

BEFORE THE UNITED STATES TRADE REPRESENTATIVE

POST-HEARING BRIEF

ON THE PETITION TO REMOVE

GEORGIA

**FROM THE LIST OF ELIGIBLE BENEFICIARY DEVELOPING COUNTRIES
OF THE GENERALIZED SYSTEM OF PREFERENCES (GSP)
PURSUANT TO SECTION 19 USC § 2462(d)**

FILED BY

**THE AMERICAN FEDERATION OF LABOR
& CONGRESS OF INDUSTRIAL ORGANIZATIONS (AFL-CIO)**

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I. Information Required Pursuant to 15 CFR § 2007

A. Party Submitting Petition:

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B. Country Subject to Review:

Georgia

C. Section of Law Warranting Review

19 U.S.C. § 2462(c)(7)

D. Basis for Petition:

The Government of Georgia (GOG) has not taken steps to afford its workers internationally recognized worker rights, as required under the Generalized System of Preferences (GSP), 19 U.S.C. § 2462(c)(7). This post-hearing brief provides brief follow-up answers to questions posed by the Committee at the hearing. It should be read as a supplement to prior filings, testimony, and briefs.

II. Follow-up to Hearing Questions

- A. In your original petition, you noted that the largest union federation was on the verge of collapse after the government discontinued automatic dues-check off and supported a so-called “yellow union.” What is the status today of the teachers’ union and what caused the change?

The Teachers’ Union (ESFTUG) is the only case involving severe violations of trade union rights and union-busting efforts in which our partners have reported some improvements. Slowly, and with great effort, the Teachers’ Union has managed to increase membership. In 2016, a general agreement was signed between the Teachers’ Union and the Ministry of Education and Science of Georgia resulting in restoration of the union’s ability to negotiate dues check-off, on a school by school basis. This was achieved as a result of GTUC’s fight to change labor legislation in 2013 to strengthen protections for workers and trade union members in Georgia. The 2012 change in government also played an important role, providing more freedom for the Teachers’ Union to operate. However, the situation remains fragile. Hence, the AFL-CIO believes that more should be done to strengthen social dialogue with the Ministry of Education towards a more fulsome demonstration of respect for trade union rights in the sector, for

example through comprehensive dues check-off throughout the school system, and support for collective bargaining throughout the sector.

- B. Around the world, countries have adopted various models for inspecting labor rights. In your view, what are the basic principles of enforcement for inspection regimes in order to afford labor rights, and what steps should the Government of Georgia take to meet these principles?

The Government of Georgia must improve its existing occupational health and safety (OSH) law to bring it in full conformity with international standards (for example, ILO Conventions 81 and 153). The establishment of a fully-fledged Labor Inspectorate, which must have full authority to inspect for both OSH and non-OSH worker violations, will ensure better protection of workers' rights and introduction of a real enforcement mechanism for Georgia's labor legislation. The Labor Inspectorate must be required to oversee implementation of labor rights, including issues of discrimination in employment, as is the case in other European countries. In addition, the Labor Inspectorate must have unconditional access to enter enterprises without prior court authorization and regardless of whether the workplace has been determined to be especially hazardous. As the USTR well knows, even work not typically considered "extremely hazardous" can become life threatening when workers lack the freedom to raise safety concerns without facing retaliation and discrimination. Further, the AFL-CIO recommends strengthening tripartite oversight of labor inspections and the establishment of the Labor Inspectorate as an independent body (not under the Ministry of Labor) responsible to social partners.

- C. The government, in its submission, refers to increasing meetings of the Tripartite Social Partnership Commission (TSPC) and an increasingly substantive workload. Do you agree with this view, and is this body important to improving social dialogue?

Our partners agree that the Tripartite Social Partnership Commission (TSPC) is an important body to address labor and labor-related issues in Georgia. However, in practice, TSPC is not always functional and effective, in part because the government does not ensure regular meetings, as required by legislation and the charter of the commission. The TSPC is lagging in implementation of an action plan for 2018-2019. The TSPC failed to discuss initiatives presented by the GTUC as reflected in the aforementioned action plan. Of particular importance, the TSPC has failed to complete work on a package of amendments to help align Georgia's labor legislation with EU directives reflected in the EU-Georgia Association Agreement; a preferential tax system and special pension scheme for workers in the mining sector; the introduction of unemployment benefits; and the ratification of ILO Conventions 81, 155, 176, 183, and 156. Georgia's budget with respect to employers and workers issues was discussed without the participation of social partners. This failure is important because trade unions should be informed in advance about the social-economic policies and priorities of the government and be able to provide relevant input before decisions are final. For example, a draft law on civil servants directly affecting GTUC members was initiated by the government and presented to the Parliament of Georgia without any communication with trade unions or consideration by the TSPC. Therefore, while minimal progress has been made with respect to

social dialogue, there is far to go. The Government of Georgia has not yet instituted a reliably functional system.

- D. In the recent past, Georgia has suffered a number of major industrial accidents, leading to loss of life, especially in the mining sector. Do you anticipate that the new OSH law, when fully implemented, will better protect workers in these hazardous industries? Are there sectors that should have been included in the hazardous list that were not?

The GOG is far out of compliance with its obligation to take steps to afford workers acceptable conditions of work with respect to occupational safety and health, pursuant to 19 U.S. Code § 2467(4)(E). While the introduction of the OSH law—if promptly and thoroughly implemented—should decrease the number of fatal accidents and injuries at workplaces, including in the mining sector, it will take time to determine whether the law will be thoroughly implemented. Moreover, even when fully implemented, it will not address all safety and health issues. Under the law, even though inspectors do not require prior permission from the enterprise to enter the premises if the occupation has been determined to be “harmful and hazardous,” inspectors are required to seek court authorization to enter enterprises in cases of reported violations of safety regulations. There has not yet been a single case of court order providing such authorization. We continue to have concerns about OSH compliance in occupations not deemed “harmful and hazardous.” The AFL-CIO joins Georgian trade unions in recommending that Georgia’s OSH law cover all economic sectors without exception. The GOG, if necessary, can seek advice from the ILO for additional guidance on how to ensure that its OSH law complies with internationally recognized standards.

III. Conclusion

For the reasons stated above and at the hearing, the AFL-CIO urges the suspension, in whole or in part, of duty-free treatment pursuant to the GSP unless the Government of Georgia demonstrates, in a time-limited manner (e.g., the next six months), that it is taking concrete and effective steps to change law and practice to ensure that workers can exercise their internationally recognized worker rights. These steps should include measurable benchmarks (e.g., the immediate establishment of a robust labor inspectorate that is responsible for comprehensive labor law enforcement and the amendment of relevant labor laws in line with internationally recognized worker rights, using ILO guidance).

We emphasize that neither promises nor mere changes in law, without following through in practice, constitute “taking steps to afford internationally recognized worker rights” as is required to remain eligible to receive GSP benefits, pursuant to 19 U.S.C. § 2462(c)(7).