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OFFICE OF THE U.S. TRADE REPRESENTATIVE

PUBLIC COUNTRY PRACTICE HEARING
U.S. GENERALIZED SYSTEM OF PREFERENCES (GSP)

THURSDAY
NOVEMBER 29, 2018

The Office of the U.S. Trade Representative met in Conference Rooms 1 and 2, 1724 F Street, N.W., Washington, D.C., at 10:00 a.m., Erland Herfindahl, Chair of the GSP Subcommittee, presiding.

PRESENT
ERLAND HERFINDAHL, GSP Subcommittee Chair
BAMA ATHREYA, USAID
RAQUEL COHEN, Department of Commerce
CONOR HARRINGTON, USTR
OMAR KARAWA, Department of Agriculture
EMMA LAURY, Department of Labor
LAUREN MANDELL, USTR
PETER MAIER, Department of the Treasury
SAGE MITCH, Department of the Treasury
MICHAEL O'DONOVAN, USTR
TOM PAJUSI, Department of State
ZEBA REYAZUDDIN, USTR
ALSO PRESENT

AL-HAMZA A. AL-JAMALY, Attache, Embassy of Iraq
BENJAMIN BANCO-FERRI, Advisor to the Bolivian
   Minister of Foreign Affairs
FRANCISCO BENJAMIN CARRION MENA, Ambassador of
   Ecuador to the United States
LEVAN BERIDZE, Counselor, Embassy of Georgia
R. DOAK BISHOP, King & Spalding LLP
KIRILL BOYCHENKO, Cotton Campaign Coordinator, ILRF
JUAN CARLOS SANCHEZ, Deputy Chief of Mission,
   Embassy of Ecuador
KEVIN CASSIDY, Director and Special
   Representative to Bretton Woods and
   Multilateral Organizations, ILO
CELESTE DRAKE, Trade and Globalization Policy
   Analyst, AFL-CIO
NINOSKA DURAN BURGOA, Director General for
   Childhood and Elderly Persons, Ministry of
   Justice and Institutional Transparency
SERGIO ALBERTO FERNANDEZ RUELAS, Head of the
   Regional Integration Department, Ministry of
   Foreign Affairs of Bolivia
BRIAN FINNEGAN, Global Labor Rights Coordinator,
   AFL-CIO
DOUGLAS J. HEFFNER, Drinker Biddle & Reath LLP
   on behalf of Dole
ELZA JGERENAIA, Head of Labour and Employment
   Policy Department, Ministry of Labour, Health, and Social Affairs, Government of Georgia
NOPPADON KUNTAMAS, Minister (Commercial), Office
   of Commercial Affairs, Royal Thai Embassy
STEVE LAMAR, Executive Vice President, American
   Apparel & Footwear Association
RAISA LIPARTELIANI, GUTC Vice-President
REZA PAHLEVI CHAIRUL, Commercial Attache,
   Embassy of Indonesia
ANDRES R. ROMERO-DELMASTRO, Supervising Counsel,
   Enterprise Litigation, Chevron
MARIDETH SANDLER, Sandler Trade LLC
JOHN SIFTON, Advocacy Director for Asia, Human Rights Watch
AMIR SULTANOV, Second Secretary, Embassy of Uzbekistan
ANGKANA TECHAGOMAIN, Director of International Relations Standards Group, Department of Labour Protection and Welfare, Government of Thailand
VIVATHANA THANGHONG, Deputy Permanent Secretary, Acting Director-General, Department of Labour Protection and Welfare
CHETWUT THRIRATTANAWONG, Advisor to the Minister (Commercial), Office of Commercial Affairs, Royal Thai Embassy
ANUSIT UNTIM, Legal Officer, Department of Labour Protection and Welfare, Government of Thailand
JAVLON VAKHABOV, Ambassador of Uzbekistan to the United States
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Adjourn. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 258
MR. HERFINDAHL: Good morning and welcome to USTR. I call this public hearing to order. My name is Erland Herfindahl. I'm the Deputy Assistant U.S. Trade Representative for the Generalized System of Preferences and the Chair of the GSP Subcommittee of the Interagency Trade Policy Staff Committee.

This is the GSP Subcommittee here you see before you. As you all know, GSP is the United States's largest and oldest trade preference program, providing duty-free access to the U.S. market for thousands of products from 121 developing countries and territories.

However, GSP benefits are not automatic. Congress has established a set of 15 eligibility criteria that beneficiary countries must meet if they are to receive GSP benefits. These criteria include, but are not limited to, acting in good faith in enforcing arbitral awards, taking steps to afford internationally
recognized worker rights, implementing
commitments to eliminate the worst forms of child
labor, the extent to which a beneficiary country
has assured the United States that it will
provide equitable and reasonable access to its
markets, and providing adequate and effective
protection of intellectual property rights.

Today we will be looking at seven
countries on the agenda and whether they're
meeting the GSP eligibility criteria. Uzbekistan
is being reviewed for its compliance with the
worker rights and intellectual property
protection criteria.

Iraq is being reviewed for its
compliance with the worker rights criteria.
Ecuador is being reviewed for its compliance with
the arbitral awards criteria. Thailand is being
reviewed for its compliance with the worker
rights criteria.

Georgia is also being reviewed for its
compliance with the worker rights criteria.
Bolivia is being reviewed for its compliance with
the child labor criteria. And lastly, Indonesia
is being reviewed for its compliance with the
intellectual property rights criteria.

Laos is also being reviewed for
designation into the GSP program but is not
represented at the hearing today.

We will be hearing from many witnesses
and various perspectives during this hearing
including private businesses, foreign
governments, and non-government organizations.

The issues we're looking at today are
highly country-specific. But for each case,
we're trying to answer one basic question. Is
the country meeting the GSP eligibility criteria
or not? Now let me take a moment to go over some
of the logistical details for this hearing.

The hearing was announced on the
Federal Register Notice published on October
15th, 2018. All public submissions for this
hearing, including the original petitions, are
available for review on regulations.gov under the
docket numbers listed in the Federal Register
Notice.

Let me clarify that each country has a separate docket number. So if you're filing things, make sure to put it in the right docket. We do have copies of both the agenda and the Federal Register Notice out in the hall.

A transcript of this hearing should be posted within about two weeks, and post-hearing briefs are due by midnight on December 17th, via the relevant docket numbers in regulations.gov. We'd like to emphasize that the post-hearing brief provides an opportunity for witnesses to expand on their testimony or to respond to testimony by others.

Parties appearing today may also receive additional post-hearing questions from the Subcommittee in about a week or so. Your responses to these questions should be included in the post-hearing briefs. This hearing is open to the press. Do we have any members of the press here today? Thank you. Could you introduce yourself please?
MR. BRADLEY: Brian Bradley, American Shipper.

MR. HERFINDAHL: Okay. Thank you.

Each witness is limited to five minutes of oral testimony, and we'd like all witnesses to abide by this time limit as we have a full day of testimony ahead of us and we don't want to fall further behind in the schedule.

Following the oral testimony, the U.S. government panel here will ask questions. Again, if you don't feel prepared or -- at the moment, to respond to something that the government asks, you can just simply say that you'll respond in writing in the post-hearing brief. So, with that, I'd like for all of my fellow committee members to introduce themselves.

MR. KARAWA: Good morning. My name is Omar Karawa, from the Department of Agriculture. Thank you.

MS. ATHREYA: Good morning. Bama Athreya from the U.S. Agency for International Development.
MS. LAURY: Good morning. My name is Emma Laury, and I'm from the Department of Labor.

MS. REYAZUDDIN: Zeba Reyazuddin, USTR, Office of South and Central Asian Affairs.

