U.S. will posses a far greater authority on the world stage, particularly on matters of labor and trade. An important first step would be the ratification of Convention 111 of 1958, a discrimination employment and occupation convention, and Convention 100 of 1951, the equal remuneration convention. As a nation, workers have struggled long and hard to combat discrimination in all of its forms, including discrimination in hiring, employment and conditions of work.

This is a step that is long overdue. We must join the great majority of nations in expressing our unqualified condemnation of such practices and committing ourselves to ensure that no U.S. worker suffers discrimination in any form on the job. Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Lucy follows:]

**TESTIMONY OF WILLIAM LUCY,**
**INTERNATIONAL SECRETARY-TREASURER,**
**AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME),**

**BEFORE THE U.S. HOUSE COMMITTEE ON FOREIGN AFFAIRS**
**SUBCOMMITTEE ON TERRORISM, NONPROLIFERATION AND TRADE**

**&**

**SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS, HUMAN RIGHTS AND OVERSIGHT**

**ON INTERNATIONAL WORKER RIGHTS, U.S. FOREIGN POLICY AND THE INTERNATIONAL ECONOMY**

March 10, 2010

Chairman Sherman, Chairman Carnahan, members of the Subcommittees, I thank you for this opportunity to testify today on behalf of 11.5 million working men and women of the AFL-CIO in my capacity as Chair of the AFL-CIO Executive Council Committee on International Affairs. This subject of this hearing, promoting international worker rights, is one to which I have dedicated over fifty years of my life.

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Chairmen, this hearing could not be timelier. It is indisputable that we remain mired in the middle of a global economic crisis – the worst in over eighty years. The human toll, of rising unemployment, poverty and inequality is truly staggering. The International Labor Organization (ILO) has reported that worldwide unemployment increased by roughly 34 million in 2009 (over 2007 levels), rising to roughly 212 million workers. This is the highest on record. The ILO also estimates that 100 million women and men fell into absolute poverty last year alone. Many of those fortunate enough to be employed are vulnerable, facing reduced hours, wages and benefits and a highly uncertain future.

Even before the recession, however, workers worldwide, and especially migrant workers, were in serious trouble.[1] The inability of workers to organize and bargain collectively,

[1] Workers in the readymade garment sector of Bangladesh are often paid less than the minimum wage and sometimes not paid at all. In Guatemala, the last three years have been particularly horrific, with death threats and assassinations (over 40 since 2007) of trade unionists returning as an anti-union tactic. In the UAE, migrant workers from South Asia have been subject to numerous workplace hazards and inhumane living conditions while constructing the skyscrapers of Dubai. In Swaziland, still governed by monarch, workers face serious restrictions on their basic labor rights and find little redress in Ministry of Labor or the courts.

due to labor flexibilization,[2] fierce and often illegal employer opposition and the lack of effective enforcement by governments, has led to perilously low union density in many parts of the world, as existing unions were busted and new unions were unable to form. The result has been the absence of workplace democracy accompanied by poorer working conditions and wages insufficient to support a decent livelihood. In the developed world, this meant more debt-financed consumption just to maintain the same standard of living held by the previous generation. In the developing world, workers had little purchasing power to meet basic needs and to save for the future – a low-road path that impedes national economic recovery and development and often leads to labor migration.

Massive employment creation now needs to be a macroeconomic policy priority at the national and global level. Millions of people around the world need jobs. In Pittsburgh, the G-20 Leaders took important steps in this direction, propounding a new framework for strong, sustainable and balanced growth that puts quality jobs at the center of the recovery. In this context, G20 Leaders further agreed to implement the key tenants of the ILO Global Jobs Pact,[3] an outline for a fair global recovery that we endorse. However, these statements will not translate into national or international policy without strong leadership – particularly from the United States.

The AFL-CIO and the Global Unions have specific recommendations for rebalancing the global economy and creating millions of new jobs in the short and long term. I will not address them here, though they are referenced in this testimony.[4] Integral to a balanced economic recovery, however, is the creation of not just any jobs but *quality* jobs. This will not be possible in the absence of full respect for fundamental labor rights. It is on this issue I will direct the balance of my comments.

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**First**, we need to make certain that the key U.S. agencies charged with promoting international labor rights have the mandate, resources and personnel necessary to carry out their respective missions. Greater coordination is also essential so that the actions of the various departments reinforce the same overall policy.

### 1. Enhancing Labor Diplomacy

The U.S. government, through its embassies worldwide, has played an important role in promoting core labor rights, in building labor capacity abroad and, in some cases, facilitating resolution of labor disputes. However, the number of persons detailed exclusively to labor issues in U.S. embassies has declined substantially over the years,

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[2] In Indonesia, for example, the unions have reported that the number of directly hired workers in manufacturing has dropped from 70 to 40 percent. These workers have been replaced with subcontracted workers who receive less pay, no benefits and who are by law unable to join the union. Similar trends are found all over the world.

[3] See, ILO, Recovering from the crisis: A Global Jobs Pact, available online at www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_115076.pdf.

[4] See, e.g., AFL-CIO Executive Council Statement, March 2, 2010, *A Call to Action on Jobs*, available online at www.aflcio.org/aboutus/thisisthecaflcio/ecouncil/ec03032010g.cfm.

impacting the U.S. government's ability to carry out its labor diplomacy role, or even to collect reliable information needed to inform policymakers in Washington. Labor issues are just one of many assignments for foreign service officers in several countries. This needs to change. The State Department, as it increases its Foreign Service Officer corps, must also substantially increase the number of its labor officers. It must also work to make the labor officer positions a more attractive career opportunity. The Department of State and Labor must work together in labor diplomacy programming, providing the expertise and training to make the labor officers' role as effective as possible. Many of these recommendations were proposed in the Report of the Advisory Committee on Labor Diplomacy to the Secretary of State and the President of the United States in September of 2000. These recommendations remain valid today.[5]

**2. Strengthening the International Labor Affairs Bureau (ILAB)**

The International Labor Affairs Bureau (ILAB) of the Department of Labor is the core entity in the government charged with the promotion of core labor rights, acceptable conditions of work, improved living standards and social protection in our bilateral, regional and international relationships. It does this through a range of critically important functions, including: a) investigating, researching and developing policy related to labor law and administration, labor markets and international trade; b) representing the U.S. government in the International Labor Organization and other international organizations; c) monitoring and enforcing the labor provisions of trade agreements and trade preference programs; and d) providing technical assistance and capacity building.

Effectively carrying out this broad mandate requires substantial resources and political support. For many years, however, ILAB was severely underfunded and politically constrained. In fact, the previous Secretary of Labor attempted to eliminate ILAB's funding. The funds it did have on hand in those years were largely directed away from programs promoting freedom of association and collective barging. Such programs are critically important, as they help workers to build lasting, democratic institutions that can directly advocate on behalf of its members, and workers generally, in the factories and the fields. More ILAB funding must be directed to support these programs.

Under its new leadership, ILAB is already making great strides in promoting labor rights around the globe. The funding situation at ILAB has also begun to improve. An increase of $5 million in the FY 2010 budget has allowed ILAB to begin to hire desperately needed additional staff. However, much more will be needed if ILAB is to be able to carry out is mission successfully. The Obama Administration's FY 2011 budget proposes a welcome increase of $22 million. We urge the Congress to ensure that ILAB receives at least this amount for FY2011.

**3. Increasing the quantity and quality of capacity building funds**

[5] See, A World of Decent Work: Labor Diplomacy for the New Century, Report of the Advisory Committee on Labor Diplomacy to the Secretary of State and the President of the United States (2000).

The U.S. government has invested millions of foreign assistance dollars in labor capacity building programs over the years, with much of the funding tied to countries entering into trade agreements with the U.S. This funding is essential to show that our government seeks not only to hold foreign governments accountable to international labor rights standards but is willing to help them and key stakeholders build the capacity to comply. Continued and substantially increased investment in labor capacity building programs is important. However, we also need to make certain that funding is well spent – meaning that a sizeable portion of overall funding should be directed at programs that build sustainable worker-led institutions and strengthen the capacity of these organizations to defend fundamental democratic and worker rights.

Funding for the National Endowment for Democracy and for the worker development assistance programs at U.S. AID, the State Department and the Labor Department should be increased. Programs that strengthen the capacity of free, independent and authentic trade unions to represent working people in their countries vis-à-vis governments and employers should be given priority. In particular, we need programs that help trade unionists improve their skills as practitioners of and advocates for worker rights, rule-of-law, and democracy in their societies. These programs help to balance power relations within a society, creating the possibility that more people, organized and able to bargain, can enjoy a fair share, which can then be invested in the family and the community – raising standards for everyone. Such programs need to be implemented by organizations that have the demonstrated commitment to the subject matter and country expertise to carry out such programs effectively.

**4. Foreign Assistance**

While U.S. support for democracy and human rights is not confined to the development assistance area, any new development framework and accompanying legislation ought to include democracy and human and labor rights as an essential element to achieve U.S. development goals. As Secretary of State Hillary Rodham Clinton declared on December 14 at Georgetown University, "Human rights, democracy and development are not three separate goals with three separate agendas... To make a real and long term difference in people's lives we have to tackle all three simultaneously." As part of an overall U.S. development policy, adequate funds should be made available to develop and implement strategies to encourage and aid the establishment of national institutions and regional organizations supporting democratic governance and respect for human rights, including labor rights.

**5. Improving Inter-Agency Coordination and Consistency of Policy**

Interagency coordination is essential to ensure that international labor rights policy is effectively implemented. It is important that the actions of one agency taking action to address labor violations in a country are not weakened by another agency's funding, financing, certification or validation of that country's conduct. For example, several countries have been deemed eligible to receive Millennium Challenge Corporation compacts even though they are under review for widespread worker rights violations.

Niger and the Philippines are both MCC eligible despite ongoing GSP reviews of worker rights violations. Colombia has also been deemed MCC eligible despite widespread human and labor rights violations, including the murder of at least 39 trade unionists last year. The recent certification of Colombia by the State Department as having met human rights criteria for foreign assistance can undermine the work of other departments. Similarly, continued counter-drug funding to Mexico's military and police forces despite several highly credible reports of grave human rights abuses, including abuses committed against trade unionists, seems difficult to justify.

**Second**, our trade and investment policy tools need to be upgraded and consistently and effectively applied.

The Obama Administration, in its 2010 Trade Policy Agenda, reiterated the importance of worker rights in the achieving a balanced global economy that works for all.[6] The Administration now has at its disposal a number of trade and investment tools that can be employed to create the political space for legal reforms and for workers to exercise their fundamental labor rights without fear of reprisal. It is important that we strengthen these tools to better promote international labor standards abroad. We also need to ensure that these clauses are fully, fairly and consistently enforced.

The rationale for linking trade and labor rights is twofold: 1) workers who are able to exercise these fundamental rights will be able to bargain collectively for better wages and working conditions, ensuring that the benefits of trade accrue not only to capital but also to labor; and 2) while developing countries should be able to attract investment based on a comparative wage advantage, it should not benefit from wages that are artificially low due to widespread labor repression. However, a substantial lack of political will in previous administrations meant that important trade leverage was not employed. The Obama Administration has already taken a positive step in the right direction by moving forward the CAFTA case filed against Guatemala in mid-2008. The Administration has devoted substantial time and resources to the case, and we expect that the U.S. government will prosecute this case to its conclusion. However, even with the best intentions, each of these tools has weaknesses that need to be addressed if they are to be most effective.

### 1. Trade Preference Reform

In 1984, Congress passed legislation conditioning a country's eligibility for preferences under the Generalized System of Preferences (GSP) on "taking steps to afford internationally recognized worker rights." Subsequently, other trade preference programs, such as the Caribbean Basin Initiative (CBI), the Andean Trade Preference Act (ATPA) and the African Growth and Opportunity Act (AGOA) included nearly identical language. However, significant substantive and procedural problems limit the effectiveness of these tools to promote the worker rights in developing countries. For example, the aforementioned preference programs require only that a country take steps to improve labor standards over time; they do not require a country to have achieved any

[6] See 2010 Trade Policy Agenda, available online at www.ustr.gov/webfm_send/1673.

basic level of compliance to be eligible. It should come as no surprise then that labor standards in most countries have not improved significantly over the last 25 years. Further, the U.S. government has failed to enforce the existing language with any consistency, using broad discretion to reject out of hand meritorious petitions, or to drop investigations without any evidence of improvements in law or in practice.

Even now, two clearly meritorious petitions – against Sri Lanka and Iraq – have not been accepted for administrative review. In the case of Sri Lanka, the petitioning unions seek only a hearing on their case and for the U.S. government to engage with the government of Sri Lanka to adopt a comprehensive work plan to enact needed legal reforms and to address persistent problems in labor law enforcement. Yet, nearly two years later, it remains unclear whether the case will be accepted for review. Similarly, in Iraq, workers want the Saddam Hussein-era labor code, which outlawed freedom of association and collective bargaining in many sectors, to be replaced by a new labor code. In 2004, the ILO penned a new code, but the government in Iraq has failed to enact it for the last six years. Despite that, and dramatic state-sponsored labor repression of unions, the petition has yet to be accepted for administrative review. At no point has any government agency contested the facts alleged in either petitions or the overall merits.

To address these and other problems, the AFL-CIO has developed a comprehensive new proposal that sets a higher yet reasonable eligibility standard and a more regular and transparent complaint process which creates incentives for beneficiary countries to develop remediation plans to address labor rights violations at the industrial and national level.[7]

### 2. A New Model Bilateral Investment Treaty

In 2009, the USG announced that it would amend its model bilateral investment treaty (BIT), the template it uses to negotiate with proposed investment partners. The model, last updated in 2004, contains a number of provisions that are cause for concern.[8] However, most relevant for this hearing, the model BIT contains extremely weak provisions on worker rights. Compared to the strong, unequivocal rights granted investors under the model BIT, the protections for workers, who produce the goods or provide the services that generate profits for the investor, are minimal at best.

First, the model BIT contains no minimum obligation on labor; rather, it simply requires a party to "strive" not to waive or derogate from those laws it might have on the books at the time the treaty is ratified. This standard is simply unacceptable. Instead, the model BIT's minimum obligation should be the adoption and maintenance of laws and regulations consistent with the core labor rights of the ILO and the effective enforcement of same, as well as laws governing acceptable conditions of work with respect to

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[7] The AFL-CIO preference reform proposal is available online at waysandmeans.house.gov/Hearings/Testimony.aspx?TID=2295

[8] See Report of the Subcommittee on Investment of the Advisory Committee on International Economic Policy Regarding the Model Bilateral Investment Treaty, Annex B, Collective Statement, available online at http://www.state.gov/e/eeb/rls/othr/2009/131118.htm#.

minimum wages, hours of work, and occupational safety and health. The model BIT must also include a prohibition against waiver or derogation of these laws. Finally, violations of the labor clause are not currently subject to dispute resolution but only to consultations with no possibility of fines or sanctions. At a minimum, the model BIT's existing state-to-state dispute resolution procedures must be available for labor rights claims.

An interagency process reviewing the model BIT is about to conclude its deliberations. It is important that the Administration use this opportunity to demonstrate a fresh approach to international economic policy negotiations. We continue to urge the Administration to amend the model BIT labor text by adopting the recommended changes described above.

### 3. Further Progress on Trade Agreements

Until May 10, 2007, with the exception of the US-Jordan FTA, U.S. bilateral and regional trade agreements contained very weak "enforce your own laws" provisions, which were subject to lengthy, cumbersome dispute resolution procedures that have yet to produce any real benefits for the workers of either party. The U.S.-Peru FTA marks a substantial step forward on international labor rights, though we still see room for further improvement that could make labor chapters in future trade agreements more effective. In response to the Obama Administration's announcement of its intent to negotiate a new regional trade agreement with Singapore, Chile, New Zealand, Brunei Darussalam, Australia, Peru and Vietnam -- the Trans-Pacific Partnership Trade Agreement -- the AFL-CIO filed comprehensive comments with USTR that set forth several ideas for a new model labor chapter for that trade agreement.[9] We hope that these ideas will be given serious consideration in the weeks and months ahead.

