



Testimony

of

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for the

Senate Finance Committee

on

Revitalizing and Renewing GSP, AGOA and Other Trade Preference Programs

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Good morning Chairman Wyden, Ranking Member Crapo, and distinguished members of the Committee. It is an honor to testify before you today on the urgent need for the reauthorization of the Generalized System of Preferences with its labor rights conditionality.

My name is Allison Gill, and I am the Legal Director of Global Labor Justice, a nongovernmental organization that works to hold corporations and investors accountable for labor rights violations in their supply chains, to advocate for policies and laws that prevent forced labor and protect decent work and just migration, and to strengthen freedom of association, new forms of bargaining, and workers' organizations.

My recommendations are not only to renew GSP, but to advocate that Congress take the opportunity to bring GSP in line with trade policy priorities and, crucially, a worker-centered trade policy, to ensure that GSP is fit for purpose for the increasingly globalized economy including a gender lens.

This testimony will focus on a few key actions that would increase GSP's potential to promote equitable economic growth through the inclusion of strong, enforceable labor provisions that protect workers' rights, help combat forced and exploitative labor, and increase accountability in global supply chains.

The GSP Program's Labor Conditionality is an Important Trade Tool to Advance Worker Empowerment, Rights, and High Labor Standards Globally

The GSP program conditions market access on democratic labor rights. Moreover, the GSP petition mechanism allows any group or individual to file a petition with the U.S. Trade Representative (USTR) to initiate a review of the labor practices of any beneficiary country.

At Global Labor Justice, our experience with the Generalized System of Preferences (GSP), established by the Trade Act of 1974, including its groundbreaking labor rights conditionality runs deep: the International Labor Rights Forum, one of the organizations that eventually merged to become Global Labor Justice, was originally founded almost forty years ago by a coalition of labor leaders and activists who came together in 1984 to help secure the inclusion of labor rights conditionality in the GSP, the first ever labor rights clause in a preferential trade program. In the decades since, we have been a leader in the use of GSP's labor rights provision to challenge labor rights abuses committed by both governments and corporations.

Over the past decades, Global Labor Justice has used the petition process to pressure the U.S. government to use its significant economic leverage to ensure that countries benefiting from GSP fulfill their obligations to undertake steps to respect workers' fundamental labor rights.

- In 2002 and 2004, we filed petitions on **El Salvador** over violations of freedom of association and the right to bargain collectively as well as anti-union discrimination and the murder of a union organizer.
- In 2006, we filed a petition on **Niger** over the government's failure to prohibit forced labor and trafficking, including caste-based sex trafficking of girls. After the scrutiny of hearings and testimony, Niger adopted an anti-trafficking law in 2010 and established a new government agency to combat the practice.
- In 2007, we filed a petition on **Uzbekistan** due to the use of systematic state-imposed forced labor and child labor to harvest cotton. Regular country practice reviews of Uzbekistan were part of a campaign of pressure that ultimately led to the elimination of state-imposed forced labor in the cotton harvest in 2021.
- We filed briefs in support of the GSP review process on **Bangladesh** initiated by a 2007 AFL-CIO petition highlighting the government's human rights violations against labor advocates as well as its failure to enforce health and safety protections. GSP benefits were ultimately suspended in 2013 after the Rana Plaza building collapse claimed the lives of more than 1,100 garment workers.
- We filed a petition in 2007 challenging the designation of the **Philippines** as a beneficiary country due to violations of freedom of association and the right to organize as well as a campaign of abduction and extrajudicial killings against union leaders, members, and organizers, as well as surveillance, harassment, intimidation, and threats against union leaders and members that had a grave chilling effect on the strength of union representation.

I would like to underscore that while there is a need to update and address deficiencies in the labor provisions of GSP, the most pressing need, fundamentally, is to reauthorize the program. For the more than three years since GSP expired, workers and their advocates have not been able to leverage the program to incentivize labor rights compliance or impose accountability for violations. I will raise the case of the Philippines as an example.