MR. MAIER: Peter Maier, Department of Treasury.

MS. COHEN: Good morning. Raquel Cohen, from the Department of Commerce, the IP office.

MR. PAJUSI: Tom Pajusi, the Department of State, Office of Multilateral Trade Affairs.

MR. HERFINDAHL: And I'd also like to finally thank Yvonne Jamison and Lauren Gamache, who put a lot of work into preparing for this hearing. With that, I turn to the Ambassador from Uzbekistan for your opening statement. Please speak into the mic when you make your remarks. Thank you.

MR. VAKHABOV: Thank you, Mr. Chairman and distinguished members of the GSP Subcommittee, ladies and gentlemen. I should
note that, at the beginning, the Minister of 
Commerce of Uzbekistan was supposed to attend 
today's event.

Unfortunately, due to his commitments 
and very busy schedule, last week I was informed 
that he would not be able to attend today's 
meeting. And the government of Uzbekistan 
authorized the embassy, namely the Ambassador of 
Uzbekistan to the United States, to represent our 
officials today, here in this room.

So I welcome the opportunity to speak 
at this Subcommittee on behalf of my government, 
not only to brief you on what and how Uzbekistan 
has done in order to ensure labor and 
intellectual property rights, but to share with 
you what my country is today.

So we admit that we were not good 
enough in addressing the human rights issues 
before. Not everything that could be done was 
done, I should confess. Children, students, 
teachers, doctors, and other employees of state-
run organizations were mobilized on a mass scale
to pick the cotton. There was no independent monitoring of the harvest, neither access of foreign NGOs nor activists to the fields, was fully provided.

Frankly speaking, freedom of speech and the press were suppressed. And, of course, there was no adequate protection of IP rights. But all of this were in the past. Today, with the new leadership of Uzbekistan, I represent a new country, a new face of Uzbekistan, the state of a progressive transformation and, to a large scale, irreversible reforms, ensuring free society and good governance, justice and rule of law.

The country where the government is committed to effective, people-oriented policy with a paramount principle, people's interests come first. So taking into account those two key items that were listed in the agenda, I would like to start from the labor issues.

Today, as you may know, in Uzbekistan, child labor is no longer an issue, and forced
labor is being systematically eradicated. The strong message from very presidential administration to every -- to every government officials, to every single employer is forced labor is not acceptable and will not be tolerated, regardless of the title or the position of the perpetrator.

We've provided full, unimpeded access to international third-party monitors and maintaining of constant dialogue with NGOs, civil society activists, and media. The ILO has been monitoring the cotton harvest in Uzbekistan for child labor since 2013.

But here, I will refer to ILO's 2018 third-party monitoring three basic findings. First, the ILO confirms that the systematic use of child labor in the cotton harvest has ended and is no longer a concern. Second, there was no systematic recruitment of students, nurses, doctors, and teachers in 2018.

Third, 93 percent of those involved in the 2018 cotton harvest worked voluntarily. In
Close cooperation with ILO, Uzbekistan has implemented the Decent Work Country Programme that was extended to 2020 in order to improve employment opportunities, working conditions, and social protections.

We have actively engaged with the World Bank through implementing five-year partnership program on agricultural reform, which included measures to prevent forced labor, and IFC, International Financial Corporation, on the project aimed at improving prevent forced labor.

Environmental sustainable cotton production, which meets international standards and minimizes the risk of using forced labor in the cotton sector. This year, human rights activists who were involved in a number of field interviews, awareness raising activities and reviews of cases. No government representatives were involved in the monitoring.

Moreover, the representatives of ILO randomly choose the sites, fields, and conduct inspections on the ground. The representatives
of Human Rights Watch and Cotton Campaign who
used to be treated as least welcomed foreigners
in Uzbekistan or, saying diplomatically, non --
persona non grata, now are regularly visiting
Uzbekistan.

And they are meeting with, actually,
all officials, all members of the government, and
even with the Deputy Prime Minister, who is
dealing with issues aimed at eradicating both
child and forced labor in Uzbekistan. Since
January 2018, at least two times the
representatives of Cotton Campaign visited
Uzbekistan. Just recently, the co-founder of
Cotton Campaign, Mr. Ben Freeman, visited
Uzbekistan a second time. And by the end of this
year, he will be traveling again to Uzbekistan.

And, as you may know, last year we --
last year, the representative of Human Rights
Watch, Mr. Swerdlow, also was accredited by the
Minister of Justice. And the Embassy of
Uzbekistan here in D.C. provided him with one
year, multiple visa. So he is free not only to
travel to Uzbekistan, but also to meet everyone
he requires, to arrange such meetings.

Government officials are actively
engaged in and maintaining dialogue with human
rights activists monitoring the cotton harvests.

A person who you may -- heard many times as
Shukhrat Ganiev, Elena Urlaeva, Malohat
Eshonqulova, Uktam Pardaev, and many, many
others, to name a few, have regular consultations
with all relevant stakeholders.

Foreign media that for many years now
has a critical approach to everything occurring
in Uzbekistan from abroad, now has an opportunity
to monitor developments in my country being on
the ground. Everybody's favorite, Voice of
America, started operating in Uzbekistan from May
this year.

And just recently a correspondent of
Eurasianet, Mr. Peter Leonard, has got his
accreditation in the Foreign Ministry. By the
way, the correspondent of the Voice of America,
Navbahor, is right now staying in Uzbekistan.
Also, she took part just recently in
the Asian -- international Asian human rights
conference that was held in Samarkand last week.
National media and blogger community of
Uzbekistan do not yield those foreign media in
putting on the public agenda all the issues they
deeb necessary.

Second, a year ago at the United
Nations General Assembly in New York, President
Mirziyoyev committed his government to working
with the ILO and the World Bank to eradicate
child and forced labor in the harvest. This
political commitment was followed by a number of
structural changes and reforms in recruitment
practices.

The ILO monitors have observed that
these measures are working, and people on the
ground can feel a real difference. And, by the
way, it's not my words. I'm citing words that
belong to Ms. Beate Andrees, Chief of the ILO's
Fundamentals Principles and Rights at Work
Branch, comments on the outcomes of the 2018
harvest.

So, in fact, we've increased wages and introduced a differentiated pay scale so that pickers are paid more per kilogram of cotton towards the end of the harvest, when conditions are less favorable and there is less cotton to pick.

The wage structure was further refined in 2018 to encourage mobility by rewarding those who were willing to pick in less densely populated districts with lower yields. The ILO highlighted that the wages paid to pickers were doubled, in comparison with 2017.

It is also found that pickers were paid in full and on time. This undeniable fact was also confirmed by the World Bank. Moreover, the land allocated for cotton growing has been significantly reduced by reducing the production of raw cotton at 350,000 tons.

About 170,000 hectares of irrigated land will be released by 2020.

Third, a parliamentary commission on
ensuring the guaranteed labor rights is effective
in reaching its main goal, oversight, the
implementation of legislation, and international
treaties of the Republic of Uzbekistan to
prevent, deter, and eliminate the risks of child
and forced labor in my country in any form.

Fourth, we have improved public
awareness of prohibited labor practices. The
message that the forced labor is prohibited by
law and entails administrative and criminal
liability has been delivered across the country.

Government hotlines are effectively
being used to hear complaints and all voices of
the people concerned. The hotlines dealt with
more than 205 -- I'm sorry -- 2,500 cases in
2018, mostly related to illegal discharge and
disciplinary measures, payment of wages and other
allowances, and only 4 percent was related to the
forced labor.

More than 200 heads of different
organizations were brought to justice for abuses
of the labor rights during 2018 harvest, and more
than 30 percent of those who had been disciplined for such violations were local hokims, mayors, and heads of law enforcement authorities. The disciplinary action included dismissals, demotions, and fines.