Once labor commitments in trade agreements are negotiated, they need to be enforced. The over 30 complaints filed under NAFTA's labor side agreement have resulted in no more than hearings and ineffective cooperative activities. In practice, workers in each of the three countries continue to suffer many of these same violations raised in these numerous complaints. Indeed, in Mexico, the government is engaged in a frontal assault on democratic unions and core labor rights. The Jordan FTA complaint, though not formally accepted, did result in some modest improvements though a promised labor law reform to allow migrant workers to join a union and bargain collectively, a major cause for concern, remains elusive. We have every expectation that recently filed cases under this Administration, including the CAFTA case against Guatemala, a NAALC case against Mexico, and upcoming labor cases now in the pipeline, will lead to much better outcomes for workers than under prior administrations.

Finally, the May 10, 2007, labor language created new leverage for positive labor law reform – as the text of the post-May 10 agreements require all parties to adopt laws and regulations consistent with the ILO core labor rights. Labor law reform is currently under way in Panama, and we expect to see significant changes in law and practice in

[9] The AFL-CIO's TPP comments are available online at www.aflcio.org/issues/legislativealert/alerts/upload/tppta_01252010.pdf

Colombia and Korea, among several other important issues, before those agreements are submitted for a vote. Also, the labor laws in each of the potential TPP partners also fall short, to varying degrees, international minimum standards. The U.S. government should begin a conversation now with each of the proposed TPP member states, as well as representatives of workers and employers, about labor law reform and encourage the creation of local processes by which the social partners in each country may work towards the reforms necessary to bring labor codes into compliance. It is critical that all potential TPP signatories be in compliance with these international minimum standards prior to implementation of the agreement.

### 4. Overseas Private Investment Corporation (OPIC)

The inclusion of internationally recognized worker rights in the OPIC statute in 1986 was a significant step forward, in that it offered to workers in developing countries a tool to hold their governments and their employers accountable with respect to internationally recognized worker rights on U.S financed or insured projects. However, the experience of worker rights advocates with the implementation of the statute over the years has demonstrated important shortfalls in ensuring that worker rights are actually respected in all OPIC-supported projects. In addition to the statute's limitations, the way in which OPIC undertook its worker rights assessments both before and after project approval had been very unsatisfactory. It is apparent that the methodology for determining whether workers' rights are respected - in the country or on the project - prior to project approval was insufficient to screen out potential and actual labor rights violators.

There is certainly room for continued improvement. However, we do note that OPIC's new leadership has expressed a strong commitment to improving the agency's work on labor rights compliance. We look forward to continued collaboration with OPIC to enable the agency to ensure that worker rights are fully respected on all of its projects.

Efforts have also been under way for some time to modernize the labor and environmental provisions of OPIC's statute and to create greater transparency in its project approval process. In 2009, Senator Kerry introduced "The Overseas Private Investment Corporation Reauthorization Act of 2009," virtually identical to the bill introduced by Chairman Sherman in the 110th Congress. While Sen. Kerry's bill was reported out of the Senate Foreign Relations Committee, it has yet to pass due to a hold. Though not perfect, the OPIC Reauthorization Act should be passed.

**Third**, the Obama Administration needs to work globally to create and enforce fair rules for the global economy to foster sustainable growth and broadly shared increases in the living standards and purchasing power of working people around the world.[10] This will require constructive engagement with a number of international institutions.

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[10] One way in which the U.S. government is able to advocate meaningfully on these issues is through data collection on comparative labor trends. However, the Administration has proposed cutting the $2 million budget of the BLS International Labor Comparisons Program. This program provides useful international comparisons of hourly compensation costs, productivity and unit labor costs, labor force, employment and unemployment rates and consumer prices. We strongly urge that funding for this program to be restored.

### 1. The International Labor Organization

There is broad international support for strengthening the ILO. Both the June 2008 ILO Declaration on Social Justice for a Fair Globalization and the 2009 Global Jobs Pact direct the organization to develop a plan to strengthen its capacity to help countries improve information about their progress on the main parameters of Decent Work and jobs creation (including implementation of core labor standards), construct effective labor ministries (including labor law inspection and enforcement capacity), and establish basic social insurance systems. The Administration should work closely with developing and developed country ILO delegations to help the secretariat design, fund, and implement a major expansion of the organization's activities in implementing the Global Jobs Pact and the Decent Work Agenda. And, it should offer to fund a significant proportion of the necessary resources.

Labor ministers must also work with social partners to lead the follow-up to G20 support for the Global Jobs Pact and ensure that the Pact's principles are translated into concrete action to maintain and create decent work. They should engage with the ILO to mobilize resources at national level to support "Pact Implementation Plans" that engage trade union and employer organizations.

Importantly, the U.S. must give serious consideration to the ratification of all ILO core conventions. To date, the U.S. has only ratified two of the eight that are considered "core" conventions. By so doing, the U.S. will possess a far greater authority on the world stage, particularly on matters of labor and trade. An important first step would be the ratification of Convention 111 of 1958, the Discrimination (Employment and Occupation) Convention and Convention 100 of 1951, the Equal Remuneration Convention. As a nation, workers have struggled long and hard to combat discrimination in all of its forms, including discrimination in hiring, employment and conditions of work. This is a step that is long overdue. We must join the great majority of nations in expressing our unqualified condemnation of such practices and committing ourselves to ensure that no U.S. worker suffers discrimination on the job.

### 2. G20 and the Employment Crisis

At the G20 Summit in Pittsburgh in 2009, the leaders called for "recovery plans that support decent work, help preserve employment and prioritize job growth" and directed their Employment and Labor Ministers to meet in early 2010 "to assess the evolving employment situation, review reports from the ILO and other organizations on the impact of policies we have adopted, [and] report on whether further measures are desirable." The central objective of the G20 Employment and Labour Ministers meeting, which will take place in Washington, DC in April, must be to ensure that this scenario of a 'jobless recovery' is not accepted and that it is understood that the recovery will remain fragile and incomplete as long as the jobs crisis continues.

The global trade unions will be calling on Labor Ministers to spell out:

1. The size, duration, coordination, and targeting of stimulus packages required to beat the jobs crisis including how they plan to implement the ILO Global Jobs Pact;

2. Given that high and rising inequality was a major contributor to the crisis, how they plan to ensure the full integration of labor issues into the newly established G20 "Framework for Strong, Sustainable and Balanced Growth" and to define the role of the ILO in it;

3. How they will move forward with a strategy to re-skill and upgrade the global workforce;

4. How they expect the different international institutions to work together to apply the Pittsburgh decision that they "should consider ILO standards and the goals of the Jobs Pact in their crisis and post-crisis analysis and policy-making initiatives" so as to ensure due policy coherence; and

5. Above all, how they will engage with trade unions and employers' organizations – the social partners – before, during and in the follow-up to the meeting to ensure effectiveness in the response to the crisis.

The AFL-CIO and the Global Union movement considers it essential that the ILO, with its tripartite constituency and responsibility for the Global Jobs Pact negotiated in June 2009, participate on the same footing as the IMF and be assigned specific responsibility for employment and social protection issues within the Framework.

### 3. The World Trade Organization (WTO)

The Seventh WTO Ministerial Conference in December 2009 was convened as an opportunity, among other things, to take stock of negotiations in light of the ongoing global jobs crisis and to devise a way forward that leads to more sustainable global growth and, importantly, more and better jobs for workers at home and abroad. It is important that this be done and taken seriously. It is critical that we develop a new multilateral trade policy, the purpose of which is to support the creation of full, decent and productive employment at home and abroad based upon respect for workers' rights.

With the relatively recent entrance of countries such as China, India and the former Soviet states into the global economy, the global labor force has doubled – posing significant challenges to living standards in the U.S. and other developed countries. Now, well over a billion new workers earn wages and work under conditions far below workers in developed countries. Governments need to meet this challenge with appropriate national and global policies to lift up living standards in developing countries and to mitigate the downward pressure on wages and working conditions in developed countries. This is far more than a trade issue, but the right trade policy will help to produce a balanced global outcome for workers both here and abroad.

The U.S. must continue to lead on the promotion of worker rights. For too long, the issue of worker rights has been absent from the multilateral agenda. The WTO membership has so far been reluctant to go beyond the hortatory worker rights language found in the 1996 Singapore Ministerial Declaration, in which members renewed their commitment to the observance of internationally recognized core labor standards and to support the work of the International Labor Organization (ILO). We need to move beyond this. Establishing a Working Group on Labor and Trade could be an immediate first step. Eventually, however, the WTO must include a mechanism for the enforcement of core labor standards.

**4. International Monetary Fund (IMF)**

The IMF was originally established to promote global economic growth and full employment and to prevent rapidly fluctuating currency values, which could have destabilizing effects on individual countries and the global economy as a whole. Over the years, however, the institution lost its way both as to its core mission and on the right policies necessary to promote global growth. There are clear signs that the institution is slowing righting itself - in part due to the leadership of the G20 following the onset of the crisis. The recent rethinking of orthodox positions within the Fund, on, for example, capital controls, is another sign of changes at the IMF. There is of course much more that the Fund could do.

However, despite a clear call for counter-cyclical policies to help countries emerge from the current economic crisis, we remain concerned that this call is not being fully heeded. Some recent loans include steep and inappropriate deficit reduction targets achieved through cuts to public sector spending and freezing or cutting public sector wages, pensions and social transfer payments – though in some cases these have been revised. This has a very direct and negative impact on workers in those countries. The IMF, particularly during this crisis, must be promoting and supporting expansive stimulus programs in developed, emerging and developing countries. Importantly, calls by the IMF to ease up on stimulus measures before there is robust and sustainable private sector employment growth, would be premature and very damaging to workers.

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The current economic crisis, as well as the combination of rising poverty and inequality in many newly industrializing countries and stagnating real wages in the United States and other advanced industrialized countries have sown doubts about whether global integration can live up to its billing as a force for shared progress. U.S. international economic policy needs fundamental realignment to meet these challenges. The focus should be to retool and realign the full spectrum of international aid, trade and monetary policies so that they collectively serve to strengthen aggregate demand worldwide by building a larger, more prosperous global middle class. Central to that mission – should be the promotion, protection and realization of the rights of workers in the global economy.

Mr. CARNAHAN. Thank you, Mr. Lucy, and now I want to turn to Dr. Athreya.

**STATEMENT OF BAMA ATHREYA, PH.D., EXECUTIVE DIRECTOR, INTERNATIONAL LABOR RIGHTS FORUM**

Ms. ATHREYA. Thank you very much, Mr. Carnahan, Mr. Sherman, and members of the committee for the opportunity to present our testimony today. I would like with your permission to summarize the written statement and to submit the full written statement for the record.

Mr. CARNAHAN. Without objection, proceed.

Ms. ATHREYA. Okay. I would like to start then this testimony by acknowledging and calling attention to the 21 garment factory workers in Bangladesh who perished tragically in a factory fire just 2 weeks ago. They were locked in, unable to escape from the factory when it caught on fire. That factory was producing garments for export to the U.S. and world markets, and this was the second time that factory had caught fire within 6 months.

I note that Bangladesh received $74 million in U.S. foreign direct assistance just last year and received nearly $1 billion in foreign direct assistance since 2001. It raises fundamental questions for us as do other cases we describe as to whether U.S. trade and development policies as currently implemented really serve the development goals for which they were designed. What I would like to do in this testimony is touch on two programs.

One is a trade preference program, the Generalized System of Preferences. The other is a development program, the Millennium Challenge Corporation and ask in both cases whether the congressional intent in the legislative language that designed these programs is really being fulfilled by the agencies that are tasked with their implementation. I think as you will see from our cases, very often that intent is not fulfilled.

In the case of GSP and trade preferences, Congress was fairly clear in stating that it envisioned these programs to promote trade as an effective way of promoting broad-based, sustainable and equitable economic development. We understand that language to mean that it is providing decent jobs for people around the world, and that is the intent of the program. That does not however seem to be in practice the way the programs have played out in countries like Bangladesh.

We do believe, and again it is just a fundamental statement on development and the need for trade and development to be linked that growth of our markets, U.S. markets, must now be fueled by rising incomes in the developing world, the enormous numbers of workers in China, India, Mexico, Brazil and sub-Saharan Africa. In these workers can obtain decent wages and have some disposable income, this will increase global demand and create jobs for workers everywhere, including in the United States.

Where in rare instances we have seen clear linkage between labor rights and trade preference programs, trade access, such as in Cambodia, we have in fact seen the prospect of workers reaching a livable wage. I find it very interesting that in all my reading of literature on export-lead development as an instrument of pro-

moting better livelihoods and truly fostering development in different countries, Cambodia is so often cited as a case.

Economists cite the fact that Cambodian workers now make $70 to $90 a month in the garment sector, but usually fail to note the existence in that country of a program that precisely tries to link carefully the need to increase labor rights protections with trade access. More often in the Generalized Systems of Preferences programs was amended in 1984 to include labor standards, but those labor provisions and their application has been very poor and wrought with political considerations.

That was in 1984 as I said. As early as 1990, over 20 human rights organizations and labor unions had submitted labor rights petitions to USTR under that trade preference program showing in case after the case that the worker provisions were not being upheld and that the U.S. agencies tasked with their implementation were failing to act. In 1990, those groups collectively sued the U.S. Government for the systematic failure to enforce the mandatory, congressionally mandated language of worker rights in the GSP.

The organization sought a preliminary injunction requiring the GSP committee to conduct an immediate review at that time of Malaysia alleging that the then U.S. trade representative, Carla Hills, was continuing to extend Malaysia's trade benefits even after finding clearly that Malaysia was in fact violating worker rights. As similar case moving now into the 1990s, and one which I had occasion to witness firsthand was filed by Human Rights Watch and the International Labor Rights Forum against Indonesia again for violations of freedom of association.

I happened to be a State Department officer at the time working in U.S. Embassy Jakarta, and I witnessed firsthand the careful calculation of our Government in deciding how to weigh the labor rights considerations vis-à-vis overall economic considerations in Indonesia. To cut a long story short, there was no dispute that Indonesia was in serious violation of worker rights and particularly the right to organize. However, the Indonesia petition was suspended in 1994 despite that year the arrest and detention of a major labor leader, Muchtar Pakpahan, in Indonesia on the eve of a visit by President Clinton to Indonesia as part of the APEC, Asia Pacific Economic Cooperation, meetings.

Fast forward now to this decade, and I have to say we at ILRF have not seen any significant change in the extent to which worker rights criteria are the deciding factor in these cases. Most recently, we have a pending petition against the country of Uzbekistan, and I personally have visited Uzbekistan, traveled to the cotton fields during the cotton harvest season and seen fields full of schoolchildren, 12- and 13-year-olds being pulled from their classrooms with their teachers and compelled, forced to harvest cotton.

Again, there has been no dispute and indeed not even any response from the Government of Uzbekistan to deny the worker rights claims in this petition. Why then 3 years later is this petition still pending. I would like to actually cite from a recent letter from several members of the House Ways and Means Committee,

> "Despite the fact that the Government of Uzbekistan has never responded to the allegations in the ILRF petition, and that in-

formation indicating the persistence of labor exploitation was filed in 2008 and 2009, the USTR has yet to issue a decision on this petition.

"The merits of the petition are clear, well documented and have never been challenged by the Government of Uzbekistan or any other respondent. The failure of the USTR to act on the merits of this petition by revoking Uzbekistan's trade privileges raises troubling questions about the integrity and effectiveness of the review process."

Let me move now to the Millennium Challenge Corporation. Now, spotty is this history I have described on GSP has been, it actually has been better than the work of the Millennium Challenge Corporation again to enforce congressionally mandated language on worker rights.

When Congress in 2004 created the Millennium Challenge Corporation, it required any country that wanted to qualify for those taxpayer funded development funds to demonstrate commitment to 12 core criteria, and one of the criteria Congress identified is whether a country is promoting economic freedom, and it particularly states, the language states, and I am quoting, "including a demonstrated commitment to economic policies that respect worker rights, including the right to form labor unions."

Mr. CARNAHAN. Doctor, if you could yield 1 second? I am going to ask you just to wrap up because we are close on time.