Philippines Case Study: Consequences of Non-Renewal

In 2021, Global Labor Justice, with the ALF-CIO and twenty other U.S. and Philippines-based trade unions, filed a petition under the GSP documenting brutal labor conditions, including systemic and violent repression of union leaders, in the Philippines.¹ The Philippines is historically one of the largest beneficiaries under the GSP. In 2020, GSP exports from the Philippines accounted for nearly a fifth of the country's total exports to the United States.² As its top trading partner, the U.S. has unprecedented leverage to use this trade relationship to incentive movement toward better labor conditions, and the GSP – with its power to act as both carrot and stick – is a powerful tool for this purpose.³ Until the GSP is reauthorized, however, the USTR is unable to act on the information provided in the petition. It is workers who suffer the consequences.

Since 2016, more than 60 union leaders across sectors in the Philippines have been “red-tagged” as terrorists and assassinated.⁴ In the first quarter of 2021 alone – after the expiration of the GSP and before the submission of our petition in calling for the U.S. government to withdraw special trade preferences granted to the Philippines – four trade union leaders were fatally shot.⁵ These killings have become the State's frequent response to strikes, protests, and other activity by workers to defend their internationally-recognized labor rights. Under former President Duterte, workers in sectors classified as “export-processing zones” – where goods bound for the United States and elsewhere are manufactured – were strictly prohibited from engaging in their right to freedom of association and collective

¹ See ILRF, *Labor Groups Petition US Gov't to Withdraw Trade Preference from Philippines for Labor Rights Violations*, Dec. 15, 2021, <https://laborrights.org/releases/labor-groups-petition-us-gov%E2%80%99t-withdraw-trade-preference-philippines-labor-rights>.

² Department of Trade and Industry, *Generalized System of Preferences* (Accessed Oct. 6, 2021) (<https://www.dti.gov.ph/generalized-system-of-preferences/>).

³ See The Observatory of Economic Complexity, <https://oec.world/en/profile/country/phl>. This database lists the United States as the Philippine's top trading partner in 2022.

⁴ See *Labor Groups Petition US Gov't to Withdraw Trade Preference from Philippines for Labor Rights Violations*.

⁵ See e.g., Jairo Bolledo and Rambo Talabong, *Leaders Lost: The 9 Activists Killed by Duterte Gov't on 'Bloody Sunday'*, Rappler (Mar. 8, 2021) (<https://www.rappler.com/newsbreak/ig/names-activists-killed-by-duterte-government-bloody-sunday-march-7-2021>); Aika Rey, *ICTSI Labor Union Leader Shot Dead in Manila*, Rappler (Feb. 8, 2021) (<https://www.rappler.com/nation/international-container-terminal-services-union-leader-leonardo-escala-shot-dead-manila>).

bargaining.⁶ Abuses have continued under President Marcos, with workers attempting to organize routinely arrested and imprisoned.⁷

The stated goals of the GSP are to “promote economic growth and development in the developing world,” and to “support U.S. jobs and help keep American companies competitive.”⁸ These are laudable objectives that the U.S. should continue working to achieve. However, even with renewal of the GSP – a critical first step toward these goals – **sustainable** development in GSP-eligible countries and continued American competitiveness is only possible if workers throughout the global economy are protected by universal and enforceable labor standards. Over the last two decades, negotiations between workers and employers in the Philippines have decreased by nearly 70 percent – no doubt a result of systemic retaliation by the State.⁹ Yet, during this same period, the number of workers affiliated with unions or workers’ organizations has increased by 250 percent.¹⁰ Despite the prevalence and violence of reprisals, workers continue to organize. They continue to demand a level playing field with workers across the global market, including those in the United States. This is the type of development and growth the GSP can encourage, and it should do so as explicitly as possible: with a labor rights framework aligned with the International Labour Organization’s (ILO) Declaration on Fundamental Principles and Rights at Work, additional human rights and rule of law criteria, and a minimal compliance eligibility standard.

Strengthened Labor and Human Rights Conditionality Would Expand GSP’s Potential as a Tool to Strengthen Worker Rights and Promote High Labor Standards

While international trade has the potential to create decent jobs and promote development, too often trade benefits flow to powerful multinational corporations and investors at the expense of workers and the environment. In reauthorizing GSP, Congress has the opportunity to build upon and improve GSP’s strong labor rights conditionality to ensure that GSP meets its development goals of diversifying economically developing countries and growing trade without harming American workers. This includes updating GSP’s labor rights framework, aligning labor and environmental standards to modern trade agreements, and imposing a minimal level of compliance to improve GSP as an accountability tool.