Fifth, we're continuing to improve our national legislation in compliance with international standards. We made new amendments to the labor code aimed at ensuring better work conditions, criminal code, and the administrative liability code, that increases liability for violation of labor employment and labor protection laws, including the use of child labor and administrative coercion to work, law on labor migration to more effectively address human trafficking and ensure decent employment guarantees abroad.

We recognize that there are some difficulties with implementation of our laws and international obligations at the regional level. But they are all reduced to a few incidents which are not systematic in nature. In all such cases,
the offenses continue to be prosecuted to the
fullest extent of the law.

No one, no one, irrespective of his
rank does go with impunity for any misconduct.
All public officials are responsible for abuses
of rights and freedoms of people. And here is a
picture, the reason why the Deputy Prime Minister
of Uzbekistan, for the first time in our history,
was dismissed from his post.

Sixth, we have focused our efforts in
modifying agricultural policy that make the use
of forced labor economically unviable and
unnecessary. In 2017, Uzbekistan has started
implementation of the pilot project, basically in
the regions, that is aimed at achieving
responsible cotton production consistent with
sustainability, the use of best practices, and
traceability in the supply chain. The goal is to
de-monopolize the cotton production in
Uzbekistan, its processing and making and use,
textile goods, transferring them -- I'm
underscoring here -- transferring them to private
companies, private sector, that will use the cluster approach. The way, you know well, I believe.

Based on the results, the government of Uzbekistan is committed to implementing this new market mechanism all over the country. Starting from 2018, about 85 percent of Uzbekistan's cotton will be harvested by machines, including those that are produced by U.S. companies, John Deere and CNH Industrial.

The new Uzbek-American joint venture, Silver Leaf Agri-Tech Group, are creating full technological chain from growing cotton to producing cotton goods through introducing more GPS-based cotton harvesters that precludes any use of human labor.

Here, I'd like to show some pictures that were released just recently. Those tractors that have been -- landed in Uzbekistan and started operating in the Jizzakh region, that's not far from our capital, Tashkent, by the way, with our esteemed American partners. Moreover,
here I would like to note that within the framework of the visit by Secretary Ross to Uzbekistan last month, the government of Uzbekistan concluded an agreement with the John Deere Company on supplying more than 500 tractors to Uzbekistan within coming two years.

And according to the new presidential decree, more than 10,000 units of agricultural machinery, starting from cotton cultivators and ending with plugging and cotton harvesters, will be provided to the regions of Uzbekistan. And most of them will be delivered from the United States.

With your permission, Mr. Chairman, I would like to switch to the next item of today's agenda, intellectual property rights. For many years, we were criticized for not ratifying the Geneva Convention for the Protections of Producers of Phonograms of 1971, WIPO Copyright Treaty of 1966, and WIPO Performances and Phonograms Treaties of 1969.

We are remaining faithful to our
commitments that was reiterated by the President of Uzbekistan, Shavkat Mirziyoyev, in the joint statement with President Trump on May this year. And here is a draft law on accession to all of these treaties. I would like to show you the draft that I just recently received. The draft that was passed over to the national assembly of Uzbekistan for further ratification.

And I would also like to draw your attention to the signature, the signature of the Prime Minister of Uzbekistan, that means that the draft was approved by the cabinet ministry, by the government of Uzbekistan.

And now it is being considered by members of Uzbek parliament. And we expect that, by the end of this year, this law will be passed. Moreover, we are improving institutional capacity and creating legal perquisites for their effective implementation.

First, the interagency task group was created to take appropriate measures to detect, prevent, and suppress the infringements of rights
of IP right holders, monitor for and take actions against infringers, including in the internet, raise legal awareness, and interact with local authorities and interlopers to ensure IP holders' rights.

Second, inspection of control in the field of communications and IT was established this year to monitor and detect the infringements of copyrights in internet. Two special departments under the inspection were commenced and dedicated to combat piracy. One is to the phonogram audiovisual works, and the other is for software.

Third, Uzbekistan authors society is going to be established very soon with the primary goal to ensure protection of copyright and allied rights of authors and other IP right holders. It will be -- it is a non-governmental, not-for-profit organization established by the authors and other right holders for the management of their rights on a collective basis.

Fourth, Department of Combating
Economic Crimes under the General Prosecutor's Office is vested with the new authority to combat with the unauthorized use of intellectual property objects and identify violations of IP rights and eliminate the causes and conditions which foster them.

Fifth, we are establishing a specialized intellectual property court which jurisdiction will be focused on judicial review of the government's legal acts and decisions in the field of IP rights, handling of certain types of IP disputes, patent disputes, validity of IP rights, et cetera, and enforcement of IP rights against piracy and counterfeiting activities. And the last point, we are manning the criminal and administrative liability code aimed at strengthening accountability for intellectual property infringers.

Mr. Chairman, distinguished members of GSP Subcommittee, so as you can see so far, a great deal has been done and much more will be done, I can assure you. We are gradually --
follow our path of reforms that are being
implemented, not for the sake of reforms, and
much less, not to please someone, even here, but
to serve, primarily, the interests of our
ordinary people.

So, however, given all the progress as
it has been achieved so far, that goes in line
with GSP eligibility requirements, I believe.
And our unwavering commitment, I think it is
high. It is the right time to dismiss all
petitions that had lost much of its relevance
today.

So now I'm ready to answer your
questions and to provide more detailed
information with regard to other engagements, in
terms of solving all those issues raising -- we
are raising today. Thank you so much.

MR. HERFINDAHL: Thank you very much,
Mr. Ambassador, for your comprehensive statement
on both worker rights and intellectual property
rights. So I think we'll start with a few
questions on intellectual property rights before
moving on to some questions on worker rights.

MS. COHEN: Great. Thank you. I'm
going to ask a multi-part question. And I
believe a lot of these questions you addressed in
your introduction. But I'm going to go ahead and
ask these questions as well.

In your submission, you attached a
draft law acceding to the Geneva Phonograms
Convention, the WIPO Copyright Treaty, and the
WIPO Performances and Phonograms Treaty. Now
that this draft law has been submitted to the
parliament, what additional steps must the draft
go through before becoming law, and how long do
you expect these steps will take?

The submission notes that the national
laws on copyright will need to be amended to
comply with the requirements of these treaties.
Do you have an update on that process? And
lastly, do you have an implementation time-line
once the law is approved? Thank you.

MR. VAKHABOV: Thank you very much for
the question. So as I pointed out, the law
itself is supposed to be passed by the end of 
this year. And these updates come from the Uzbek 
parliament. And in December, both chambers of 
the Uzbek national assembly will come together. 

And this law is expected to be 
approved by both chambers simultaneously. And 
later, the bill itself will be passed over to the 
president's administration for signing. So the 
next step -- we expect that the special roadmap 
on implementing all of those three international 
conventions will be drafted and later also 
approved by the parliament itself. 

And this roadmap will be further 
handed over to the government and all relevant 
agencies of Uzbekistan for its proper 
implementation. Actually, it will take about one 
or two months, I mean, for the development of 
that roadmap. 

What concerns time-frame works for all 
items that will be envisaged by that roadmap, I 
think the time-frame work itself will be defined 
by the relevant agencies in further interagency
plans of actions.

So -- and I believe there will be precisely a lot of changes to the national legislation, even those that I've pointed out in my speech before. It could be further provided after comprehensive analysis of the entire IPR legislation. However, I can tell you for sure that national treatment will be implemented and the foreign right holders will be given protection not less than the national ones.

A minimum fixed amount of compensation for infringing intellectual property right will be indicated. So these first steps that are supposed to be taken very soon. And, once again, on behalf of the government of Uzbekistan, I can reassure the government of the United States that the law itself will be passed absolutely, definitely.