Ms. ATHREYA. Sure. So as our written testimony details, the MCC does not effectively evaluate whether of its grantees or any of the countries declared eligible for this assistance are in fact violating worker rights. To cite just two cases briefly, the Philippines, which is still the subject of a GSP review for endemic impunity for violence against trade unionists and Colombia, a country which has already been identified in comments by this committee as a place where there is long-standing impunity for violence against trade unionists, were both declared MCC eligible in 2008 and 2009.

The fact that such countries can be declared eligible even in the face of clear and persistent violations of worker rights is an indication that this language is simply not being implemented by the MCC. To summarize and conclude, we believe that reforms are needed to both the GSP and the MCC. We detail specific recommendations for those reforms in our written testimony, and I thank this committee for its time and attention to this very much needed topic.

[The prepared statement of Ms. Athreya follows:]

**International Labor Rights Forum**
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**Testimony of BAMA ATHREYA, Executive Director**
**on behalf of the INTERNATIONAL LABOR RIGHTS FORUM,**
**House Committee on Foreign Affairs, Subcommittee on Terrorism,**
**Nonproliferation, and Trade**

**March 10, 2010**

Thank you for the opportunity to present our testimony on ways in which US trade and development policy can be enhanced to strengthen respect for worker rights around the world. This hearing is extremely timely. Over the past thirty years, US trade and development policies have promoted export led development throughout the developing world. However, the workers in these industries in countries such as Bangladesh, China, Cambodia and indeed throughout the developing world have faced extreme violations of their fundamental rights, as this testimony will describe. In Bangladesh, two weeks ago, twenty-one garment workers lost their lives in a terrible factory fire. The exits were locked, trapping the workers inside, despite the fact that this was the *second* fire in the factory in just six months. Bangladesh received $74 million in US direct foreign assistance last year and nearly $937 million since 2001. Bangladesh has been the subject of a trade petition, filed by the AFL-CIO, for its endemic failure to protect worker rights.

This case, and others we will describe, raise fundamental questions as to whether US trade and development policies, as currently implemented, really serve the development goals for which they were designed?

In principle, US development policy is aimed at promoting "conditions enabling developing countries to achieve self-sustaining economic growth with equitable distribution of the benefits."[1] To promote these objectives, Congress emphasized that "sustaining growth *with equity*" requires that a "majority of people in developing countries . . . participate in a process of equitable growth" by being able to "influence decisions that shape their lives."[2]

This guidance from US Congress is again consistent with the longstanding stated objectives of trade liberalization. The preamble to the original General Agreement on Trade and Tariffs (GATT), signed in 1947, stated: "Relations among countries in the field of trade and economic endeavor should be conducted with a view to raising standards of

[1] See Foreign Assistance Act of 1961, PL 87-195 at Sec. 101(a)(2).
[2] Id. at Sec. 102.

living and ensuring full employment."[3] This long dormant idea should be the central tenant of international development and trade policy for worker rights.
To achieve its stated objectives, the US employs several different development related programs, including the unilateral trade preference program, the Generalized System of Preferences (GSP). As envisioned by Congress, the purpose of the GSP program is to "promote the notion that trade . . . is a more effective . . . way of promoting broad-based sustained economic development." When awarding preferences, the US Trade Representative (USTR) is instructed to examine "the effect [expanding GSP benefits] will have on furthering the *economic development* (emphasis ours) of developing countries through the expansion of their exports."[4]

As our testimony will show, however, in practice over the past quarter century, this fundamental objective of raising living standards by promoting sustainable and decent work has been tangential, and not central, to our trade preferences and our development assistance.

This should not be the case. The case for promoting labor rights as a fundamental component to long-term, equitable development is crystal clear. Broad-based economic development is a win-win proposition for workers. Workers in all countries suffer if trade and development policies foster competition between nations for low wage jobs, while corporations reap the benefits of a global surplus of cheap labor. Workers in the US will benefit if rising wages in the developing world fuel consumer demand and a growing part of this is consumption of goods and services from the US.

Growth in the global economy must now be fueled by rising incomes of the enormous number of workers in China, India, Mexico, Brazil and sub-Saharan Africa. If these workers can obtain a livable wage and have some disposable income, this will increase global demand and create jobs for workers everywhere. US policies must support the immediate prospect for creating new growth through rising wages for the poorest workers, and prohibiting exploitive labor practices.

When the economic development needs for workers and the local community come in conflict with the investment and production goals of corporate management, investors and national governments, workers will need a basic set of tools to fairly bargain for the economic well-being of their families and communities. As a result, before designating any country or product eligible for GSP benefits, the USTR is directed to consider the impact extending benefits will have on broad-based economic development in the particular sector and countries in which the potential GSP eligible product is produced. (19 U.S.C. §§2461, 2463)

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[3] *See, e.g.*, Collingsworth, Goold and Harvey, *Time for a Global New Deal*, **FOREIGN AFFAIRS**, 12 (Jan. -Feb. 1994).

[4] See 19 USC §2461(1). See also General Systems of Preferences Renewal Act of 1984, P.L. 98-573, 98 Stat. 3019

However, since the GSP was amended to include labor standards in 1984, application of the labor provisions have been poor and wrought with political considerations. Despite the statutory right to bring labor complaints, these complaints often go ignored or drag on for years without any meaningful resolution. While the GSP labor petitions have led to some successful interventions in the past, our general experience with GSP labor petitions has been mixed. While some cases were addressed in a serious manner, others were not. The petition process has lacked of transparency and finality, and other political considerations often trump labor concerns. In many cases, such as the current case pending against Uzbekistan, foreign governments under review have simply ignored the USTR without any negative repercussions knowing that adverse rulings because of labor standards are rare. In other cases, the USTR has refused to even accept labor petitions without providing any reasoning or has allowed proceedings to drag on for so many years that the review essentially becomes meaningless.

Arguing that Congress had granted the President total discretion on whether and how to enforce the new labor conditions, successive Presidential Administrations have refused to conduct meaningful investigations or to fully enforce the labor rights under the GSP program. As early as 1990, over twenty human rights organizations and labor unions had submitted labor rights petitions to the USTR arguing that several countries had failed to comply with the worker rights standard. When the government failed to act on the petitions, all of the groups sued the government for the "systematic failure to enforce the mandatory language of the worker rights provision consistent with the intent of Congress." The organizations immediately sought a preliminary injunction requiring the GSP Committee to conduct an immediate review of Malaysia's compliance with the worker rights standard alleging that Carla Hills, the Trade Representative, had extended Malaysia's GSP benefits even after finding that Malaysia was violating worker rights. The GSP Committee rejected the petitions on the basis that they did not contain any "new information", a technicality created by the USTR as an obstacle to labor rights enforcement under the GSP.[5]

A similar case, and one I had occasion to witness first hand, was that filed by Human Rights Watch and ILRF against Indonesia in the early 1990s. At that time, I was serving with the US Department of State as a foreign service officer, assigned to the economic reporting section of US Embassy Jakarta. I worked closely with the economic counselor and also with the US labor attaché to report on US interests in this case, and supported the visit of a delegation led by USTR, but including officials from the State and Labor departments, to assess the merits of this case in 1993. The insiders' view of this case was revealing. US business interests in Indonesia, in particular in the oil, gas, and mining sectors, were predominant in shaping US policy. The State Department position on this labor rights case, significantly influenced by the US Ambassador to Indonesia, was that a negative determination in the case might adversely impact these business interests. So deeply held was this concern that the labor attache's reporting on continued and very serious labor rights violations in country was suppressed, and on at least one occasion he was compelled to resort to the rarely used "dissent channel" to ensure his reporting on labor violations reached Washington. The case was suspended by USTR in 1994 on the

[5] 15 C.F.R. § 2007.1(a)(4)

eve of a visit by President Clinton to Indonesia, and despite the jailing that year of a prominent human rights figure and labor leader, Muchtar Pakpahan. In brief, like the Malaysia case, actual findings on labor rights violations were completely irrelevant to the US Administration's decision on this worker rights complaint.

Unfortunately, efforts to ensure that the President is enforcing the labor rights preconditions have been rejected by the courts. Finding that eligibility criteria for GSP are discretionary and not mandatory, the District Court for the District of Columbia ruled in 1992:

> Not only is there only a vague requirement of review from time to time but also GSP contains no specification as to how the President shall make his determination. There is no definition of what constitutes "has not taken . . . steps" or "is not taking steps" to afford internationally recognized rights. Indeed, there is no requirement that the President make findings of fact or any indication that Congress directed or instructed the President as to how he should implement his general withdrawal or suspension authority.
>
> Given this apparent total lack of standards, coupled with the discretion preserved by the terms of the GSP statute itself and implicit in the President's special and separate authority in the areas of foreign policy there is obviously no statutory direction which provides any basis for the Court to act. The Court cannot interfere with the President's discretionary judgment because there is no law to apply."[6]

We have not seen any significant change in the extent to which worker rights criteria are upheld in such cases. Most recently, ILRF has filed a GSP complaint against the country of Uzbekistan for the very serious and endemic problem of forced child labor in its cotton sector. As documented in the ILRF petition filed in 2007, state-orchestrated forced labor, including forced child labor, is a common practice during the cotton harvesting and weeding seasons. Every year, the government of Uzbekistan mobilizes hundreds of thousands of children, as well as teachers and public servants, for the manual harvesting of cotton.[7] Children perform arduous work in harsh conditions and are threatened with expulsion from schools if they fail to fulfill Soviet-style production quotas.[8] Children are also exposed to hazardous work, experiencing inadequate shelter, limited access to clean drinking water, and exposure to toxic pesticides.[9] Virtually all of this cotton is exported to world markets, and much is processed into textiles that enter the US market.

Despite the remarkable fact that Uzbekistan does not meet the other preconditions for GSP, lacking democratic governance or a market economy, the country has continued to enjoy trade preferences. These preferences do not serve to generate any noticeable

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[6] *International Labor Rights Education and Research Fund v. Bush*, 752 F. Supp. 495, 497 (D. DC 1990).
[7] Kandiyoti, Deniz et. al. "Invisible to the World? The Dynamics of Forced Child Labor in the Cotton Sector in Uzbekistan." London: School of Oriental and African Studies, University of London, 2008.
[8] White Gold: The True Cost of Cotton. Uzbekistan, Cotton and the Crushing of a Nation. Environmental Justice Foundation, 2005. London, UK
[9] "The Deadly Chemicals in Cotton." Environmental Justice Foundation in collaboration with Pesticide Action Network-UK, London, UK, 2007.

benefits for Uzbekistan's working people. As noted in a recent letter by Congressman Lloyd Doggett and several of his colleagues on the House Ways and Means Committee, "Despite the fact that the Government of Uzbekistan has never responded to the allegations in the ILRF petition, and that information indicating the persistence of labor exploitation was filed in 2008 and 2009, the USTR has yet to issue a decision on this petition. The merits of the petition are clear, well-documented, and have never been challenged by the Government of Uzbekistan or any other respondent. The failure of the USTR to act on the merits of the petition by revoking Uzbekistan's trade privileges raises troubling questions about the integrity and effectiveness of the review process."

Troubling indeed, as in this case ILRF has been in close contact not only with officials from USTR, but from the US Department of State, including the US Ambassador to Uzbekistan. It is evident from these conversations that once again the position of US agencies, including the State Department, is being determined by factors other than the actual merits of the petition. In the case of Uzbekistan, an important logistical supply route to Afghanistan, the other interests at play are clear. We cannot help but comment, however, that in such a case the GSP does contain a national security waiver that may be invoked by the President if needed. The process is failing. Uzbekistan should clearly be declared to be in violation of the worker rights provisions in this and in the earlier cases mentioned. If security interests, or indeed national economic interests, are so important in such cases that they must trump the human rights and development goals of these programs, then this should be clearly stated, and waivers should be invoked. In such cases, no one should be fooled that the programs are being applied to facilitate broad based and equitable development.

Spotty as the history of GSP has been, at least it has had more to offer than our development aid policies, which have no criteria at all to allow the US government- or US taxpayers- to measure whether aid dollars are actually supporting equitable development and labor rights. We will focus much of our remaining testimony on a program that has become a 'fair haired child' of US foreign assistance in recent years, the Millenium Challenge Account.

When Congress created the Millenium Challenge Corporation (MCC) in 2004, it required that any country wishing to negotiate with the MCC for grants must demonstrate a commitment to 12 core criteria listed in Section 607 of the MCC statute that are necessary preconditions to ensure that MCC aid will promote sustainable and equitable economic development. One of the 12 criteria Congress mandated is whether a country is promoting "economic freedom, including a demonstrated commitment to economic policies that respect worker rights, including the right to form labor unions."

The intricate system of evaluation that the MCC subsequently designed, where the Board examines 17 numerical indicators designed by outside organizations such as Freedom House, the Heritage Foundation, and the World Bank Group, does not effectively evaluate whether potential MCC partners respect workers' rights. Only one of the 17 indicators used by the MCC includes an evaluation of a country's respect for workers' core labor rights, the Civil Liberties indicator. Within the Civil Liberties indicator itself,

though, workers' rights is only one of 15 different criteria used to examine civil liberties protections, and its limited focus is restricted only to the right to freedom of association in a cursory way. Thus, despite Congress' express intent to see labor rights protections examined as one of the 12 core criteria, the actual MCC indicator treats workers' rights as a footnote, just one of myriad civil liberties concerns. It does not view workers' rights as a core aspect of economic freedom or the economy for that matter, since it is seen as a political right only, not an economic right.

Second, though Congress clearly envisioned respect for workers' rights as a fundamental economic freedom, the only indicator within the MCC's "Encouraging Economic Freedom Category" that even addresses issues related to workers' rights is the Regulatory Quality Indicator. The RQI, though, is not intended to promote respect for workers' rights. Rather, it encourages countries to promote policies that expand "flexible labor markets", which is often used as a euphemism for a move toward labor contracting and additional restrictions on the ability of workers to form unions and exercise their rights at work. In particular, when assessing labor laws, the RQI examines whether a country's labor laws are seen as too restrictive by businesses, not whether they adequately protect workers rights. To illustrate, the RQI draws data on transition economies in Eastern Europe and the former Soviet Union from the World Bank and European Bank for Reconstruction and Development's *Business Environment and Enterprise Performance Survey* ("BPS"). Relevant data from the BPS used to influence a country's RQI score includes firms' assessments regarding *"[h]ow problematic ... labor regulations [are]* for the growth of [their] business[es]."[10] Similarly, the RQI uses the responses to another survey covering a global sampling of countries, the *World Competitiveness Yearbook*, which asks its private sector respondents *how countries' "[l]abor relations hinder business activities*."[11] Due to the sources and nature of information it relies upon, the RQI thus not only fails to further, but actually counters Congress' specification that MCA-eligible countries should have in place economic policies reflecting a demonstrated commitment to respecting workers' rights.

Recognizing that the development community, and in particular the World Bank, has utterly failed to establish an analytical framework or indicator to protect and enhance workers' rights, and facing growing pressure from the global labor unions concerned that World Bank policies were encouraging flexible labor schemes and the dismantling of labor protections as a policy measure to attract private sector investment, the WB eliminated its Employing Workers Indicator last year and convened a Consultative Group in October of last year to rewrite the indicator. While this is a promising first step, the MCC continues to rely on other WB indicators, like RQI, which reward a country for cutting back on workers' rights to job security.

Because the MCC had not implemented its statutory obligation to promote labor rights-friendly development initiatives, countries who have demonstrated little commitment to ensuring workers' rights are being chosen as MCC partner countries. For example, in March 2008 more than one year after the US Trade Representative opened an official review of the Philippines' GSP eligibility for gross violations of labor rights, the MCC

[10] *Governance Matters*, at 43 (emphasis added).
[11] *Governance Matters*, at 70 (emphasis added); *see also*, *id.* at 75.

designated the Philippines eligible to negotiate for hundreds of millions in aid despite its dismal track record in respecting the right of workers. The International Labor Organization (ILO), which is the UN body tasked with monitoring labor standards has consistently and resoundingly criticized the Philippine government for its failure to protect workers' rights. In response to complaints brought by Philippine trade unions to the ILO's Committee on Freedom of Association, the ILO has also undertaken a formal review of the Philippine government's policies that seriously violate Filipino workers' rights to freedom of association, including murder of trade union leaders, military harassments by government forces of the workers' democratically elected trade union representatives, government regulations which prevent workers from striking, and government policies that prevent workers from organizing. As a part of that review, the ILO sent an investigative team to the Philippines this year, which the Philippine government allowed only after facing the loss of its GSP benefits for refusing to cooperate with the ILO review. To date, the government has still not fully implemented the resulting recommendations by the ILO to bring its laws and policies in line with international standards.