1. **Update the labor rights framework.** GSP and other trade preference programs refer to “internationally recognized worker rights.” This formulation differs in key ways from core labor

⁶ See United States Department of State, *2020 Country Reports on Human Rights Practices: Philippines*, at 39 (2020) (<https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/philippines/>).

⁷ Human Rights Watch, *Philippines: Marcos Failing on Rights*, June 28, 2023, <https://www.hrw.org/news/2023/06/28/philippines-marcos-failing-rights>.

⁸ See <https://ustr.gov/issue-areas/trade-development/preference-programs/generalized-system-preference-gsp>.

⁹ International Labor Rights Forum, *Request for Review of the GSP Status of the Republic of the Philippines for Violations of Workers Rights* (June 22, 2007) (<https://laborrights.org/publications/gsp-philippines-petition>); Bureau of Labor Relations, Department of Labor and Employment, *Statistical Reports* (<https://blr.dole.gov.ph/2014/12/11/statistical-reports/>) (hereinafter Bureau of Labor Relations, *Statistical Reports*); Marie E. Aganon, Melisa R. Serrano, and Ramon A. Certeza, *Union Revitalization and Social Movement Unionism in the Philippines: A Handbook* 5 (2009).

¹⁰ Bureau of Labor Relations, *Statistical Reports; Union Revitalization and Social Movement Unionism in the Philippines: A Handbook*.

rights as defined by the ILO Declaration on Fundamental Principles and Rights at Work, which is an expression of the obligations and commitments by governments, employers' and workers' organizations to uphold the basic values vital to our social and economic lives and ensuring a more fair economy and are inherent in ILO membership.¹¹ These include:

- a. freedom of association and the effective recognition of the right to collective bargaining;
- b. the elimination of all forms of forced or compulsory labor;
- c. the effective abolition of child labor;
- d. the elimination of discrimination in respect of employment and occupation; and
- e. a safe and healthy working environment.

GSP's "internationally recognized worker rights" framework and its enumerated rights does not include the prohibition on discrimination in respect of employment and occupation. The program's "a minimum age for the employment of children," is weaker than the ILO's requirement of "the effective abolition of child labor." Using a recognized authoritative body and standards developed and adopted jointly by governments, employers and workers as the standard for GSP and other preference programs also helps to ensure a common set of standards rather than leaving the standard open to interpretation by USTR, providing workers, governments, and importers more transparency and predictability as to what is required.

2. Include additional criteria.

- a. **Women's economic empowerment.** The Senate's USICA proposes the addition of a discretionary criterion regarding women's economic empowerment in Section 2462 (c) of the GSP, providing as a factor affecting country designation, "The extent to which such country is achieving the goals described in section 3(b) of the Women's Entrepreneurship and Economic Empowerment Act of 2018 (22 U.S.C. 2151–2(b))." The Act, enacted in 2019, recognizes that women's economic empowerment is linked to and depends upon access to other human rights, including, among others, the right to freedom from violence and exploitation, access to education, and access to fundamental labor rights.¹² It also includes guidelines for U.S. international cooperation policy, which include
 - i. To strive to eliminate gender-based violence and mitigate its harmful effects on individuals and communities including through efforts to develop standards and capacity to reduce gender-based violence in the workplace and other places where women work.¹³

¹¹ ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, Adopted at the 86th Session of the International Labour Conference (1998) and amended at the 110th Session (2022), <https://www.ilo.org/resource/conference-paper/ilo-1998-declaration-fundamental-principles-and-rights-work-and-its-follow>.

¹² Public Law 115-428, Women's Entrepreneurship and Economic Empowerment Act of 2018, <https://www.govinfo.gov/content/pkg/COMPS-15265/pdf/COMPS-15265.pdf>.

¹³ Id. at Sec. 3 (b)(2).