There is no doubt. But the next step is related to implementing this law into practice and -- absolutely. And I expect that we'll be facing some challenges even, especially those
that I've mentioned about with regard to the
implementation of our national laws at the
regional level.

So meanwhile, the government of
Uzbekistan is committed to implementing both the
law and the roadmap that is supposed to be issued
very soon after the approval of that law by the
president. Thank you.

MS. COHEN: Mr. Ambassador, if I could
just ask a follow-up question on this? Given
that the parliament has -- the committee, the
cabinet committee, has already approved the draft
law, isn't the IP agency and other relevant --
aren't the IP agency and the other relevant
government agencies already working on a roadmap
for the implementation, or are they waiting for
the law to be passed to work on that special
roadmap?

MR. VAKHABOV: I think -- I'm sure
that those relevant agencies started drafting the
roadmap right after the visit of the president of
Uzbekistan to the United States and right after
he took commitments that were laid out in the
joint statement that was issued the next day
after the talks at the White House in May.

But they are pending. They are
waiting for the approval of the law. And I
believe right the next day, the roadmap itself
will be passed to the government for the
approval.

MR. HERFINDAHL: Thank you. I think,
in the interest of time, we do have some
additional questions on intellectual property
rights, but we'll provide them to you in writing
for a response in the post-hearing brief. I'd
like now to have a few questions on the labor
side.

MS. LAURY: Good morning and thank you
for your testimony. I have a question with
respect to the punishments that have been issued
against people in Uzbekistan.

In your testimony this morning, you
mentioned that the government has disciplined
officials that have been liable for forced labor,
including 30 dismissals for, quote, enforced labor and violation of labor legislation. Do these dismissals include officials that have been unable to meet the required quota for harvested cotton in their regions?

MR. VAKHABOV: As I mentioned, more than 200 heads of different organizations, mainly state-owned organizations, were brought into justice. And here, I'd also like to note that dozens, at least 12, as far as I know, 12 governors were fired -- were fired by the leadership of the government of Uzbekistan, again, for those abuses related to the use of forced labor during the 2018 harvest. And most of them are mayors of the Uzbek districts and even the governors of the Uzbek provinces as well.

MS. LAURY: But have there been any dismissals or punishments against local authorities who have not met cotton quotas?

MR. VAKHABOV: Yes. As I pointed out, the disciplinary action itself includes three key
punishments, dismissals, demotions, and fines.
And those people also were fined as well.

MS. REYAZUDDIN: With regards to wages, you stated that wages have increased dramatically in the past two years, while the price the government pays for cotton has also reportedly increased.

It has not increased nearly enough to cover the increased labor costs. How are farmers paying the increased wages if they're not making significantly more for the cotton?

MR. VAKHABOV: So, as you may know, the government of Uzbekistan is very supportive of the agricultural sector itself. And we provide our farmers with loans. We -- moreover, the government of Uzbekistan helps them to get even tractors, harvesting machines, et cetera.

And, in this regard, I should say that those farmers who are engaged in the cotton-picking industry are actually self-sufficient. And the government of Uzbekistan proceeds from the understanding that prior to the distribution
of those lands with cotton, we are mainly focusing on those farmers who are able to -- not only to pick the cotton on time, but also to cover all payments with regard to even wages as provide -- wages to those who are engaged in cotton-picking processes in Uzbekistan.

MS. ATHREYA: Thank you, Mr. Ambassador. And following on that previous question, we do understand that there are reports, continued reports, from farmers that it is not profitable to sell to the state.

We also understand that, for many years, the land allocated to cotton has been diminishing in favor of other crops, primarily wheat. But cotton is still the single largest crop by far.

Apart from the cotton cluster pilot program that you described, what other steps are being taken to give farmers more freedom to make their own decisions about what to plant, how to farm, and to whom to sell?

MR. VAKHABOV: So, at this moment, I
can inform you that -- it was mentioned above --
the government of Uzbekistan is committed to
transfer all its obligations with regard to
cotton industry to private sector.

So more than -- just a couple months
ago, it was in August -- the government issued a
special decree. That decree that distributes all
fields across the republic, all fields where the
cotton itself is being cultivated among more than
40 private business entities.

And these business entities, by the
way, voluntarily agreed with the government to
possess these fields and to later -- even they
assured the government to introduce the best
practice to those fields.

So our chief goal is, again, to de-
monopolize the cotton industry in Uzbekistan to
permit the private sector to manage these fields
by themselves. And by these means, we are going
to release the government, to release the
governors of provinces from all engagements
related to cotton industry, even with those
related to the use of forced labor in the future.

So these private entities will bear
full responsibility for all further engagements
with regard to both cotton-picking process and
even eliminating, eradicating, the use of forced
labor on the ground. And, if you don't mind,
additionally, we will provide our answers to the
questions you've raised today. Thank you.

MR. HERFINDAHL: Thank you. Again, we
will have some additional questions in writing
that we'll provide to you on the labor side as
well. But I'd really like to thank you, Mr.
Ambassador, for your participation here and your
very comprehensive explanations on both worker
rights and intellectual property rights.

Now I'd like to ask for our second
panel to come forward. So we'll begin with a
five-minute statement from Mr. Boychenko.

MR. BOYCHENKO: Thank you.

Distinguished members of the GSP Subcommittee,
thank you for convening this country practice
hearing today and the invitation to present. The
International Labor Rights Forum, as part of the Cotton Campaign Coalition, in 2007 filed a GSP complaint challenging state-sponsored forced labor and child labor in Uzbekistan's cotton sector.

We have been encouraged by high level commitment made by the Uzbek president, Shavkat Mirziyoyev. There is a clear commitment at the very top and a clear commitment from Uzbekistan diplomats here in Washington, D.C., especially Ambassador Javlon Vakhabov.

We believe there is a potential to be a historic reform in Uzbekistan. But there is, nonetheless, continuing challenges because we are dealing with dismantling a mode of production that has been in place for decades and understand that it cannot be done overnight.

Preliminary findings from independent civil society monitors show that since September 10, 2018, employees from almost all state-owned organizations and enterprises across Uzbekistan have been mobilized to pick cotton.
There is progress on the ground, but not yet a success. Unfortunately, systematic state-orchestrated forced labor continues on a massive scale in the Uzbek cotton sector. The International Labor Organization third-party monitoring mission in Uzbekistan recently reported their preliminary harvest findings, estimating that 93 percent of cotton pickers were voluntary.

Even if this statistic holds true, there are still nearly 200,000 citizens being forced to pick cotton against their will. And while forced labor occurs in many countries around the world, Uzbekistan is a unique case, as it's one of the only countries where a government supports and perpetuates a system that requires hundreds of thousands of people to leave their job of choice to pick cotton against their will.

The Cotton Campaign is not yet in a position to render a specific judgment on this current harvest, as it is still ongoing. For example, in some districts of Jizzakh, Namangan,
and Tashkent regions, the harvest is in progress at this very moment as we speak and is scheduled until the first days of December.

We just confirmed that also in Akaltynsky district of Sirdaryo region, 10,000 soldiers of Uzbekistan army are mobilized to pick cotton until December 5th, 2018. According to witnesses, it is already cold, with very little cotton left.

However, instead of the military service and required by the law training, the soldiers are ordered to pick the remaining cotton. Even though the harvest is still ongoing, we can make preliminary observations based on the monitoring work of the Uzbek-German Forum for Human Rights, independent civil society activists, local and international media reporting from Uzbekistan.

The centrally organized quota system and system of incentives and disincentives to officials continues to drive forced labor. Officials responsible for fulfilling the quota
are now under tremendous pressure.