In another egregious example, less than six months after the USTR GSP subcommittee accepted a case ILRF filed against the Republic of Niger for condoning and even supporting a caste-based slavery system, the MCC designated Niger to be eligible for its threshold program. The heart of the GSP case revolved around the Nigerien government's failure to take serious measures to eradicate slavery within its own borders and its choice to continue supporting the system by cracking down on anti-slavery activists and lawyers to appease the politically powerful slave owners. Recently, in December 2009 the MCC suspended its assistance to Niger because of the political upheaval caused by President Mamadou Tandja's decision to dissolve the National Assembly and Constitutional Court and to crackdown on opposition groups in an effort to maintain power. While hindsight is 20/20, the MCC knew in advance about the Government's proclivity for violent and repressive measures to keep critics silent. All they had to do was ask the 43,000 slaves currently toiling as slaves or the USTR who had placed Niger under review for workers' rights violations.

Finally, in a tremendous snub to workers' rights, the Millennium Challenge Corporation (MCC) selected Colombia to be compact eligible in December 2008. The Board made this decision despite unassailable evidence of widespread workers' rights violations in Colombia, which is the most dangerous country in the world for trade unionists. According to the International Trade Union Confederation, 39 trade unionists were killed in 2007, the year just prior to the MCC board's decision. In 2008, at the time the Board declared Colombia MCC-eligible, 41 trade unionists had already been killed that year. Trade unionists in Colombia face abductions, arrests, death threats, and other harassments. Colombian trade unions have lodged no less than six complaints before the ILO Committee on Freedom of Association seeking aid from the international community to help protect their members' rights.

The designation of the Colombia, Niger and the Philippines should raise red flags, and Congress should take a hard look at how the MCC has been implementing its statutory

responsibility to ensure that the MCC only chooses countries that are committed to respecting workers' rights. Even though the the Philippines and Niger were under review for serious violations of workers' rights, the USTR did not raise these issues to the MCC. While it may seem odd that the left hand doesn't know what the right hand is doing at the USTR, perhaps the simplest explanation is that the USTR Trade Policy Sub-Committee (TPSC) includes representatives from the Department of Labor, which is the US government agency responsible for working closely with the ILO as well as monitoring respect for labor rights by our trading partners as required by our free trade agreements and trade preference programs. Yet, despite the MCC's core responsibility to evaluate workers' rights protections, the DOL was excluded from the MCC Board when it was founded in 2004. This decision apparently stemmed from the Bush Administration's contempt for international labor standards as evidenced by its yearly efforts to cut the DOL's International Labor Affairs Bureau budget. Without any labor expertise represented on the MCC Board, it is unlikely labor rights will ever be evaluated as one of the 12 core eligibility criteria as Congress envisioned.

To ensure that labor rights are adequately taken into account, the MCC's indicator-based selection process must be reformed to allow for a close evaluation of labor conditions in potential partner countries. While recent efforts by the World Bank to reform its own indicators to be more labor friendly are laudable, the MCC should not wait until the World Bank finishes its work. Rather, the DOL should develop a labor specific indicator for use by the MCC. Furthermore, the MCC along with the DOL should review each of its current indicators to determine whether they promote or endanger the MCC's obligation to ensure that internationally recognized workers' rights are respected in each partner country. In the meantime, in all future reviews, the MCC Board should closely evaluate the assessment of the ILO Committees on Freedom of Association (CFA) and on the Application of Standards (CAS) and the GSP Committee of the United States Trade Representative and publicly report its findings before rewarding governments with generous assistance packages.

To summarize and conclude, internationally recognized labor rights provide workers with the basic set of tools that they need to be able to fairly bargain for the economic well-being of their families and communities. As a result, before designating any country or product eligible for trade benefits, or for development assistance, all US government agencies should assess and provide clear evaluation of the impact extending benefits will have on broad-based economic development.

In GSP, application of labor provisions has been poor and wrought with political considerations. Complaints often go ignored or drag on for years without any meaningful resolution. The petition process has lacked transparency and finality, and other political considerations often trump labor concerns. In many cases, such as the current case pending against Uzbekistan, foreign governments under review have simply ignored the USTR without any negative repercussions knowing that adverse rulings because of labor standards are rare. In other cases, the USTR has refused to even accept labor petitions without providing any reasoning or has allowed proceedings to drag on for so many years that the review essentially becomes meaningless.

In the case of MCC, workers' rights have played little to no role in determining the allocation of MCC funding around the world despite Congressional intent to that protection of workers rights is a vital precondition for funding. Serious rights abusers are rewarded with compact eligibility without any due regard for the rights of workers in those countries. Evidence of serious violations goes unheeded even when those countries are under review by both the USTR and the ILO.

To remedy these problems, we believe that the labor criteria for all trade preference programs and all development assistance should be updated and that reforms must be undertaken to ensure a fair and manageable petition review process that includes reviews for both country compliance and industry compliance with the labor eligibility criteria. We offer the following three recommendations regarding trade preference reviews, and four recommendations proposing reforms of the MCC:

On GSP:

(1) GSP eligibility criteria must be updated to meet current international law norms and every country must at least meet a basic minimum labor standard.

(2) Labor rights review process must more transparent with binding timelines for action by the US Government and a requirement for written, published decisions. The role of USDOL's International Labor Affairs Bureau (ILAB) in the review process should be clarified and strengthened. ILAB should have the lead authority to determine whether, on its face, a worker rights petition should be accepted; and whether, following an investigation, those claims have been substantiated by the evidence.

(3) Product eligibility must be subject to the same mandatory labor criteria and GSP must provide the right to file product-eligibility petitions for widespread labor violations in specific sectors, within a country or across countries.

On MCC:

(1) The MCC board should be expanded to include a representative from the US Department of Labor as well as a representative from the labor community to ensure that foreign assistance decisions adequately assess prevailing labor conditions and rights enforcement in beneficiary countries.

(2) The Department of Labor should develop an indicator specifically addressing labor rights as an economic freedom for the MCC.[12]

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[12] *See* Lance Compa, *Assessing Assessments: A Survey of Efforts to Measure Conformance with Freedom of Association Standards*, 24 COMP. LAB. L. & POL'Y J. 283 (2003) (discussing various international efforts to document and assess labor conditions).

(3) Labor rights criteria should be mandatory. If a country fails labor rights review, it must be denied eligibility for MCA funds.

(4) The MCC must also formalize procedures for considering supplemental issues relating to labor rights conditions in candidate countries.

Finally, we ask this Committee to consider carefully the initiatives that can be supported more broadly through our foreign direct assistance, as it considers a substantial revision of the Foreign Assistance Act. We call the Committee's attention to the fact that **sector-based labor initiatives,** and in particular those that are explicitly linked to trade incentives, have had a positive impact on broad-based development. For example, under the 1999 US-Cambodia Bilateral Textile Agreement, sector incentives were effective in improving labor conditions. Under the agreement Cambodian textile producers were offered an increased export quota on condition that the sector demonstrated a commitment to worker rights under the ILO-led "Better Factories Cambodia" initiative. In order to attain the increased access to the US market, the Cambodian textile industry worked with the Cambodian government and the ILO to implement a far ranging labor program that led to significant improvements in labor standards in the industry, a stronger labor and civil society development, and an arbitration mechanism to resolve labor disputes in the industry. As a result the sector gained quota increases—by 18% in 2004 for example—and also gained foreign investment and 250,000 new jobs by its reputation for strong labor standards.

Addressing development from a sectoral rather than country approach led to some real gains for Cambodia's textile workers, and as a corollary, for their families and communities. Unfortunately, with the end of the agreement and thus the loss of incentives for the government and industry to continue reforms, much of the progress over the last 10 years is at risk and we have been very troubled by recent efforts to weaken legal protections for Cambodia's workers, stimulated by the troubling 'race to the bottom' pressures we noted in the early part of this testimony. We continue to pour significant US foreign direct assistance into Cambodia. Will this assistance continue to foster upward mobility for Cambodia's workers? Or, as in Bangladesh, will it support export industries that perpetuate exploitative sweatshop conditions? US assistance can, and should, foster real and sustainable gains for workers everywhere. Creating stable and decent jobs creates stability as well as prosperity in the developing world. It supports democratic governance. And it will enhance consumer markets for US goods and services. The changes in policy we have proposed are the outcome of over a quarter century of close observation of what works, and what does not work in US trade and development policy. The benefits not only to the countries in which we invest, but to ourselves, are clear and the time is ripe to enact these policies.

Thank you very much for the opportunity to present our testimony on policies to improve international worker rights.

Mr. CARNAHAN. Thank you, Doctor, and next I am going to turn to Mr. John Murphy with the U.S. Chamber.

**STATEMENT OF MR. JOHN G. MURPHY, VICE PRESIDENT OF INTERNATIONAL AFFAIRS, U.S. CHAMBER OF COMMERCE**

Mr. MURPHY. Chairman Carnahan, Chairman Sherman, Ranking Member Royce, I greatly appreciate the opportunity to appear before this committee to discuss the important topics here today. No priority facing our nation is more important than putting Americans back to work. Nearly 10 percent of the workforce is unemployed. When President Obama delivered his State of the Union address in January, the U.S. Chamber hailed his call for a national goal to double exports within 5 years. Doing so will create at least a million new jobs the President said.

Today's discussion of international economic policy and workers rights should be viewed in part through the prism of this practical and achievable goal. Already, more than 50 million American workers are employed by companies that benefit from exports according to the Department of the Treasury. One in five manufacturing jobs depends on exports and one in every three acres on American farms is planted for export markets.

Whether businesses are large or small, studies show that firms that export tend to grow faster, hire more and pay better wages than those that don't. At the same time, the IMF forecasts that 87 percent of world growth over the next 5 years will take place outside the United States. In short, we cannot reach our full potential for generating jobs without selling more goods and services in these global markets. The historical record suggests we can reach President Obama's goal of doubling U.S. exports within 5 years, but it won't be easy.

Standing in our way is a complex array of foreign barriers to American exports. According to the World Economic Forum's annual Global Enabling Trade Report, U.S. exporters face some of the highest tariffs and non-tariff barriers in the world. Last year, America ranked a disastrous 114th out of 121 economies in terms of tariffs faced by our exports overseas. In other words, American exporters faced tariffs that are higher than nearly all our trade competitors.

The only way the U.S. Government has ever enticed a foreign government to open its market to American goods and services is by negotiating agreements for their elimination on a reciprocal basis as in a free trade agreement. Fundamentally, these agreements are about making trade fair. The U.S. market is largely open, but other countries continue to slap tariffs on U.S. exports that are often 10 times higher.

Now, the business community does not suggest that we abandon our values including respect for the rights of workers when we negotiate trade accords, but we don't have to. USFTAs have evolved over the years to address labor concerns in increasingly sophisticated way. This reached a new stage when congressional leaders on May 10, 2007, reached a bipartisan accord on a new approach to labor and environmental issues in trade agreements.

This accord led to changes in the text of pending trade accords with Peru, Colombia, Panama and South Korea. It paved the way

for congressional approval of the US Peru FTA in late 2007 with very broad bipartisan support. Under the agreement, the United States and Peru agreed to uphold the internationally accepted labor rights articulated in the 1998 ILO declaration on fundamental principals and rights of work. These obligations are subject to the same dispute settlement and enforcement provisions as the agreements' purely commercial provisions.

Now, while it is not appropriate for unilateral preference programs or for bilateral investment treaties, the May 10 trade deal represents an elegant compromise for addressing labor considerations and FTAs, and it has attracted bipartisan support on that basis. The 1998 ILO declaration is a convenience reference point because it represents a consensus that has been embraced by governments, organized labor and employers alike. By contrast, the United States as has been noted here today is a party to only two of the eight ILO core conventions.

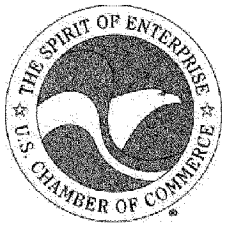
Many Members of Congress and representatives of the business community would view including those ILO core conventions in future FTAs as an effort to rewrite U.S. labor law through a trade agreement. The business community is dismayed that the May 10 trade agreement has failed to advance a bipartisan trade agenda. Just weeks after they applauded the agreement for realizing long-sought goals relating to labor rights, the Democratic leadership of the House of Representatives announced that they would oppose the "flawed" trade agreements with South Korea and Colombia, and last May they did the same with Panama.

The Obama administration has indicated repeatedly that it hopes to secure congressional approval of the three pending agreements, but we are still waiting for action. The cost of this delay may be high. The U.S. Chamber recently issued a study which found that the United States could suffer a loss of more than 380,000 jobs if it fails to implement its pending trade agreements with Colombia and Korea while the European Union and Canada move ahead with their own agreements with the two countries. Those agreements are expected to be in force within a year.

The WTO reports that there are more than 100 FTAs currently under negotiation among our trading partners. The United States is participating in just one of these. If we are to reach President Obama's goal of doubling exports, the administration and Congress need to shift the U.S. trade agenda from defense to offense. On trade, if we stand still, we fall behind. We urge Congress and the Obama administration to seek a more pragmatic trade policy that opens foreign markets, boosts exports and creates jobs.

In doing so, we need not abandon our values, a bipartisan approach for addressing labor principals in trade agreements was achieved on May, 10, 2007, and it should be seized with both hands. Only by doing so can we take advantage of the opportunities trade presents for job creation. Thank you very much.

[The prepared statement of Mr. Murphy follows:]




# Statement of the U.S. Chamber of Commerce

**ON:** **International Worker Rights, U.S. Foreign Policy and the International Economy**

**TO:** **House Committee on Foreign Affairs — Joint Hearing of the Subcommittee on Terrorism, Nonproliferation, and Trade and the Subcommittee on International Organizations, Human Rights and Oversight**

**DATE:** **March 10, 2010**

The Chamber's mission is to advance human progress through an economic, political and social system based on individual freedom, incentive, initiative, opportunity and responsibility.

The U.S. Chamber of Commerce is the world's largest business federation, representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations.

More than 96 percent of the Chamber's members are small businesses with 100 or fewer employees, 70 percent of which have 10 or fewer employees. Yet, virtually all of the nation's largest companies are also active members. We are particularly cognizant of the problems of smaller businesses, as well as issues facing the business community at large.

Besides representing a cross-section of the American business community in terms of number of employees, the Chamber represents a wide management spectrum by type of business and location. Each major classification of American business -- manufacturing, retailing, services, construction, wholesaling, and finance – is represented. Also, the Chamber has substantial membership in all 50 states.

The Chamber's international reach is substantial as well. It believes that global interdependence provides an opportunity, not a threat. In addition to the U.S. Chamber of Commerce's 113 American Chambers of Commerce abroad, an increasing number of members are engaged in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Positions on national issues are developed by a cross-section of Chamber members serving on committees, subcommittees, and task forces. More than 1,000 business people participate in this process.

Chairmen Sherman and Carnahan, Ranking Members Royce and Rohrabacher, distinguished members of the House Committee on Foreign Affairs Subcommittee on Terrorism, Nonproliferation, and Trade and Subcommittee on International Organizations, Human Rights and Oversight: I greatly appreciate the opportunity to offer the perspective of the business community on the important topics under discussion here today. As the United States Congress and the Obama Administration devise strategies to expedite the economic recovery of the United States, the role of trade, investment, and international economic policy and their relationship with international worker rights may be more important than ever.

No priority facing our nation is more important than putting Americans back to work. Nearly 10% of the U.S. workforce is unemployed—a figure that soars beyond 17% when those who have stopped looking for jobs and the millions of part-time workers who want to work full-time are included. This is why the U.S. Chamber is calling on all Americans to unite around the ambitious goal of creating 20 million new jobs over the next 10 years. With 20 million jobs, we can re-employ the unemployed and meet the needs of our young people and a growing population.