- ii. To increase the capability of women and girls to fully exercise their rights, determine their life outcomes, assume leadership roles, and influence decision-making in households, communities, and societies.”¹⁴

Global Labor Justice supports the inclusion of criteria that recognize the role of gender and gender-based violence and harassment (GBVH) on compliance with core labor standards for GSP eligibility. GBVH and access to freedom of association are interlinked and mutually reinforcing as essential to creating safe and equitable workplaces that empower workers individually and collectively. This is a core principle enshrined in C190, the ILO’s Violence and Harassment Convention, which recognizes the interconnection, within discrimination, between GBVH and freedom of association.¹⁵ In 2024, the fifth anniversary of the adoption of C190, it is timely and appropriate to include the elimination of GBVH and the acknowledgement of the ability of women workers to fully enjoy their human and labor rights as a key criterion for GSP benefits.

- b. **Human rights:** Both the Senate USICA and House America COMPETES bill propose the addition of a new mandatory human rights criteria under Section 2462(b)(2) of the GSP, providing as a basis for ineligibility that “Such country engages in gross violations of internationally recognized human rights in that country (including any designated zone in that country).”

Global Labor Justice supports the inclusion of additional human rights criteria in GSP. Such criteria, properly applied, would be grounds to withdraw benefits from countries that use state power to persecute trade unionists, labor advocates and monitors through violence, arbitrary arrests, spurious charges and convictions, or targeted harassment, or where wide scale human rights violations hurt working people.

- c. **Rule of law:** Both the Senate USICA and House America COMPETES bill propose the addition of a new discretionary criteria regarding the rule of law to Section 2462 (c) of the GSP, providing as factors affecting country designation, “The extent to which such country has established, or is making continual progress toward establishing—the rule of law, political pluralism, and the right to due process, a fair trial, and equal protection under the law.

Global Labor Justice strongly supports the inclusion of rule of law criteria in GSP. These criteria acknowledge the rising tide of authoritarianism and closing space for civic and democratic participation around the world and provides a tool for workers and their

¹⁴ Id. at Sec. 3 (b)(4).

¹⁵ C190 - Violence and Harassment Convention, 2019 (No. 190), https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB%3A12100%3A0%3A%3ANO%3A%3AP12100_ILO_COD_E%3AC190.

advocates to combat these trends. Democracy in the workplace is fundamental to healthy, inclusive democracy, which has put unions and workers in the crosshairs of repressive governments seeking to limit participation and pluralism. The inclusion of rule of law criteria would allow for scrutiny of a beneficiary country's practices, such as whether it uses arbitrary detention and denial of due process and equal protection rights to silence union and worker leaders.

3. **Impose a minimal level of compliance with international labor standards.** Under the previous preference program, a country only needed to demonstrate it was "tak[ing] steps to afford" internationally recognized worker rights. Countries with horrendous labor practices could thus be eligible so long as they demonstrated minimal improvement of labor standards.

A change in phrasing from "has not taken or is not taking steps" to "fails to effectively afford" shifts the standard in GSP from one that is process-based to one that is outcomes-based. This more clearly establishes the minimum threshold that a country must meet to qualify for eligibility. Under this standard, a beneficiary country would not be able to fulfill the mandatory minimum by pointing to superficial actions as "taking steps" absent real changes for workers.

Accompany GSP Reauthorization with Trade Adjustment Assistance

Finally, we believe that labor justice begins at home. While we urge Congress to reauthorize GSP, we urge you to do it with a renewal of Trade Adjustment Assistance. TAA provides crucial resources to retraining workers who have experienced negative trade impacts and helps ensure that trade preference programs are part of a holistic worker centered trade policy that balances the development potential of trade incentives with support for American workers to adapt to the globalized economy. Strong labor standards and protections for workers on both sides of the trade relationship are good for all workers. We support our sisters and brothers in the US labor movement who have called for GSP renewal to be paired with TAA.

In closing, we urge the Committee to work towards reauthorization of GSP, together with benefits to workers affected by trade, as well as to use this opportunity to update the labor and human rights standards for the reality of the 21st century economy and conditions faced by workers including with a gender lens. Thank you.