On one hand, the government of Uzbekistan publicly stating forced labor is illegal. On the other hand, forced labor is the only means they have for fulfilling the quota. Failure to do so can result in dismissals from their posts or other punishments.

Government officials being punished and, at times, fired for poorly organizing the harvest or, in other words, for not forcibly organizing enough individuals to pick cotton. It's a very clear message that is sent at the highest level and which was reported widely in the media.

UGF obtained documents from major state-owned enterprises which confirm the state-organized systemic use of forced labor. According to those documents, approximately 30 percent of employees of state-owned enterprises were required to provide employees to be assigned to picking brigades, often meaning days away from their families.
The Uzbek Metallurgical Plant, for example, ordered the mobilization of workers in a document obtained by UGF, dated September 19, 2018. According to this document, 3,200 workers were sent to pick cotton, which is 36 percent of the plant's workforce.

Employees are usually forced to sign statements in which they confirm that they're participating as voluntary workers in the harvest. Let me quote a citizen describing conditions while picking cotton.

For three days now, we have been standing in the mud, in the rain, and not a single farmer has met us. We have not eaten for three days. Even the toilets were locked. They asked for a thousand soms to brew tea. We rented an accommodation for 5,000 soms per day. Our money has run out. The farmer says, let your hokim or local official supply you with food. Let the Minister of Internal Affairs take care of this.

This was reported by BBC. In
addition, independent monitors have evidence of widespread extortion of employees of state-owned organizations and private business people, such as market traders, to pay for replacement of cotton pickers.

In some cases, law enforcement agencies, such as security guards or international consulates and embassies have been recruited to pick cotton. It would be impossible for this to happen without orders or approval from someone in a position of high authority. We have evidence that school teachers and medical staff, despite all public commitments, continue to be mobilized in the cotton fields. Although, in contrast with previous years, this did not begin until October 2018, this year.

Yes, the Uzbek government did make an effort to use less forced labor in this cotton harvest. But due to unchanged structure of the cotton industry, they were not able to rely on voluntary workers for the entirety of the harvest. There is still much needed change to
occur in Uzbekistan.

And Uzbekistan cannot be ruled as a success at this point. Again, among all the progress, which we're glad to acknowledge, it is important to recognize the causes of forced labor, that truly effective measures can be implemented to eradicate it.

We, therefore, urge the government of Uzbekistan to address the remaining structural root causes that drive forced labor. These are the quota system of cotton production set by the state, the control of the state over all aspects of cotton production, wages that are not high enough to attract sufficient voluntary workers towards the end of the harvest when there is less cotton to pick and working conditions in the fields are harsh, lack of normal labor relations and decent work protections, lack of freedom of association and independent trade unions, built-in incentives that make forced labor inevitable.

For example, hokims and other officials are being disciplined for failing to
meet quotas, but less so for using forced labor. If there is no deterrent to using forced labor, there is no chance of eradicating it.

Distinguished committee members, while we should commend the high level commitment and the series of decrees and steps that have been set in motion, we must not lose sight of the fact that the government's forced labor system of cotton production remains in place.

This is the reason we believe this committee should keep this review open until we can verify that the government of Uzbekistan has truly ended state-sponsored forced labor. Thank you for your time, and I look forward to any questions you may have.

MR. CASSIDY: Chairperson, members of the Subcommittee, thank you very much for this opportunity to present the ILO's findings. Since the ILO started monitoring child and forced labor in the cotton production in Uzbekistan in 2015, the ILO has seen a growing political commitment and tangible action as part of the Uzbek
government's efforts to fully eliminate child and
forced labor.

In the ILO's report on 2017 on the
cotton harvest in Uzbekistan, it was found that
there is no systemic use of child labor in the
cotton harvest in Uzbekistan and significant
measures to end forced labor are being
implemented.

That report recommended greater
political commitment, engagement of human rights
activists in the monitoring process, as well as
other improvements to our monitoring approach.

The new 2018 report, which will be
publicly released in early 2019 and was recently
presented in Tashkent to many of the same
organizations in this room today, has found
significant reductions in forced labor, the
participation of human rights activists in
monitoring, no systemic use of child labor, the
disciplining of hokims for violations largely
related to forced labor, increased wages, and
improved working conditions.
The ILO's monitoring and analysis shows demonstrably year-on-year improvement in the situation of child and forced labor in cotton harvesting in Uzbekistan. However, more needs to be done to address forced labor and child labor, as well as ensuring that changes that are set in motion by the capital are followed through at the district level.

In terms of the methodology, the ILO has a comprehensive and well-documented monitoring methodology which represents the principles of independence, confidentiality, and the need to protect vulnerable persons and groups. The ILO's methodology has achieved approval from an international independent review board, and steps have been taken to ensure that there are fully informed and voluntary participation by those interviewed for either monitoring or the surveys.

In terms of the ILO's approach, all field interviews are unaccompanied, unannounced, and confidential. The ILO monitoring teams
consist of an international ILO expert and a local Uzbek human rights activist.

All human rights activists were free to conduct their own independent monitoring without restrictions by the ILO or the government. There are no government representatives involved in the monitoring.

To ensure the highest possible level of integrity, GPS coordinates are generated randomly and only communicated to the international ILO expert right before departure to the next destination.

The feedback mechanism operated by the Ministry of Employment and Labor received 1,949 complaints that were investigated by 200 labor inspectors across the country. The Federation of Trade Unions received and handled, additionally, 557 cases that were handled by 28 lawyers in the FTUU's legal clinic.

The ILO was provided with full access to the feedback mechanism to monitor the effectiveness of the system and to track
individual cases. All cases were dealt with expeditiously, and the ministry published the tickets on its website and organized press conferences to discuss these findings.

During the 2018 harvest, a total of 169 hokims, officials, and managers were disciplined for violations related to forced labor. Punishments included dismissals, demotions, fines. Due to increased wages, more men picked cotton in 2018, compared to previous years. For the same reason, there were more pickers from urban areas and more who picked cotton for the first time.

Increased wages also stimulated internal migration. The overwhelming majority, 93 percent of cotton pickers, were voluntary, which represents a 46 percent improvement over 2017.

A minority of pickers, 7 percent, approximately 180,000 people, experienced involuntary recruitment practices such as threats, direct or perceived, requests for fees,
or the providing of replacement pickers.

Systematic recruitment of students, teachers, doctors, and nurses came to an end in 2018.

Field monitoring shows that drinking water was provided in 87 percent of the fields. Lunch was provided in 82 percent of the fields, while toilet facilities were only available in approximately 46 percent of the cotton fields.

ILO observations in the 2018 harvest, which will be made available in the beginning of 2019, are as follows. Consistent, clear, political commitment from the government, freedom of association as a priority for new employers' associations, transparency about government meetings and decisions. Human Rights Watch has also been involved in these meetings. No more systemic recruitment of teachers, nurses, and doctors.

Focus on financial incentives as a driver for voluntary recruitment. Significant wage increases for cotton pickers this years.

Wages differentiated, of course, across the
passes and regions to attract pickers, and consistent and regular payments made to the pickers.

The ILO will focus, moving forward, on forced recruitment of adults and it is a complicated issue. And this is why the ILO is concentrating not only at the central high political level, but also at the provincial level throughout the country.

In conclusion, with the permission of the Chair, I'd like to conclude with two anecdotal points. At the roundtable in Tashkent recently, the U.S. charge d'affaires publicly said that the results of the informal monitoring that the embassy had undertaken during this harvest were in line with the ILO's findings.