International business presents some of the clearest opportunities for job creation. The rationale is clear: we cannot rely on domestic consumption (private or public) to generate more demand. The American consumer is cutting back and directing more income toward savings, and the federal government faces a budget deficit equivalent to nearly 10% of U.S. GDP this year. At the same time, 95% of the world's consumers lie outside the United States, and many foreign markets continue to grow briskly.

When President Obama delivered his State of the Union address in January, the U.S. Chamber hailed his call for a national goal in to double U.S. exports within five years. Doing so will play a critical role in the American economy's ability to create new jobs. Today's discussion of international economic policy and worker rights should be viewed through the prism of this practical and achievable goal and its importance to our economic future.

## Benefits of International Trade

In this context, it is worthwhile to briefly re-examine the importance of trade to American workers and businesses. Few Americans are aware that the United States is the world's largest exporter of goods and services, notwithstanding media reports that China recently overtook Germany as the leading exporter of goods. U.S. exports of goods and services surpassed $1.83 trillion in 2008 and $1.55 trillion in 2009, according to the U.S. Department of Commerce.

These exports support millions of jobs. More than 50 million American workers are employed by companies that benefit from exports, according to the U.S. Department

of the Treasury. This sum represents approximately 40% of the U.S. private sector workforce.

Trade is critical to the success of many sectors of the U.S. economy. Manufacturing is the sector that exports the most, with more than $1 trillion worth of exports in 2008, according to the U.S. Department of Commerce. The U.S. Department of Commerce reports that one in five manufacturing jobs depends on exports.

The strong export performance of U.S. manufacturers is one reason why the United States is by far the world's largest manufacturer. U.S. factories account for 22% of the world's manufacturing output, according to the UN Industrial Development Organization — or twice as much as China. This figure has held roughly steady for nearly four decades.

U.S. manufacturers have boosted their output by more than 50% over the past 15 years, according to the Federal Reserve. Vast productivity gains relating to increased use of automation and information technologies have helped U.S. manufacturers retain and in many areas enhance their global competitiveness in recent years, even as the number of Americans employed in manufacturing has declined since its peak in 1979.

U.S. exports of services are also booming, and they reached $507 billion last year. The United States achieved a trade surplus in services of $136 billion in 2009, according to the U.S. Department of Commerce. The United States is by far the world's largest exporter of services, and America's globally competitive service industries — which range from insurance and retail to telecommunications and express delivery — benefit immensely from opportunities abroad.

American farmers and ranchers also depend on exports. The U.S. Department of Agriculture reports that one in every three acres on American farms is planted for export markets. Agricultural exports broke the $100 billion mark for the first time in 2008.

In this context, tremendous benefits have flowed from U.S. free trade agreements (FTAs), which cover 17 countries. These countries represent approximately 7% of global GDP outside the United States, and yet last year these markets purchased more than 40% of U.S. exports, according to the U.S. Department of Commerce. In other words, U.S. FTAs do an outstanding job making big markets even out of small economies.

Trade deficits are a poor measure of the success of these agreements, but they are often cited by trade skeptics as a reason why the United States should not negotiate free trade agreements. However, taken as a group, the United States is now running a *trade surplus* in manufactured goods, agricultural products, and services with those 17 FTA partner countries, according to the U.S. Department of Commerce. In fact, imported oil

and gas from Canada and Mexico accounts for most of the remaining U.S. trade deficit with these countries, which is surely a result of geology, not trade policy.

Also overlooked in the U.S. trade debate is the fact that more than 97% of the quarter million U.S. companies that export are small and medium-sized enterprises (SMEs), and they account for nearly a third of U.S. merchandise exports, according to the U.S. Department of Commerce. In fact, the number of SMEs that export has more than doubled over the past 15 years, soaring from 108,026 in 1992 to 259,381 in 2007. During the same period, their export revenue more than tripled from $103 billion in 1992 to $312 billion in 2007.

"Evidence shows that many SMEs could sharply boost exports by entering new markets," reports the U.S. Department of Commerce. "Compared with large firms, SMEs are especially dependent on U.S. government initiatives to open foreign markets. This is because, unlike big companies, most SMEs do not possess offshore business affiliates that can be used to circumvent trade barriers and gain market access."

**Benefits of International Investment**

International investment is equally critical to the future prospects of U.S. business. While three-quarters of U.S. multinationals' capital expenditures are in the United States, they have invested more than $3 trillion abroad, according to the U.S. Department of Commerce.

Most of these investments abroad are in sectors that cannot be served by means of exports from the United States. This includes many services as well as manufacturing operations for goods, such as detergent or potato chips, that generally cannot be exported due to high transportation costs or barriers to trade.

Even though these activities take place outside the United States, U.S. firms' investments abroad bring real benefits to Americans. U.S. companies earned more than $5 trillion in revenue through their foreign subsidiaries in 2008. In fact, roughly half of all revenue earned by the Fortune 200 came from their foreign affiliates in recent years. That revenue from abroad creates tremendous value for shareholders and helps fund U.S. multinationals' research and development activities, 80% of which continues to be performed in the United States, according to the U.S. Department of Commerce.

Contrary to myth, an open investment regime that allows U.S. multinationals to invest abroad does not create a zero sum game in which a job created abroad is a job eliminated at home. A recent study found that U.S. companies that invest abroad create 2.3 jobs in the U.S. for every one they create overseas. U.S. companies that invest abroad tend to be more successful in a variety of ways, and they pay higher wages and create more jobs in the United States.[1]

Nor does an open investment regime that allows U.S. multinationals to invest abroad create a race to the bottom. As noted, three-quarters of U.S. multinationals' capital expenditures are in the United States, and two-thirds of the portion that does go abroad is directed to developed countries with wages and labor standards similar to those in the United States, according to data from the U.S. Department of Commerce. When U.S. multinationals do invest in developing countries, they often create the best paying jobs around, with the best working conditions.

Finally, it is important to note that investment flows in as well as out. Foreign direct investment in the United States totals more than $2 trillion and sustains 5 million American jobs with an annual payroll of $350 billion, according to the U.S. Department of Commerce.

**Trade Policy Goals**

As noted, the U.S. Chamber of Commerce strongly supports President Obama's goal of doubling U.S. exports within five years. The historical record suggests this goal is challenging but achievable.

Standing in the way, however, is a complex array of foreign barriers to American exports. Those barriers are alive and well, and they pose a major competitive challenge to U.S. industry and agriculture and the millions of U.S. workers whose jobs depend on exports.

From a business perspective, the foremost goal of U.S. trade policy should be to tear down those barriers. Casting light on this challenge, the World Economic Forum issues an annual Global Enabling Trade report, which ranks countries according to their competitiveness in the trade arena. One of the report's several rankings gauges how high the tariffs are that a country's exporters face. Leading the pack as the country whose exporters face the lowest tariffs globally is Chile, with its massive network of free trade agreements with more than 50 countries around the globe.

While the report found the United States did well in a number of areas, America ranked a disastrous 114th out of 121 economies in terms of "tariffs faced" by our exports overseas. In other words, American exporters face higher tariffs abroad than nearly all our trade competitors. It is also worth noting that tariffs are just part of the problem, as they are often found alongside a wide variety of non-tariff barriers that shut U.S. goods and services out of foreign markets.

Historically, the only way the U.S. government has ever enticed a foreign government to open its market to American exports is by negotiating agreements for their elimination on a reciprocal basis, as in the case of bilateral FTAs, such as those pending

with Colombia, Panama, and Korea. In addition, reciprocal market openings can be accomplished multilaterally, as in the Doha Round, the global trade agreement currently being negotiated under the WTO by the United States and 152 other countries. Finally, bilateral investment treaties represent the best tool to create a level playing field in investment.

Fundamentally, these agreements are about making trade *fair*. The U.S. market is largely open to imports from around the world, but other countries continue to slap tariffs on U.S. exports that are often 10 or 20 times higher than U.S. tariffs.

**The ILO and the WTO**

In keeping with the goal set by President Obama, the U.S. Chamber believes that Congress should focus more attention on the current and prospective benefits that trade offers to American workers and businesses. However, the U.S. debate over trade policy is often dominated by the question of the appropriate relationship between U.S. trade policy and respect for labor rights abroad. In the multilateral realm, national governments have assigned the International Labor Organization (ILO) responsibility for establishing international labor rights and ensuring they are respected in practice as well as principle.[2]

These same governments have declined to address labor rights within the WTO. The WTO Agreement (also known as GATT 1994) makes no explicit reference to labor issues. The first and only occasion when the topic of labor principles was raised at the political level within the WTO was in the declaration issued at the First WTO Ministerial Conference held in Singapore in 1996.

That document signaled general support for internationally recognized core labor rights but added: "We reject the use of labor standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question."[3] (The 1998 ILO Declaration on Fundamental Principles and Rights at Work also asserts that "labor standards should not be used for protectionist trade purposes."[4])

Opposition to adopting a more muscular approach to labor issues in the WTO appears to be very widespread within its membership at present. Moreover, because the 153-member WTO is a consensus-driven organization, it is unlikely to change course and agree to address labor principles as a central part of its mission in the foreseeable future.

**Labor Rights and Trade Preferences**

By contrast, countries often include commitments relating to internationally accepted labor rights in bilateral trade agreements and unilateral trade preference

schemes such as the Generalized System of Preferences (GSP). The U.S. GSP program requires the president to determine if a country "has taken or is taking steps" to provide its workers with "internationally recognized worker rights," which the statute then defines. Enforcement is based in part on a petition-driven process in which civil society actors such as business organizations or labor unions may raise concerns with the U.S. government. Such petitions have resulted in countries temporarily losing GSP benefits on a number of occasions since the program was introduced more than three decades ago.

Recent legislation introduced in March 2009 in the House of Representatives proposes a more demanding approach to labor rights in trade preference legislation. A bill (H.R. 1318) to provide duty-free treatment for some goods produced in designated Reconstruction Opportunity Zones (ROZs) in Afghanistan and parts of Pakistan would require establishment of an enterprise-specific audit process widely regarded by business representatives as unworkable.

The legislation would authorize the Secretary of Labor to designate an entity such as an NGO to conduct firm-level inspections to ensure compliance with labor principles. Critics have called these requirements intrusive and impractical, especially for a region with extreme security challenges. Rather than create export opportunities and jobs, the program would generate uncertainty and impede investment. While the U.S. Chamber supports the goal of leveraging trade opportunities to lend stability to these troubled regions, it opposes the bill as drafted on these grounds (as well as the limited scope of its tariff preferences).

**Labor Rights and FTAs**

While the first bilateral free-trade agreement (FTA) negotiated by the United States (concluded in 1986 with Israel) made no mention of labor issues, the U.S. approach has evolved considerably since that time:

- The 1993 North American Agreement on Labor Cooperation (NAALC), often referred to as the labor side agreement of the North American Free Trade Agreement (NAFTA), obligates each party to "effectively enforce" its labor laws. It emphasizes a cooperative approach that includes technical assistance and consultation.

- The 2000 U.S.-Jordan FTA was the first U.S. bilateral trade agreement to include labor provisions within the main body of the agreement. The agreement obligates each party to "strive to ensure" that its laws incorporate the 1998 ILO Declaration on Fundamental Principles and Rights at Work and not derogate from domestic labor laws to encourage trade or investment. The agreement allows alleged failures to uphold labor rights to be submitted to a dispute settlement panel.

- The 2004 U.S.-Central America-Dominican Republic Free Trade Agreement (CAFTA-DR) expanded upon the Jordan model. CAFTA-DR includes in the main text of the agreement a binding obligation to effectively enforce domestic labor laws, and this commitment is subject to dispute settlement. The accord was accompanied by substantial technical assistance programs to ensure continued improvements in respect for labor principles.

Building on this foundation, the Bush Administration and Congressional leaders on May 10, 2007, reached a bipartisan accord on a new approach to labor and environmental issues in trade agreements. This accord led to changes in the text of pending trade agreements with Peru, Colombia, Panama, and South Korea.

This "May 10th trade deal" thus paved the way for Congressional approval of the U.S.-Peru Trade Promotion Agreement in late 2007 with broad bipartisan support. Under the agreement, the United States and Peru agreed to uphold the internationally accepted labor rights articulated in the 1998 ILO Declaration on Fundamental Principles and Rights at Work.

These labor obligations are subject to the same dispute settlement and enforcement provisions as the agreement's purely commercial provisions. The trade agreement also includes a cooperative mechanism to promote respect for the ILO Declaration's principles and compliance with ILO Convention 182 on the Worst Forms of Child Labor.

**An Elegant Compromise**

The "May 10th trade deal" represents an elegant compromise that has attracted bipartisan support. The 1998 ILO Declaration is a convenient reference point because its principles represent a consensus that has been embraced by governments, organized labor, and employers alike. By contrast, the United States is a party to only two of the eight ILO core conventions, and a third has long been pending in the Senate.

This is unlikely to change. The U.S. Council for International Business (USCIB), the organization representing U.S. employers before the ILO, reports: "Under a tripartite agreement between the U.S. Government, the AFL-CIO and USCIB, no ILO convention will be forwarded to the U.S. Senate for ratification if such ratification would require any change in U.S. federal and state laws… the remaining five conventions have been found to directly conflict with U.S. law and practice and thus have not been considered for ratification since ratification would require extensive revisions to U.S. state and federal laws."[5]

Consequently, it is difficult to see how the United States could make more ambitious commitments relating to labor rights in trade agreements. Many members of Congress and representatives of the business community would view including the ILO

core conventions in future FTAs as an effort to rewrite U.S. labor law through a trade agreement.

More troubling, the business community is dismayed that the May 10th trade agreement has failed to advance a bipartisan trade agenda. Just weeks after they applauded the agreement for realizing long sought goals relating to labor rights, the Democratic leadership of the House of Representatives and the AFL-CIO announced they would oppose the "flawed trade agreements with South Korea and Colombia."

Further, in May 2009, the AFL-CIO's Thea Lee testified in opposition to the U.S.-Panama FTA even though which includes the very changes the AFL-CIO sought and won in the May 10th agreement. Her critique called for a host of new, deep changes to the agreement—changes to the trade agreement "template," she said. Panamanian officials were stunned. Noting that Panama has ratified all eight of the ILO core conventions and has labor laws that elicit only minor criticisms from House Democrats, they commented at the time: "This isn't just moving the goal posts. This is moving the entire stadium." The Colombians expressed a similar sentiment after the House refused to allow a vote on the U.S.-Colombia Trade Promotion Agreement in April 2008.

U.S. trade policy remains at an impasse. The Obama Administration has indicated repeatedly that it hopes to secure Congressional approval of the pending trade agreements with Colombia, Panama and Korea, but no action is forthcoming.

The cost of these delays may prove to be high. The U.S. Chamber recently released a study which found that the United States could suffer a net loss of more than 380,000 jobs and $40 billion in lost export sales if it fails to implement its pending trade agreements with Colombia and Korea while the European Union and Canada move ahead with their own agreements with the two countries. Those agreements are expected to be in force within the year. In addition, the EU concluded a trade agreement with Colombia just days ago.

If Washington delays, American workers and farmers will be put at a competitive disadvantage in Colombia and Korea. For example, Canadian wheat farmers will be able to sell their crop to Colombians at a huge discount, and European manufacturers will easily undercut their American competitors in the Korean market.

## Conclusion

In conclusion, President Obama's goal of doubling exports within five years looms large in the debate over trade agreements and labor rights. To reach this goal, the Administration and Congress need to shift the U.S. trade agenda from defense to offense. According to the World Trade Organization (WTO), there are 230 free trade agreements in force around the globe today, but the United States has FTAs with just 17 countries.

The WTO reports that there are more than 100 bilateral and regional trade agreements currently under negotiations among our trading partners. The United States is participating in just one of these (the Trans-Pacific Partnership).

On trade, if we stand still, we fall behind. We urge Congress and the Obama Administration to seek a more effective trade policy that opens foreign markets, boosts exports, and creates jobs. A bipartisan approach to addressing labor principles in U.S. trade agreements was achieved in the "May 10th trade deal," and it should be seized with both hands. Only by doing so can we take advantage of the opportunities trade presents for job creation.