And lastly, the recently retired U.S. Ambassador to Uzbekistan, Pamela Spratlen, in a note to the ILO and other colleagues upon her departure expressed her, quote, profound appreciation for all the ILO has done to bring Uzbekistan to an entirely new stage of
understanding and action in the cotton harvest
and labor practices generally.

Dear Chair, in closing and on behalf
of the ILO, we remain committed to the work in Uzbekistan with the government of Uzbekistan, the workers and employers, and the many human rights defenders who are doing important work, shining a light on the violations of child and forced labor wherever it might appear. This work is not finished, but improvements are undeniable. Thank you for your time and attention.

MR. HERFINDAHL: Thank you very much to both of you for your statements today. So as with the previous panel, we'll be asking a number of questions following the hearing for written response in the post-hearing brief. So we will have several questions we'd like to ask orally now.

MS. LAURY: Good morning. Thank you both. I have a question for Mr. Cassidy. Even though the 2017 data of the -- the data of the 2017 cotton harvest showed significant
improvement, the ILO still recorded a very
significant number of forced labor cases. From
the perspective of the ILO, what are the main
constraints in Uzbekistan to achieving the goal
of no forced labor or child labor?

MR. CASSIDY: Thank you very much. I'll answer as best I can. The observations in
the 2017 report, as you mentioned, is over
300,000. The observations for the 2018 report
show a 46 percent decrease to 180,000.

The obstacles, I believe, are the
quota system and also having the districts and
the local hokims being able to implement the
decisions that are made at the capital level. So
there is an issue of communication and an issue
of awareness raising. More to that, I can reply
subsequently.

MR. KARAWA: Good morning. This
question is for Mr. Boychenko. I hope I
pronounced it correctly. Your submission notes
that the forced labor problem in Uzbekistan will
not be solved until property rights and
agricultural practices are reformed.

What kind of reforms do you recommend?

What are the practical restraints facing the Uzbekistan government as it considers land use and agricultural reforms? Are there short-term solutions that Uzbekistan should consider in altering the course? Thank you.

MR. BOYCHENKO: Thank you very much for this question. At the moment, farmers in Uzbekistan are not able to choose what to grow. They are directed by the state, and they don't own their land.

Their land can be taken away from them if they don't deliver on quota. We've seen many cases like that. In this year, 2018, we know of three suicides. Three farmers committed suicide because they were unable to meet quota.

We have this information and following evidence that we're happy to provide in the post-briefing document. Short-term solutions could be well -- more market-driven solutions. Give more rights to farmers. Let them choose what to grow.
Let them decide, based on their land, based on how much water they have, based on the climate. Right now, this is not taken into consideration. The government has overall monopoly over the sector.

It tells the farmer what to grow, how much, and where. And with more market-driven, with more rights to farmers, we believe the situation can be improved.

MR. PAJUSI: I have a question for Mr. Boychenko. In 2007, when the ILRF first submitted its petition, few journalists wrote about the problems of forced and child labor in Uzbekistan, except organizations based outside of the country like ILRF and the Uzbek-German Forum.

In April of 2014, the Cotton Campaign noted that since 2011, authorities have prosecuted and imprisoned 80 activists and arrested and detained 300 others for their work. Today, however, the Uzbek media seems to be full of stories about the cotton harvest, including reports of forced labor.
Relatively, the ILO report said it had trained 250 journalists to write about labor rights and the cotton harvest, with the blessing of the government.

Do you agree that there has been an increase in public reporting on the cotton harvest in the Uzbek media and that activists are able to monitor and report on the harvest without undue restrictions? And what impact do you expect from that reporting on broader Uzbek society?

MR. BOYCHENKO: I agree that there is more awareness. And we believe that it is very helpful and important that media is able to report on what's happening in the harvest and in the country. We think it's absolutely important and helpful that civil society activists are able to monitor the harvest, now more so than ever before.

But I would like to point to a few cases. One case is the case of journalist -- from Xorazm, who was detained on October 25th,
2018 after he tape recorded a meeting where a hokim, a local official, was assigning quotas to teachers and doctors to pick cotton.

So once he recorded that meeting and went public with it, he was immediately detained. Then he was released. Then he was detained again in seven days on fabricated charges. His lawyer declined to work with him because he's scared.

So, there are still cases of intimidation, harassment, some of them experienced by Uzbek-German Forum for Human Rights independent monitors. This is much to a lesser extent what we're seeing right now. But there are still cases, unfortunately.

So, we hope that in the coming harvest of 2019 -- this one is still ongoing of 2018 -- but we hope next harvest, all monitors are able to monitor unfettered reports, including journalists and including Uzbek-German Forum for Human Rights activists. Thank you.

MS. ATHREYA: Thank you so much. We have an additional question for ILRF. What is
your view on what the government of Uzbekistan might do to continue to build public trust in the feedback mechanism?

MR. BOYCHENKO: Thank you so much. It's a very important question for us. Today, the Ambassador of Uzbekistan, Javlon Vakhabov, who has the highest commitment to this issue, we have no doubt, he had mentioned the case of abused and humiliated farmers who were standing in the ditch on the photo that he showed earlier today.

Then, he mentioned that the Deputy Prime Minister was dismissed. Well, unfortunately, in two weeks, he was given another position of power in one of the districts of Uzbekistan. And he is overseeing agriculture.

We believe that for the feedback mechanism to work, those dismissals should actually work, but not for those officials to be reinstated somewhere else in the position of power, overseeing the agricultural sector. We have reports and numerous witness accounts that
people don't trust feedback mechanisms, that they
don't report because they're still scared of
retaliation.

So, I believe that there is an
opportunity, a great opportunity, to improve the
feedback mechanism and establish a climate when
citizens are -- they don't fear to report on
violations that happen during harvest.

MR. HERFINDAHL: Well, thank you very
much to both of you for your participation today.
Again, you'll be receiving some additional
written questions from us that we would
appreciate if you could respond to in the post-
hearing briefing.

So now, moving forward in the agenda,
I'd like to turn to Iraq. So, if the Iraqi
delegation could please come forward at this
time? Please go ahead, Mr. Ambassador.

MR. YASSEEN: Good morning. Thank you
for this opportunity to testify before the Office
of the U.S. Trade Representative regarding the
alleged validity of Iraq under the generalize
system of preferences. My name is Fareed Yasseen.

I'm the Iraqi Ambassador to Washington, D.C. And I'm here to affirm the Republic of Iraq's commitment to internationally recognized workers' rights. We were pleased to see that, in July of this year, the AFL-CIO has withdrawn its October 2017 petition against Iraq. This withdrawal was formally communicated to the Office of the Trade Representative through a well-documented letter describing the significant improvements that Iraq has made in ensuring workers' rights.

As outlined in our pre-hearing brief, Iraq has indeed ratified International Labor Organization Convention Number 87 on the freedom of association and protection of the right to organize of 1948. And that was in June 2018, bringing Iraq into the group of countries that have ratified all eight ILO conventions.

Convention number 87 will enter into force, as you know, one year after its
ratification. The instruments of ratification were deposited by Iraq's then Minister of Labor and Social Affairs at a ceremony on the sidelines of the 107th International Labor Conference in Geneva, a conference that Iraq attends regularly.

At present, Iraq has ratified 68 conventions of the ILO, including three out of the ILO's Governance Conventions, the first of which happened in 1938. Our government also issued Executive Order Number 18 of 2018 to form an inclusive committee tasked with preparing a new trade union law, thereby abolishing its predecessor, Trade Union Law Number 52 of 1987, a Saddam-era relic that restricted freedom of association and the operation of free unions.

In July of 2018, this committee of government officials and representatives from all five major trade unions, federations, in consultation with ILO technical advisors, completed a draft law that is in line with core ILO conventions.

I do expect that Iraq's newly-elected
council of representatives will enact this law
during this parliamentary session. Now that Dr.
Bassem al-Rubaye, Iraq's newly-confirmed Minister
of Labor and Social Affairs will see to it that
it is well-implemented, given that he himself had
had a role in its adoption earlier.

The AFL-CIO correctly recognized that
our government, specifically, the Ministry of
Labor and Social Affairs, has been working with
independent unions, with other social partners,
as well as with the ILO.

Note that Iraq joined the ILO and to
the League of Nations in 1932. I think it was
the first Arab country to do so. Iraq is also a
founding member of the United Nations. Enacting
laws and conventions is necessary, but it is not
sufficient.

These laws and conventions need to be
implemented. Now, that requires expertise with
regard to the implementation of labor laws. Iraq
has hired additional labor inspectors with legal
expertise to improve the work and capacity of
labor inspection committees.

In addition to the legal education and training, labor inspectors must follow intensive courses, educating them on the provisions of the labor and pension and social security laws.

The labor inspectors' work is supported by an extensive electronic inspection system and a geographical information division, rendering fraud somewhat more difficult. These advances are a part of a continuing trend in Iraq.

In 2015, the government abdicated the 1987 Labor Code and enacted a new labor law which complies with ILO's core labor standards and dramatically expands the rights of workers. The new labor law was drafted by the Governor of Iraq in coordination with experts from ILO and engaged government officials, experts, and Iraqi workers, and employers. Not only does the new labor law adhere to international and foreign labor laws, it also helps in transforming Iraq's economy from a socialist economy to a semi-open economy.
It allows for an increase in the number of foreign workers in Iraq and protects the rights of international laborers. I should add that there are quite a few Americans amongst them, ranging from security contractors, to specialized experts to basketball players.

The new labor law also preserves and protects the rights of both workers and employers while simultaneously bolstering the Iraqi economy. The law regulates the relationship between workers and employers and facilitates the establishment of trade unions and professional associations in accordance with international and Arab labor conventions to which Iraq is a party.

The law upholds the rights of workers to create and join unions and seeks to afford them generous benefits and assurances. Further, it also aims to inform people's understanding of international labor standards and fundamental rights and freedoms. In conclusion, Iraq has come indeed a long way to ensure both the well-being and constitutional rights of workers and it
intends to continue on this path.

The new government will prioritize economic and administrative reform. Further refinements ensure the implementation and further refinements of the 2015 new labor law and the forthcoming new trade union law will be crucial to these efforts.

Thank you for your consideration of Iraq's continued eligibility under the generalized system of preferences. And I'm sure that you have some further questions. If I don't have the answer to them right now, I'm sure that -- I'll make sure that I will provide them to you in written form. Thank you.

MR. HERFINDAHL: Thank you very much, Mr. Ambassador, for your testimony today. I think, if it's okay with you, in the interest of time of we could just provide all of our questions in written format for post-hearing response?

MR. YASSEEN: I'd be grateful.

MR. HERFINDAHL: Great. Thank you
very much.

MR. YASSEEN: My pleasure.

MR. O'DONOVAN: Just a comment for the record. The letter of the AFL-CIO to the Chair of the GSP Subcommittee, I believe, in the docket on the record.

Mr. Ambassador, to my knowledge, this is the first time that a Petitioner has requested the USTR close a review that they initiated. You must have worked well with the Petitioner and done something right.

MR. YASSEEN: Well, we've done other much more difficult things in the last few years.

MR. O'DONOVAN: That is, I believe, so. Thank you for your testimony.

MR. YASSEEN: Thanks.

MR. HERFINDAHL: Now, if I could ask the government of Ecuador to come up, if the delegation is here? So, I believe that the government of Ecuador is not here, from what I can see. So, maybe we can just reverse the order of the panels so that we start with Chevron.
MR. ROMERO-DELMASTRO: We would be glad to do that. If I may approach, I will be -- I have some prepared remarks. Just out of convenience, I can give them to you so that you can go along with us, if that's okay with you?

MR. HERFINDAHL: Thank you. I think the court reporter, I think, would appreciate it. Please proceed.

MR. ROMERO-DELMASTRO: Good morning, Mr. Chairman and members of the Subcommittee. My name is Andre Romero. I'm Supervising Counsel for Enterprise Litigation with Chevron Corporation.

I'm joined by Doug Bishop with the law firm of King & Spalding, who is lead counsel on behalf of Chevron Corporation in the arbitration against Ecuador. The issue before this Subcommittee is very clear.

The GSP statute requires that Ecuador's preferences are withdrawn or suspended because of its failure to enforce, in good faith, arbitral awards in favor of Chevron, a U.S.
company. As the USTR has announced as recently as in December, the United States will vigorously enforce eligibility criteria for preferential access to the U.S. market.

And I'm reading -- I'm quoting from a press release entitled, Trump Administration Enforces Trade Preferences Program Eligibility. The USTR added in that press release, "The administration is committed to ensuring that other countries keep their end of the bargain in our trade relationships." Ecuador has not kept its end of the bargain. To the contrary, for almost seven years, Ecuador has defied the arbitral award issued by an international tribunal on the United States-Ecuador Bilateral Investment Treaty.

And it has done so openly and with impunity. In fact, before this very Subcommittee last September, Ecuador refused to comment, to comply and enforce the arbitral awards in favor of Chevron.

Action should no longer be deferred,
especially in light of a very significant recent development. On the 30th of this year, the arbitral tribunal issued his final decision on the merits of the claim from Chevron Corporation against Ecuador.

In a 521-page award, the tribunal unanimously found that the Ecuadorian judgment, the $9.5 billion judgment against Ecuador, violates international laws and it's unenforceable on two independent, separate grounds.

First, because it was procured from fraud, bribery, and corruption. And second, because it was based exclusively on environmental claims that the Republic of Ecuador had already settled and released years earlier.

This award on the merits as this tribunal calls it, also reaffirmed that the injury measures of 2012 and 2013 remain in effect and directed Ecuador once again to take immediate steps to render the corrupt Ecuadorian judgment unenforceable.
Nevertheless, continuing with a long-standing pattern of bad faith, Ecuador has refused to comply with these awards on the merits, just as it previously refused to comply with the final entered measures, awards that preceded it.

Indeed after the award issued in August, Ecuador has publicly vowed not to comply with the award and instead has continued to openly support the very lawyers that the tribunal found engaged in egregious fraud and corruption.

I want to mention three aspects of the recent award on the merits that have a direct bearing on Ecuador's failure to meet the legal criteria under the GSP statute.

First, the board's finding that Ecuador's responsible for the fraud. Second, the award for reformation of the relief previously granted under the injured measures award. And third, that this is the final award on the merits, final, binding, enforceable award. On the first point, the tribunal found the evidence
of corruption to be so overwhelming -- those were
the tribunal's words -- that it said, short of a
signed confession, it must be the most thorough
documented testimonial proof of fraud ever put
before an arbitral tribunal.

The fraud -- the fact of the fraud and
the corruption cannot seriously be disputed.
Notably, the tribunal found that the presiding
due, judge acted corruptly in allowing the Plaintiffs
to draft the judgment against Chevron.

And that was not just an isolated
incident. It was a parade of corrupt acts. Just
to provide some examples, the tribunal found that
the Plaintiff's legal team blackmailed a judge,
then-presiding judge, forged expert reports,
bribed the court-appointed environmental expert,
ghost-wrote the court-appointed environmental
expert's report, in addition to ghost-writing the
judgment against the company and bribing the
presiding judge.

The extensiveness of the fraud exposes
the cynicism of Ecuador's position that its
domestic law somehow prevented it from complying
with award or that doing so in any way could
violate in human rights.