Thank you very much.

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[1] Matthew J. Slaughter, U.S. Council for International Business and Business Roundtable, "How U.S. Multinational Companies Strengthen the U.S. Economy," March 2009, http://www.uscib.org/index.asp?documentID=3882.

[2] About the International Labor Organization, http://www.ilo.org/global/About_the_ILO/lang--en/index.htm.

[3] Singapore WTO Ministerial 1996: Ministerial Declaration, December 13, 1996, http://www.wto.org/english/thewto_e/minist_e/min96_e/wtodec_e.htm.

[4] "…labor standards should not be used for protectionist trade purposes, and that nothing in this Declaration and its follow-up shall be invoked or otherwise used for such purposes; in addition, the comparative advantage of any country should in no way be called into question by this Declaration and its follow-up." ILO, http://www.ilo.org/declaration/thedeclaration/textdeclaration/lang--en/index.htm.

[5] Adam Greene, U.S. Council for International Business, "Issue Analysis: U.S. Ratification of ILO Core Labor Standards," April 2007. This understanding was formally recognized in a 1988 Declaration adopted as the Senate considered ILO Convention 144 and ratifies an understanding reached among the U.S. government, the AFL-CIO, and the U.S. Council for International Business. See 134 Cong. Rec. page S134 (Feb 1, 1988).

Mr. SHERMAN [presiding]. Thank you. The definition of insanity is to keep doing the same thing that failed and expect it to succeed. We signed all these free trade agreements, and you say markets are open to us. Maybe tariffs are reduced, but tariffs are only what is published. You mention non-tariff barriers. You weren't here for the hearing we had this morning where we saw the non-tariff barriers. The United States is a country with the rule of law, so if we want to prevent American consumers and business from buying foreign products, we pass a published law. When countries get us to sign treaties that repeal those laws, they have access to our markets.

Say you are in China. You are thinking of importing American products. You get a call from a commandant who says Mr. Wong, you don't want to import those American products. We know you are well educated, hate to think you need re-education. That is not a provable violation of any free trade agreement because you can't know about it, so you continue on behalf of the Chamber to argue for agreements where the enforcement against the United States is absolute since the only thing that matters in the United States is law, and the enforcement in China and so many other countries is illusory since we get them to change their written laws, and they are not countries that follow written laws.

You tell us that we are going to get more jobs by opening markets, and your only suggestion for opening markets is to sign the same free trade agreements that have opened our markets and not opened theirs. Then, you tell us that it would be a shame to, by treaty, change our labor laws when the Chamber has again and again demanded that we use treaties to change our environmental laws, our banking laws and our consumer protection laws. Apparently, the only laws we shouldn't change are those that benefit Wall Street and Wal-Mart.

Now, the Chamber took a phenomenally different view when it came to H.R. 1318. That bill called for duty-free treatment for goods coming from parts of Afghanistan and Pakistan, and the reason the Chamber opposed that is because it entitled the Department of Labor to contract with others for firm-level inspections. In other words, you are for open markets and even labor standards as long as there is no enforcement of the labor standards with firm-level inspections, and in your statements on the bill you said that "business representatives," also known as sweatshop operators, "found the provisions unworkable," which is to say effective.

On what basis did the Chamber make the decision to oppose H.R. 1318, and will you oppose any agreement that provides for effective firm-level inspections with regard to consumer, labor and environmental standards?

Mr. MURPHY. The Chamber strongly believes that creating new trade opportunities in Afghanistan and in northwestern Pakistan is part of the solution for what ails that part of the world. However, we think that the bills that have been under discussion are flawed in different ways. As you mentioned, H.R. 1318 would create an enterprise-specific audit process that many in the business community that have worked in that part of the world regard as unworkable.

There was an initial version of the bill that counted on ILO inspectors to do that, but when the ILO informed them that yes, this is one of the most dangerous and lawless parts of the world, and they didn't want to do it, the proposal was amended to move to this enterprise-specific audit process involving possibly NGOs. I think the business——

Mr. SHERMAN. So you are opposed to firm-level inspections carried out by people with the courage to do it in a difficult part of the world because you are only in favor of lower tariffs when there aren't firm-level inspections?

Mr. MURPHY. I think that we need to recognize that there isn't a one-size-fits-all solution here. The program in Cambodia and in Haiti, these have potential because most of the apparel manufacturing facilities are located in a very geographically compact area.

Mr. SHERMAN. Sir, these NGOs have the courage to do the inspections. Why are you against the inspections?

Mr. MURPHY. We strongly question the ability that they would have to carry out inspections. We actually opposed the bill on other grounds as well.

Mr. SHERMAN. Wait, wait. Wait a minute. Okay. You are opposed to the inspections because it might be difficult to do the inspections. Why would you do that? Either you get in the inspections or you get what you say you want, which is a bill with no inspections. You don't even want the possibility that somebody could do the inspections, and your theory is well, maybe they can't, so let us make sure they don't.

Mr. MURPHY. Mr. Chairman, we are not in support of legislation that we believe will not do what it is intended to do, namely to create real-world trade opportunities. The legislation as drafted excludes all of the products in which Pakistan and Afghanistan have a particular competitive advantage. It limits the benefits to very——

Mr. SHERMAN. Sir, your stated opposition is because you oppose the inspections. You have not said that you will support the bill if the number of products covered by the bill is expanded. Support for labor standards only when they are definitely not enforced is an interesting approach, and my time has expired. I recognize Mr. Royce.

Mr. ROYCE. I remember the argument over the way that bill was crafted, and frankly, Mr. Murphy, if I recall, the legislation by protectionist interest was to make certain that we did not have the types of cotton pants that are manufactured in Pakistan coming into the United States. That is the debate I remember here, and that is the opposition to it I remember, but basically these individuals who produce these products are in a war zone. You are talking about the northwest frontier.

I go out there every year to Pakistan, and I am familiar with just how difficult it is to get around in that area, but the question is, or to me it was, whether or not we were going to offer some kind of employment and allow those goods to come into the U.S. market or whether we are going to block it, and the blocking I saw from the provision as it originally was advanced, which was to allow these cotton trousers and other things that are actually made in Pakistan to come into our market, they effectively removed that

from the bill, so at that point, no. There isn't a lot of support for the legislation.

Let me ask a couple of other questions, and one of them goes to, Mr. Murphy, you testified that the U.S. is running a trade surplus in manufactured goods, agricultural products and services will all 17 countries with which we have an FTA, so are these FTA agreements necessarily bad for American workers?

Mr. MURPHY. Congressman Royce, I think you have touched upon one of the greatest secrets in U.S. trade policy that in fact U.S. free trade agreements have this remarkable record for boosting U.S. exports. As you say, in manufactured goods, in services, in agricultural products, when we look at our 17 FTA partners as a group, we are running a significant surplus with them. The one exception with those 17 countries is in oil and gas where we import large amounts of oil, particularly from Canada. That is not a result of trade policy though. That is a result of geology.

I would further add that with regard to our bilateral investment treaties, those 40 countries we also have approximately a $10 billion trade surplus with them. It stands to reason though in a world where on average foreign barriers are high and ours are low, when we enter into a trade agreement and brush those barriers aside, imperfectly as it may be, American workers are able to get their goods in there and compete and win, and that is why we have seen these remarkable results.

Just one last point, the FTA partners that we have, those 17 countries represent just 7 percent of world GDP outside the U.S., but they buy 40 percent of our exports. FTAs make big markets even out of small economies.

Mr. ROYCE. You also testified that U.S. companies face among the highest tariffs of the world. That disadvantage is only worsening as the U.S. sits on the sidelines while other nations negotiate trade agreements, so just how bad is it for U.S. businesses, and I would ask if you could discuss specific examples of U.S. companies losing sales?

Mr. MURPHY. Absolutely. It is a serious problem. In fact, about 1 hour ago, the Canada Colombia Free Trade Agreement was introduced in the House of Commons in Ottawa. If that agreement goes into effect, if their recently concluded just a week ago EU Colombia Free Trade Agreement goes into effect, if the EU Korea FTA agreement goes into effect, we are going to see our European and Canadian competitors with something like a 10 percentage point cost advantage.

Companies like Caterpillar, which Colombia for them is the 10th largest export market in the world, and the signal that sends is that they are going to be at a disadvantage, but it isn't just large companies. It is also small companies. The Chamber on behalf of our hundreds of thousands of small business members, we profile small companies that have benefitted from exports through a series of what we call Faces of Trade publications. This is a collection of profiles of companies that have benefitted from exporting to Colombia.

I look at companies like Quality Float Works of Illinois, where the CEO tells us that they are absolutely losing out in markets like Colombia and Brazil to foreign competitors due to tariff differences.

Mr. ROYCE. And lastly, the bipartisan labor agreement of May 2007 was worked into the trade agreements with Peru and Panama and Colombia, South Korea, and this action proved the way for approval, this is what advanced the approval of the Peru trade agreement, and it was expect that the others would be approved too, yet they are stalled. Could you tell me quickly what happened?

Mr. MURPHY. Well, we are still trying to figure that out, and it is particularly frustrating with regard to Colombia, and I welcome an opportunity to comment on that briefly here today. Many of the statistics we have been hearing today I believe approximately 10 years out of date. Last year, the homicide rate in the United States was nearly three times higher than the homicide rate among Colombian trade unionists. A resident of the District of Columbia, where I live, is seven——

Mr. SHERMAN. Excuse me. The gentleman's time has expired. Let me also correct the record. You can reach the conclusions that Mr. Murphy reaches only if you feel that our MFN agreement with China is not a trade agreement, only if you ignore increases in imports that go along with increases in exports. You have to really bend it to get where you are going. In any case, it is now time to recognize the vice chair of our subcommittee, Mr. Scott.

Mr. SCOTT. Thank you very much, Chairman. I would like to get each of your comments on this, Mr. Murphy, Ms. Athreya and Mr. Lucy. An overwhelming majority of Americans favor the United States requiring compliance with international labor standards as part of international trade agreements. A survey by the Chicago Council on Global Affairs and the World Public Opinion Organization found that nine in 10 Americans support requirements for countries that sign trade agreements to meet minimum labor and environmental standards. What do each of you think of this, which is the opinion of the American people? Mr. Murphy, then Dr. Athreya and then Mr. Lucy.

Mr. MURPHY. I will be brief. I think that underscores the vitality of the compromise that was reached on May 10, 2007, in which a practical basis was found as a reference in the 1998 ILO declaration, and Congress has a fantastic opportunity to move forward on trade on that basis.

Mr. SCOTT. Okay. But you do agree with these, accept these? Do you know feel that this represents the true thinking of the American people?

Mr. MURPHY. Well, speaking for the Chamber on May 10, 2007, we jumped up and down and cheered.

Mr. SCOTT. All right. Okay. Dr. Athreya?

Ms. ATHREYA. We believe these rights are fundamental human rights, and it is consistent with all of the conversations I have ever had with people out there that they believe that we should respect these rights all over the world. I believe Congress thinks this, too. It is in our trade law, and it is in our development law. We would love to see it enforced.

Mr. SCOTT. Okay. And, Mr. Lucy?

Mr. LUCY. I can't help but agree with what Dr. Athreya said. I mean, the American people recognize the unfairness and lack of abilities of a people's substandard ways. America stands for something. It stands for something. It is why we remain the envy of the

world. It is why regardless of all of our faults, and we have them, regardless of all of the imperfections of America, America stands for constantly reaching for that standard, and that is what is at stake here, and that is why if we let down that standard and we enter into trade agreements that don't hold that standard, we hurt ourselves.

I believe we can get to that point with Colombia, with others, but, Mr. Murphy, you would accept going into trade agreements, and I might add that you are looking at someone who was down there, 2,700 is a lot stretched over 20 years as you have said, but 47 were killed in the year that I went down. As a matter of fact, one life is too many lives lost, the pattern, and there is a reason why the issue is impunity. Now, you and I, no one can do anything.

The government says we can't do anything about somebody shooting or killing somebody else. That happens. Murder, it happens. We try to prevent it, but it happens, but the one thing the government can do is go through the process of getting some results and convictions and searching and have a system where they don't tolerate it. That is a problem with Colombia.

It is indeed the killings and that, but it is a government that has a record of complicity in some of them and a dragging of the feet of not having the judicial system in place or the priority in place to adjudicate these cases and bring some people to trial. One or two that have got, they have even let go, so I just wanted to make that point as plain as I could because I think that we have a standard in this country. We have a standard that is held high in the world, and we can't lower that standard. I see my time it out. I don't want to go to my question. Maybe I will have another round. Thank you.

Mr. CARNAHAN. Thank you all, and I apologize. I had to step out for just a moment but wanted to ask a couple of questions. One of the issues that I was concerned about particularly in this global economic crisis that it has created an even greater reliance on sub and sub-subcontracted production that hires workers under short-term contracts in often exploitative conditions.

In your estimation, to what extent are U.S. companies making real efforts to effectively monitor their supply chains and take actions when necessary, and what more can or should be done to ensure that multinational companies source goods and services that are made under decent working conditions, and let me start with Mr. Lucy.

Mr. LUCY. Mr. Chairman, let me give you an experience. In visiting with migrant workers in Jordan about a year or so ago, and we have an agreement with Jordan, it is supposed to be a fairly good model, but we found workers there who have had their passports taken, their work permits taken and forced to work and live under some of the most dreadful conditions. We don't see the American corporations who benefit from those products doing a whole lot to change those conditions, and we strongly support the agreement, but we also support fair treatment of workers under that agreement.

Mr. CARNAHAN [presiding]. How do you think we can better shine a light on those kind of practices when they happen?

Mr. LUCY. I am sorry. I missed your——

Mr. CARNAHAN. How do you think we can better shine a light on those practices when they are found?

Mr. LUCY. I think effective reporting by the responsible agencies of the U.S. Government and not pull punches, but state the situation as it exists, just as it was asked with regards to Mr. Posner earlier. The State Department and Labor Department ought to be clear and concise in their reporting on incidents such as this.

Mr. CARNAHAN. All right. Doctor?

Ms. ATHREYA. Thank you very much for the question. Since the issue of impunity has arisen in the comments of this committee, I would like to particularly point out that some of the companies that directly benefit from trade access in places like Colombia and the Philippines, which I also mentioned in my testimony, are reported to directly aid and abet violence against trade unionists. We can mention a case against Dole Corporation in Colombia right now.

We can mention cases involving both Dole and Nestle in the Philippines and the aiding and abetting of torture, disappearance, murder of trade union leaders and community members as well to clear out their land to get access for planing agricultural products. We believe strongly that it is important that these companies that benefit directly from increased access also be held directly accountable for maintaining all of the labor rights in their operations in these countries and that much more is needed to strengthen the ability of these programs to look deeply at who is receiving the benefits and whether those companies and those industries are actually upholding labor rights. Thank you.

Mr. CARNAHAN. Mr. Murphy?

Mr. MURPHY. I think we live in a day and age when your reputation is everything whether you are a Member of Congress or a company, and that is why companies that operate around the world often go to extraordinary lengths to vet their own supply chains, to have their own solutions to inspections and finding ways to make sure that they are living really up to the highest standards of respect for labor rights. I see that all around the world. I have traveled extensively in places like Honduras and seen in the apparel operations there how this is a priority for those industries, and that is why working for an American company is usually a big step up over many of the economic opportunities there.

I think that is the reason why the business community as I have mentioned supported using the 1998 ILO declaration as a reference point in the context of free trade agreements.

Mr. CARNAHAN. Just to follow that up, to the extent that I take it you think most companies, and understandably so, would be concerned about their reputation to being sure those supply chains and standards are done correctly, we hear about a lot of the extreme examples, obviously. What do you think is the best strategy in dealing with those?

Mr. MURPHY. In dealing with the extreme examples?

Mr. CARNAHAN. Yes.

Mr. MURPHY. I think the business community does agree that there is an important role that is played by U.S. administration programs, such as the ones we heard about in the first panel. Those things are not generally in question. I think when you see

the business community establishing its own vigilance programs to fill in a void, I think that is a sign that many in the business community would like to see government have a role there that it is currently not fulfilling.

Mr. LUCY. Mr. Chairman?

Mr. CARNAHAN. Yes, Mr. Lucy?

Mr. LUCY. In our written testimony, Mr. Chairman, we spoke to the need for being able to do more. Certainly, ILO Convention No. 81 provides a function of inspection which would take care or certainly raise an earlier flag on a lot of these situations, so the adoption of that convention will certainly be a positive step in the right direction.

Mr. CARNAHAN. That is it for my questions. I want to ask if any others have any followup? I am going to allow my chairman to go first. Chairman Sherman?

Mr. SHERMAN. Yes. Just to set the record straight, the idea that it is no more dangerous to be a union activist in Colombia than a citizen of the Unites State requires the most bizarre math. Five hundred union activists have been brutally murdered during the Uribe presidency. Now, you could say that is a tiny risk if you divide that 500, the entire population of Colombia or all working people in Colombia, maybe even all labor union members of Colombia, but it is not like the 500 people that were killed were just randomly selected union members or working people.

These were the folks who were the key to organizing the union. These were among a group of 5,000 or 10,000 people who were the most active in trying to bring a labor movement to Colombia and the death rate among them massively exceeds any of the statistics that have been put forward by the Chamber of Commerce. Being a CPA is an occupational hazard. You get numbers, and you actually look at them, and sometimes it is a little bizarre.

Mr. Lucy, thanks for being here. I look forward to working with you to fight for labor rights around the world. I do have one question. Since 2001, March, which was the peak of the business cycle most recently, the United States has lost 3 million manufacturing jobs, and of course it is manufacturing that is most affected by international trade agreements. So far they haven't figured out a way to contract out my job, but manufacturing jobs are affected by international trade, and we have seen this 17.4 percent decline.

To what extent are these losses due to differing labor standards in our trade partners, and what is the impact of these free trade agreements on labor standards both domestically and abroad?

Mr. LUCY. I think a substantial number of those jobs, Mr. Chairman, can be directly attributed to the trade agreements as almost incentives to remove good-paying industrial and manufacturing jobs offshore. The 3 million jobs that are gone was substantially the foundation of our middle class. They are gone. They will not be back unless we find some magical way of creating an industrial policy that will speak to our domestic needs.

We see cities around the country that were related to industry and manufacturing, think of Detroit, Cleveland and many others directly affected by NAFTA, directed affected by some of these others, so the American worker and the American middle class has suffered tremendously as a result of these trade agreements.

Mr. SHERMAN. I thank you for your answer, and I look forward to a trade policy that is in the interests of the American working family rather than a policy dominated for the interests of Wall Street and Wal-Mart, and with that, I yield back.

Mr. CARNAHAN. Thank you. Now, Mr. Scott, for followup questions?

Mr. SCOTT. Yes. I would like to just ask each of you to comment on the International Labor Organization's core conventions concerning collective bargaining are Conventions 87 and 88. The U.S. has not yet ratified these conventions, nor has it submitted them for review by the tripartite, by the administration, Labor and business representatives, so the question I have is taking just simply Colombia, how can the U.S. leadership, particularly the forces that I have sitting here before me, each of you represents a unique and separate constituency to this.

Mr. Murphy, business. You are with the International Labor Organization. You are with the American labor movement, and I am wondering where can particularly, Mr. Murphy, the Chamber of Commerce, and the labor movement in America, how can you work together to put pressure on Colombia? I know the value of a Colombia trade agreement. I know the importance of trade. There is no question about it.

It is clear that if we enter trade agreements with a poison pill in it as we have done to a degree with NAFTA and others where we have suffered, where we have seen jobs go where they shouldn't be, multi-national corporations who operate all around the world certainly want that, but it hurts the American worker here at home. If we take the Colombia situation, how can labor and business work together to put pressure on Colombia to straighten up its act?

I think that as long as there is a dichotomy of thought here in the United States in terms of our trade policy, some of these countries don't move as fast as they should, and I am saying especially on getting the infrastructure in place to make sure the impunity that is going on in Columbia, that can stop. That can be put to place, but I just wanted to know, and I thought the question might be appropriate. Where can we work together here? Where can you, Mr. Murphy, work with Mr. Lucy and Dr. Athreya? I know I have butchered your name. I am sorry. Is it Athreya?

Ms. ATHREYA. You were perfect. Thank you.

Mr. SCOTT. Thank you so much. Where is there we can work together on this? Is there some way we can work because I tell you there is a split opinion in this Congress on moving forward on these trade agreements. Central to it is the labor rights, the treatments of the trade unions there and this impunity issue. Is there some ground where particular Mr. Murphy, Mr. Lucy, are there areas that can be worked together with some united force in this?

Mr. MURPHY. Well, 50 years ago when George Meany was the head of the AFL–CIO, he strongly supported the interests of the American worker to pursue international trade. He opposed issues like Buy American and argued with people across the country that the American workers' destiny was to be making things to sell around the globe. Unfortunately, I think that we have come a distance, and there is a strong difference of opinion here, and if you

are talking about Colombia specifically, I think that this place to start is really to look at the facts on the ground there.

I strongly disagree with the facts as they have been presented by some in this hearing here today. In the past few years, there has been 300 convictions of priority cases identified by trade unions in Colombia, convictions that have happened there. Labor unions in Colombia have grown by more than 50 percent during the Uribe administration to more than 1.5 million, and you don't have to be an actuary to do the math that 29 murders of trade unionists last year among 1.5 million is a murder rate that is 1/17 that of the District of Columbia.

We have to establish the facts first and move past the rhetoric of 10 years ago and see Colombia for what it is today.

Mr. SHERMAN. If you really think your likelihood of being killed by brutal anti-labor forces is equal whether you are a rank and file member or whether you are an organizer, if you live in that kind of fairy tale land, then it is not dangerous to be an organizer in Colombia. When you use as your denominator something other than the number of organizers, you use a phony denominator in calculating your murder rate, and you can keep repeating the same number over and over again, but if you use a phony denominator, you get a phony rate. I yield back to the gentleman.

Mr. SCOTT. Yes, and here is the fact, and I don't think you will argue with it, in more than 95 percent of the killings, there has been no convictions, and the killers remain free, and this is from Human Rights Watch World Report 2010 Colombia, 20 January 2010. This is a part of the problem. I mean, that is a stark situation down there. The business community of this country wields an awesome amount of power.

There is a need for us to try to get this free trade agreement there. There is all kinds of reasons. We need it. I have been down there. I know we need it, but we have got to resolve this human rights and labor problem, and I think that the business community could join with labor and unite and put pressure on the Colombia Government to really resolve this. I think we could move forward with getting a trade agreement there that we would be proud of, but under these circumstances where these people have been killed, assassinated, these trade unionists, and nothing is being done about it.

There is a record of complicity with the Uribe government that is real, and 95 percent of the people are walking free who have done the killing, there is just no way we can put that there, but I think that if we could find a way to work together here, that is what I am after. You can throw up this fact, you could throw up that, but the fact is a lot of people are getting killed, and they are not being paid for. This cannot go on, and how do we move together to resolve it? Is there a willingness on business to work with labor to resolve this?

Mr. MURPHY. I think the Colombian Government has shown incredible resolve. You mention a number of more than 2,000 murders dating back to 1988. Most of those are more than 5 or 6, 7 years ago and took place in a period of civil war in the 1990s. That is why the government identified in consultation with the Confed-

erations of Trade Unions these priority cases, and they have made remarkable progress with them.

Mr. SCOTT. Mr. Murphy, there have been trade unionists who have been killed this year. Mr. Lucy, is it possible for American business and American labor to work together to put pressure on this Colombian Government to kind of help resolve this issue?

Mr. LUCY. Well, I think, Mr. Scott, history has shown that labor can find a way to work in any difficult situation except we cannot compromise on some fundamental principles. Principle 1, workers in Colombia and all over the globe have the right to freedom of association. That is just fundamental. That is a position that the Chamber just disagrees with. Secondly, we have a right to collective bargaining. How else will workers get their share of the benefits of a society from this trade, developments or what have you unless they have the right to come together and sit across the table as equals from their employer.

There is a fundamental disagreement on that point. We have said many, many times that we would like to see conditions set in that protect the interests of workers, that protect the environment, and there is a willingness to work on all of these, but we can't work where there is no acceptance of fundamental workers rights, and that is the freedom of association, a right to collectively bargain and all that goes with that.

Mr. Murphy says that these killings were 10 years ago and therefore we ought to forget them, well 20 percent of them was done under the administration of Mr. Uribe. I mean, this is not illusions. These are real people who are trying to establish their position and status and in the Colombian society, and for that, they are assassinated, and we can't pretend that doesn't exist, and we have got to hold somebody accountable, and if the government in place refuses to pursue justice for the victims or their families, how do you rationalize entering into an arrangement with that and still say we are the leading country in the world in terms of human rights?

Mr. SCOTT. Exactly. Thank you, Mr. Chairman, I yield back.

Mr. CARNAHAN. Thank you, and I am going to just wrap up with one more question that I presented to the first panel. It is one of the things that has concerned me with regard to what has been termed this race to the bottom with a lot of manufacturing jobs that have left the U.S. They have gone south of our border. They have gone to Asia, and this race to the bottom in terms of standards for the workforce, for the environment, but also safety standards, and we have seen the problems with vehicles, with drywall, with toys, with baby formula.

I think as was mentioned by one of the earlier panelists, there are common parallels with these product safety problems and with workers rights and environmental rights. I would like to ask each of you if you would just comment briefly about how you think we can incorporate that because I think that is very much in our interest for U.S. consumers to address these issues but also for U.S. businesses because it helps us with a more fair playing field to compete. We will start with Mr. Murphy and go to your left.

Mr. MURPHY. Mr. Chairman, my reaction is that in this worldwide economy where we are in competition every day, the first

place we have to look to think about how we are going to win in that competition is inward. We have to get our own act together on everything from K–12 through college education. We have to invest more in our infrastructure, which has suffered in recent years. We have to think about how our global companies are able to compete.

This country has some of the highest corporate tax rates in the world, and that creates a very negative incentive to be doing business in this country. We have to think about getting those incentives right, and if we do that right, then we will be in much stronger shape.

Mr. CARNAHAN. If I could? I wanted to particularly address the issue of product safety.

Mr. MURPHY. I think in recent years there has been a considerable effort made on both food, phytosanitary, sanitary side and on product safety. I think that is a work in progress, but we recognize that it is very important. Having an approach that finds a way to weigh those risks and dedicates the resources that we have to mitigating those risks where they are has got to be the way forward. That is going to be the biggest bang for the buck.

Mr. CARNAHAN. Dr. Athreya?

Ms. ATHREYA. We are very concerned with issues of product safety and food safety in the developing countries where we work, and we find a direct corollary between the existence of democratic organizations for workers that have access to justice and the ability of those workers to blow the whistle when they see their management their cutting corners and disobeying the standards that are supposed to be applied in the production of these goods. The right of workers to organize and have a voice in the workplace is actually very fundamentally linked to product safety and food safety.

Mr. CARNAHAN. Okay. Thank you. Mr. Lucy?

Mr. LUCY. I think the last point the Doctor made was absolutely on point, but beyond that, there are existing conventions that deal with the issues of safety, both workers' safety and product safety, and the empowerment of workers with them able to speak to the quality of products that they manufacture, their ability to negotiate processes and procedures of doing work will obviously address some of these issues.

Mr. SHERMAN. Will the gentleman yield?

Mr. CARNAHAN. Yes.

Mr. SHERMAN. I just want to set the record straight on the U.S. corporate tax rate. We have enormous, giant loopholes for corporations to exploit, particularly with regard to international transactions. You have got to look not at the nominal rate, but the effective rate of taxation, which is lower on our corporations now than it has been for a long, long time, and you cannot simply circle the nominal rate and repeat that over and over again as if it is an accurate reflection of the effective rate. I yield back.

Mr. CARNAHAN. I thank the gentleman. I thank the panel for your patience, for your insight and for your frankness here today all of you. It has helped us I think get a good overview of this issue, and we look forward to continuing to work with you on these efforts. We are adjourned.

[Whereupon, at 5:35 p.m., the subcommittees were adjourned.]

# APPENDIX

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## Material Submitted for the Hearing Record

**JOINT SUBCOMMITTEE HEARING NOTICE**
**COMMITTEE ON FOREIGN AFFAIRS**
*U.S. HOUSE OF REPRESENTATIVES*
*WASHINGTON, D.C. 20515*

**SUBCOMMITTEE ON TERRORISM, NONPROLIFERATION AND TRADE**
**Brad Sherman (D-CA), Chairman**

**and**

**SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS, HUMAN RIGHTS AND OVERSIGHT**
**Russ Carnahan (D-MO), Chairman**

March 8, 2010

**TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS**

You are respectfully requested to attend an OPEN joint hearing of the Subcommittee on Terrorism, Nonproliferation and Trade and the Subcommittee on International Organizations, Human Rights and Oversight, to be held in **Room 2175 (Education and Labor Committee Hearing Room) of the Rayburn House Office Building):**

**DATE:** Wednesday, March 10, 2010

**TIME:** 2:00 p.m.

**SUBJECT:** International Worker Rights, U.S. Foreign Policy and the International Economy

**WITNESSES:** **Panel I**
The Honorable Michael H. Posner
Assistant Secretary
Bureau of Democracy, Human Rights and Labor
U.S. Department of State

Ms. Sandra Polaski
Deputy Under Secretary for International Affairs
U.S. Department of Labor

**Panel II**
Mr. William Lucy
Chair
Executive Council Committee on International Affairs
American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)

Bama Athreya, Ph.D.
Executive Director
International Labor Rights Forum

Mr. John G. Murphy
Vice President of International Affairs
U.S. Chamber of Commerce

**By Direction of the Chairman**

*The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.*

# COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON *TNT & IOHRO* MEETING

Day *Wednesday* Date *03/10/10* Room *2175*

Starting Time *2:55 p.m.* Ending Time *5:36 p.m.*

Recesses [ ] (_____ to _____)

Presiding Member(s) *Mr. Carnahan, Mr. Sherman*

*CHECK ALL OF THE FOLLOWING THAT APPLY:*

Open Session [✓]
Executive (closed) Session [ ]
Televised [✓]

Electronically Recorded (taped) [ ]
Stenographic Record [✓]

TITLE OF HEARING or BILLS FOR MARKUP: *(Include bill number(s) and title(s) of legislation.)*

*International Worker Rights, U.S. Foreign Policy and the International Economy*

SUBCOMMITTEE MEMBERS PRESENT:

*Mr. Sherman, Mr. Carnahan, Mr. Scott, Ms. Watson, Ms. Jackson-Lee, Mr. Ellison, Mr. Royce, Mr. Rohrabacher*

NON-SUBCOMMITTEE MEMBERS PRESENT: *(Mark with an * if they are not Members of HIRC.)*

HEARING WITNESSES: Same as meeting notice attached? Yes [✓] No [ ]
*(If "no", please list below and include title, agency, department, or organization.)*

STATEMENTS FOR THE RECORD: *(List any statements submitted for the record.)*

*Mr. Carnahan's opening statement.*

ACTIONS TAKEN DURING THE MARKUP: *(Attach copies of legislation and amendments.)*

RECORDED VOTES TAKEN (FOR MARKUP): *(Attach final vote tally sheet listing each member.)*

| Subject | Yeas | Nays | Present | Not Voting |
|---|---|---|---|---|
| | | | | |

TIME SCHEDULED TO RECONVENE _____
or
TIME ADJOURNED *5:36 p.m.*

Subcommittee Staff Director

Chairman Russ Carnahan
Subcommittee on International Organizations, Human Rights and Oversight

Opening Statement
"International Worker Rights, U.S. Foreign Policy and the International Economy"

March 10, 2010

I want to thank Chairman Sherman for leading this hearing today and all the witnesses for donating their time to address the critical issue of international worker rights, U.S. foreign policy and the international economy. We have two panels of distinguished witnesses with different, valuable perspectives on this that we look forward to hearing.

In the wake of the unprecedented financial and economic crisis, coordinating a speedy recovery and creating sustainable job opportunities has been a matter of utmost concern for many Members of Congress since 2007. The countless stories of hardworking American citizens suddenly struggling during these difficult times are troubling and painful.

Additionally, the millions of jobs lost globally threaten to precipitate a dangerous race to the bottom in labor standards, in which quality employment opportunities have also suffered severely. This feeds a cycle of declining living standards, diminishing purchasing power, increasingly shrinking markets, and further economic decline.

The Administration, Congress, and many others are doing much to turn this around. As part of that process, we have taken many measures to address our national economic recovery. We must also look beyond our borders and increase our efforts to coordinate significant policy reforms worldwide that will yield concrete benefits to Americans at home by strengthening U.S. trade agreements and trade preferences.

Despite these favorable trade relationships, countries still have not consistently adhered to the agreed upon labor provisions, and U.S. agencies have been lax in enforcing them. This ultimately undermines the American worker, undermines potential for economic growth, and undermines the respect for basic human rights.

From Toyota vehicles to Chinese drywall and children's toys, I also remain concerned about the lack of product safety and enforcement in our trade relationships. This gives unfair market advantage goods that may end up harming American consumers, which is simply unacceptable and unsustainable.

In April, Secretary of Labor Hilda Solis will host the first G20 Employment and Labor Ministers' meeting in an effort to pool individual experiences and try to coordinate a collective policy response to restore the global economy. I believe this is a courageous step with potential to further enhance America's leadership on economic recovery efforts. It is my hope that the

meeting will give serious focus to job creation in line with more robust labor rights protection and transparency.

This year I launched the bipartisan American Engagement Caucus, and last week hosted a Congressional briefing on American's image abroad. I believe it is also important for America to continue to be a leader in promoting worker rights and advancing labor standards to foment healthy economies and prosperous societies moving forward.

Also, last month I released a Regional Jobs Plan aimed at expanding trade opportunities and creating a level playing field to help boost the economy in the St. Louis region and across the country, focusing on promoting regional strengths. One of the greatest strengths to any region—any economy—is its work force. It is the bedrock of any economy. We must take care not to miss the forest for the trees and forfeit labor within broader-reaching economic reform plans and stimulus packages.

It is imperative that we act now to level the playing field so that everyone can have access to quality, sustainable work opportunities and participate fully in the global economy, helping to strengthen and expand it. This will provide tangible, immediate benefits to our domestic economies as well, ensuring strong markets for our exports and giving power back to workers and consumers.

As we work to revitalize the American economy and create jobs here at home, we must aggressively seek new opportunities for U.S. companies to gain free and fair access to foreign markets. A critical component to that effort is rigorous enforcement of international trade laws to help level the playing field for American workers and protect human rights around the world.

Once again, I thank our witnesses, and Members, for joining us to address this important topic.

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Statement for the Record by
Susan Reichle, Acting Assistant Administrator
Bureau for Democracy, Conflict and Humanitarian Assistance
U.S. Agency for International Development

Before a Joint Hearing of the
Subcommittee on Terrorism, Nonproliferation and Trade
and the
Subcommittee on International Organizations, Human Rights and Oversight
Committee on Foreign Affairs
U.S. House of Representatives

March 10, 2010

"International Worker Rights, U.S. Foreign Policy and the International Economy"

**Introduction**

Labor sector issues are of integral importance to achieving progress in major foreign policy objectives, including respect for the rule of law and human rights, promotion of democracy, and economic growth and prosperity. For more than 50 years, the U.S. Agency for International Development (USAID) has supported international labor programs which seek to promote core international labor standards, including freedom of association and collective bargaining. Our efforts have yielded considerable results that stretch across a wide spectrum of development areas, including democracy and governance, but also economic growth, health, gender, and the environment.

Since 2007, our Global Labor Analytic Initiative has performed cutting-edge research to establish the technical foundation of labor programming and development practitioner tools necessary to plan and evaluate results from labor sector investments. This cross-disciplinary framework views the labor sector – that is, the legal foundation, government institutions, labor organizations, and labor markets – as a multidimensional system that requires multiple and integrated interventions. With the world's economy in a downturn, this interconnectedness allows USAID to promote the voice of workers in democratic processes and economic growth as more important than ever.

**The Importance of Labor and International Worker Rights**

USAID's research reveals that the worksite is an ideal place to encourage individual responsibility, strategic thinking, and equitable social policies. This includes, but is not limited to, forming unions, increasing the visibility and power of women in the workplace, disseminating information on important health issues, preventing trafficking in persons, and fostering democratic values and behaviors. Yet the importance of investing in decent work for people in impoverished nations goes well beyond issues of paychecks or a company's bottom line. A person's work forms a microcosm of the

economy as a whole, and to the extent that workers are allowed to voice their opinions, freely associate with whom they choose, and feel safe and secure in their financial and physical well being, they will reflect those benefits onto society as a whole. Addressing these issues also builds human capacity in crucial areas such as negotiation and leadership accountability, which in turn can contribute to the peaceful resolution of differences and disputes in labor and industrial relations provide critical incentives for more transparent governance.

**The Role of the Labor Sector in Development**

Labor rights organizations are integral to many development and diplomacy objectives. Through their funding, we can build the capacity of free and independent labor unions around the globe to advocate effectively on behalf of their members for their rights and decent conditions at work, especially those core labor standards which have been recognized by many international bodies. Labor programming also allows for the strengthening of crucial institutions, both governmental and extra-governmental, that administer programs in support of the labor sector. These efforts can, in turn, promote economic growth with an enabling environment that encourages job formation, strengthens industrial relations between employers and workers, and addresses the needs of the workforce alongside the needs of employers.

From a development perspective, failure to address the labor sector in assistance programming increases a country's vulnerability to pressures of workplace unrest and unemployed and disaffected youth. A country's long-term competitiveness can also be weakened through failure to respect labor standards, an inability to address workforce development needs, and an unsustainable reliance on social welfare programs. These factors, in turn, may discourage both domestic and international investment, which may exacerbate a downward economic spiral, reducing aid effectiveness in a wide variety of sectors.

**USAID's Current Global Labor Strengthening Program**

USAID's efforts to increase democracy in the work place have been largely implemented by our partner, the Solidarity Center. Together, we have focused primarily—though not exclusively—on promoting core international labor standards, encouraging freedom of association and collective bargaining, and strengthening the capacity of democratic labor unions to represent workers' interests and concerns both in the workplace and in public policy.

Under a current grant with the Solidarity Center, which was awarded in 2002, USAID's Office of Democracy and Governance provides $7.25 million annually in support to Solidarity Center programs in 20 countries, including: Bangladesh, Brazil, Bolivia, Dominican Republic, Ecuador, El Salvador, Georgia, Guatemala, Honduras, Indonesia, Kenya, Mexico, Nicaragua, Nigeria, Paraguay, Peru, Philippines, South Africa, Sri Lanka, and Thailand. These programs worked to:

- Strengthen the observance of internationally recognized labor standards and promoting effective enforcement once adopted;

- Support the development and strengthening of free and independent labor unions and other labor-related organizations in their efforts to support and enhance democratization, equitable economic development and a democratic political culture through encouraging effective citizen participation (especially among marginalized populations and vulnerable groups);

- Develop and strengthen national and local union leadership and programmatic capacity, with particular emphasis on providing leadership opportunities for women; and

- Improve and enhance the institutional and financial capacity of labor unions and labor civil society organizations and help them develop means of financial support, both internal and external, that will result in the reduction and eventual elimination of the need for donor funding.

Support for labor-enabling environments also includes emphasis on rule of law, human rights; freedom of association to form worker and employer organizations; promotion of competitive and well-regulated market systems; and support from government institutions.

More recently, we have undertaken a systematic review of our labor programming in the form of a Global Labor Analytical Initiative (GLAI). The findings of these reports establish the technical foundation and development practitioner tools necessary to demonstrate that investments in the labor sector produce tangible results. Initiated in mid-2007, the GLA establishes a cross-sectoral and cross-disciplinary framework for understanding the labor sector and its contributions to U.S. foreign assistance goals, including promotion of civic participation, broad based economic growth, and political accountability (as well as many other mentioned at the end of this testimony). These findings have been shared with the Department of Labor (DOL) and the State Department's Bureau for Democracy, Human Rights, and Labor (State/DRL), as well as other stakeholders.

**Analytical Findings: The Labor Sector in Development**

Under our Global Labor Assessment initiative, USAID has found that a strong and sustainable labor sector which promotes core labor rights and standards, enforces workers' rights and ability to organize, strengthens the rule of law and provides access to justice for society's most vulnerable, contributes to broad-based economic growth, and promotes decent work and access to employment and livelihood opportunities for all requires:

- An established **legal foundation** that promotes labor rights;

- Worker and employer **organizations** that bargain collectively on wages and working conditions at the firm or industry level, and advocate for their interests in labor matters, and all types of nongovernmental organizations that provide services and engage in advocacy efforts in the labor sector;

- A competitive and well-regulated **labor market** that allows for the smooth allocation of appropriately educated and skilled labor in response to the private sector's needs in agriculture, industry, and service sectors of an economy; and

- Support from **government institutions** (including executive, legislative, and judicial) for a progressively improving set of labor laws and policies, their implementation and continuous improvement, and effective systems of adjudication and dispute resolution.

**Best Practices in Programming**

From our research, a clearer picture has emerged of the work that needs to be done to ensure that our scarce resources are employed for maximum impact. Whether dealing with the miners of South Africa, the factory workers of Latin America, or the health workers of Eastern Europe, we have found that labor sector programming is most effective when, first and foremost, strategic objectives are country-specific. Also, it is crucial that programs integrate activities in new and innovative ways that respond to emerging global issues. In Bangladesh, for instance, the sudden lift of a ban on labor unions allowed for 8 new factories to become unionized last year, and some 10,000 workers were trained on conducting worker rights campaigns. Moreover, despite wide-spread outbreaks of violence around the country, there were no incidents reported at the newly unionized factories.

The labor sector must also be ready to adapt and to change, while engaging in activities that ensure long-term prosperity for individuals. In Mexico, where corporatist unions have a large foothold in the economy, independent unions have had trouble making headway with companies eager to maintain the status quo. Workers, meanwhile, are often fired by their employer, including at the request of a corporatist union, for attempting to assert their rights, and have limited recourse in the event of unfair labor practices. For all these reasons, Mexican workers have been slow to trust labor rights actors as they push for greater democracy in the work place. To overcome these structural disadvantages, some partners have begun public pressure campaigns to encourage companies to voluntarily increase their tax rate, so as to provide much needed amenities to townspeople, including running water, better schools, and stronger infrastructure. Having succeeded in this regard, our partners have used this good will to push for stronger democratic reforms at the workplace, and in this way it is hoped that truly independent, worker-based unions will soon be able to thrive.

Third, conceptualizing the labor sector using a systemic approach offers new advantages

that can render labor sector programming more nuanced and able to contribute to a broader set of objectives than has been the case in the past. Time and again we see that the workplace can be an ideal setting for a wide variety of programming interventions. Whether combating trafficking in persons where such practices are common, dispersing health advice in areas of concentrated disease outbreaks, or simply encouraging civic participation in countries not accustomed to democracy, labor needs to be considered in a cross-sectoral way to maximize impact.

Fourth, it is also important to consider how the various labor sector components are mutually reinforcing and interdependent. For example, the effective functioning of the legal enabling environment requires strong and transparent government institutions, labor sector organizations need to have enough capacity to feed evidence-based analysis and demands into the system, and markets have to function well enough that most people have work of one sort or another which the legal framework can regulate and adjudicate.

Finally, good labor laws must be accompanied by good workplace inspection systems to ensure that the laws are upheld on the job. To this end, programs may be designed to improve the labor ministry's organizational capacity for inspection, train inspectors, and improve the transparency of labor inspection activities. In some instances, programs may be developed around alternative or parallel "independent monitoring" systems that provide trained, certified, third-party monitors who carry out similar functions and report their compliance findings to interested stakeholders.

**Labor As A Cross-Sectoral Development Objective**

The positive contribution to the functioning of a community by labor sector programming goes well beyond the workers who it affects most directly. Investments in global labor strengthening can also have positive effects in many sectors, including:

**Freedom of Association:** Freedom of association serves as a foundation for all other labor rights because it means that workers have the right and the authority to join together to decide for themselves what their interests are and how to defend them.

**Rule of Law:** Labor sector organizations educate workers on rule of law issues, advocate for changes in laws and practices consistent with the fundamental principles of labor rights, represent their members' interests in bargaining, and promote improvements in democracy, governance, and economy policy that often serve public interest. They may also play key roles in representing or assisting workers in defending their "individual" rights as, in many cases, workers have neither the resources nor the knowledge of the legal processes and their rights to protect themselves.

**Political Processes:** In the process of organizing for collective bargaining, worker organizations must bring together, forge consensus and mobilize action among individuals and groups differing in race, religion, ethnicity, national origin, and other characteristics. Their efforts to promote broad based economic growth often link well with efforts to promote political justice in the electoral realm.

**Civil Society:** The labor sector is a key arena in which to build the culture of compromise that is a key to the functioning of democratic institutions, the formation of interest-based party systems, the sustainable and demand-driven development of an accountable justice system, and a strong and sustainable civil society. Worker organizations are a special subset of civil society organizations because, when properly understood, worker organizations can be engaged in ways to promote democracy-building, good governance, and economic growth as well as other labor sector issues

**Governance:** Worker organizations, employer organizations and nongovernmental organizations may find common ground in promoting good governance. They often have acted on their common interests in promoting predictable rights- and rules-based systems. For example, there is a role for labor to play in anti-corruption efforts. Workers in the public sector are often losers in corruption: Public funding may be diverted from teacher salaries and school books to a minister's offshore account, or from supporting law enforcement training to pay a drug cartel. Public sector unions have strong institutional reasons for fighting corruption.

**Economic Growth:** A properly functioning labor sector is important to the development of a liberal democracy and favorable to market-driven economic growth. Economic growth strategies that are truly broad-based must directly incorporate labor considerations in order to ensure that workers can access the education and skills, assets, rights, mobility, and livelihood and employment opportunities they need in order to benefit from the new opportunities that economic growth should stimulate. The promotion of decent wages helps to distribute the gains from trade, expand domestic demand, increase domestic savings and investment, and reduce poverty (Polaski 2003). Some studies have also shown that more equal income distribution is, in and of itself, strongly correlated with improved economic performance (Alesina and Rodrik 1994) which can also promote political and economic stability (Palley 1999).

**HIV/AIDS:** Because HIV/AIDS is a common concern for employers, workers, and government, it presents an opportunity for promoting tripartite cooperation. Labor sector organizations address health issues, particularly HIV/AIDS, where transmission and infections may occur at work, for example, in hospitals and clinics. The labor sector dimension in health programming includes the protection of rights, especially the labor rights of vulnerable groups.

**Trafficking In Persons and Forced Labor:** The International Labor Organization estimates there are 12.3 million people in forced labor, bonded labor, forced child labor, and sexual servitude at any given time. The 2008 U.S. State Department's *Trafficking in Persons Report* notes that approximately 800,000 people are trafficked across international borders each year. About 80 percent of these are women and girls, and up to 50 percent are minors. Trafficking and other criminal or exploitative activities are most likely to occur when people are desperate for work and willing to undertake great risk or pay sums of money to find employment. Unions and labor programming can play an important role in preventing trafficking in persons.

**Conflict States**: Labor sector issues directly affect the potential for conflict in two principal ways. First, labor unrest can occur and can affect relations between specific groups of workers, government, and often business. Secondly, as states gradually shift the onus for the provision of public goods to the labor market at the same time that the need for international competitiveness has a downward push on compensation, there is a greater likelihood that workers will contribute to broader manifestations of political unrest as citizens are challenged to take care of their basic needs. In the face of such instability, people need to resume earning a living either at home or in a new place of residence, or they will either starve or remain dependent on humanitarian assistance.

In closing, I will restate the importance that USAID places on labor rights and the labor sector as a cross-cutting development issue. USAID's goal is a strong and sustainable labor sector that promotes core labor rights and standards, enforces workers' rights and ability to organize, provides access to justice for society's most vulnerable, contributes to broad-based economic growth, and promotes decent work and livelihood opportunities for all.

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