This is a deeply corrupt judgment. No
one has a legitimate interest in enforcing a
judgment obtained for bribery and built on false,
manufactured evidence. And Ecuador is not an
innocent third party.

The Ecuadorian appellate courts
affirmed the corrupt judgment despite having the
relevant evidence of fraud and corruption before
them. As a result, the tribunal found that
Ecuador was responsible under international law
for knowingly issuing, rendering enforceable, and
maintaining the enforceability of this corrupt
judgment.

This holding refused Ecuador's
attempts to portray itself as an innocent
bystander, an innocent third party to the fraud
committed by others against Chevron. On the
second point, they tried to affirm the final --
the relief that was granted in the interim
awards.

    Namely, that Ecuador must take
immediate steps to remove the status of
enforceability of the corrupt Ecuadorian
judgment. The tribunal further confirmed, as it
has done before, and the board is aware, that
Ecuador violated the interim awards by failing to
suspend enforcement of the judgment.

    The third point that I wanted to
highlight is the main changes in the last year
and before this upcoming year. The tribunal has
now reached its final conclusions on the merits.

    Under the new convention, the
declaratory and injunctive relief in this award
is final, is binding, is immediately enforceable,
and is unappealable. Ecuador's position that the
award is not final because it is a partial award
is indefensible.

    Ecuador took this position in its
recent letter to the Subcommittee. However, the
Track II is partial only because the damages
Ecuador owes for its breaches of the VAT remain
to be quantified in its own sequential stage of arbitration, in Track III, and only goes as to damages, not as to liability, which has already been established finally and compulsively in the Track II award.

However, this should be an undisputed point. Actually, Ecuador acknowledged that there was finality in the arbitration in a recent filing on November the 1st, in which it stated, "It is undisputed between the parties that the second partial award on Track II is the final and binding decision of the arbitral tribunal on the issues adjudicated."

I'll repeat. Ecuador's position is that it's undisputed that this award is final and binding. They took this position in writing before the arbitral tribunal, only to contradict itself days later in its submission before this subcommittee when it was expedient and convenient to their interest to take a different position, a position that's untenable and indefensible.

Despite all of this, Ecuador has taken
no steps whatsoever, much less immediate steps as required under the award, to remove the status of reversibility of the judgment.

Instead, Ecuador has publicly vowed not to comply with the award, promised to provide further support to the very lawyers who perpetrated the fraud and actually delivered on their promise and provided them support, monetary and otherwise.

Continued to support attempts to enforce the judgment and would entail those attempts and actions in Annex 8 to a pre-hearing submission. I will not go into details, but I will mention two points.

One, within days from the issuance of the award, the Vice President of Ecuador publicly declared that the Chevron case is a national cause and Ecuador's fundamental goal is to avoid enforcement of the award. Ecuador's attorney also met with Pablo Fajardo, the very Ecuadorian lawyer central to the bribery and corruption, involved in bribing judicial officials, court
officials, experts, extorting judges.

After all of these findings were made by the tribunal, Ecuador's response is meet with the very same person. And what was the purpose of the meeting? According to public statements, develop a roadmap to circumvent enforcement of the award.

Ecuador's conduct is not compatible with recognizing and enforcing the awards in good faith, as the GSP demands. It's exactly the opposite. Ecuador has taken affirmative steps to support enforcement of the corrupt judgment, to the detriment of a U.S. company.

And, under these circumstances, the GSP statute demands the suspension of Ecuador's trade manifest. This is not a closed question. The GSP statute is very clear. Ecuador cannot rely on its annulment action in the Dutch courts to postpone compliance with the awards.

The text of U.S.-Ecuador BIT, the New York Convention, the 1976 UNCITRAL rules, all make it very clear that the awards are final,
binding, enforceable and unappealable. Ecuador
has an express obligation to carry out the awards
without delay, as was stated in the BIT award, in
the BIT treaty.

And in the context of the multi-
billion dollar judgment rendered through -- that
was procured through fraud, bribery and
corruption, there is a compelling need to suspend
enforcement of the awards now.

Chevron recognizes that Ecuador and
the U.S. have important economic ties. But trade
preferences should be granted consistent with the
statutory requirements.

Chevron submits that the suspension of
Ecuador's GSP benefits will incentivize Ecuador
to come into compliance, comply with the words,
and therefore, comply with the GSP statute.

Allowing Ecuador to continue to receive trade
benefits while it openly violates the statute by
facilitating an effort to extort billions of
dollars from a U.S. corporation would send a very
dangerous message to other GSP beneficiaries, a
message that they're free to do the same.

Chevron respectfully urges this Subcommittee to do what the law requires, to recommend to the president the immediate suspension of Ecuador's GSP eligibility until such time as it comes into compliance with the awards. Thank you very much and I look forward to your questions.

MR. HERFINDAHL: Thank you very much for your testimony today. So, we'll ask you several questions in oral format and then, I think we'll probably provide additional questions in writing.

MR. MANDELL: Thank you and good morning, Mr. Romero. Thank you for your comments. I think the first question we have relates to the statutory criteria for GSP eligibility.

As you know, in the previous discussion, Ecuador has contended that Congress could not have intended to make non-compliance with an interim award grounds for withdrawal of
GSP benefits because, according to Ecuador,

arbitral tribunals did not issue interim awards

before the enactment of the 1974 Trade Act.

To your knowledge, did tribunals issue

partial awards, like the one issued in this case

on August 30th, before 1974? We would welcome

examples that you can provide today or in your

post-hearing briefs.

MR. ROMERO: We will look for

elements. I would submit to you that the text of

the statute is very clear. The statute -- the

test in the statute is acting in good faith and

recognizing and binding or enforcing arbitral

awards.

It makes no distinction as to whether

the award is a partial award or not. It makes no

distinction as to whether the award is an interim

award or not. It says awards. And that the --

from the claiming of the standard, it is very

clear that we are informed of awards that are

binding, that are enforceable, that are final,

unappealable, under the Bilateral Investment
Treaty between Ecuador and the United States.

There's no doubt that there is an ongoing obligation to comply and enforce and recognize as binding those awards. And there can be no question that the plain meaning of the language in the statute has not been complied with.

MR. MANDELL: Thank you very much. And we would welcome examples of partial awards before 1974 in your post-hearing briefs, if possible. Our next question, moving on from the statute, is to look at the arguments you made in your pre-hearing brief regarding the tribunal's orders in the partial award. In your pre-hearing brief, you highlighted four actions that the tribunal and the partial award ordered Ecuador to take immediately.

We have several questions regarding those actions. I'll ask them now. First, you noted that the tribunal ordered Ecuador, on notice from your company, from Chevron, to advise in writing any of the national courts in which
enforcement actions remain pending of Ecuador's "internationally wrongful acts."

Has Ecuador provided such notice? I'm sorry. Has Chevron provided such notice to Ecuador, with respect to any of these ongoing enforcement actions. And, if so, has Ecuador provided the requested written notice?

MR. ROMERO: Chevron provided the notice immediately as a working out, I believe on September 7th. Is that correct, Mr. Bishop?

MR. BISHOP: Yes. That's correct.

MR. ROMERO: On September 7th?

MR. BISHOP: Yes.

MR. ROMERO: As soon as the award become public. As Ecuador is well aware and we indicated in our notice, there's pending enforcement actions in various jurisdictions, including in Argentina and in Brazil. And under the terms of the award, under paragraph 10.13 of the award, sub-section three, Ecuador is required to advise in writing those states of the finding of this tribunal and the award, including that
this is saying that the judgment should not be
enforced in any other jurisdiction.

And it -- because it's a judgment that
violates international public policy. Ecuador
has failed to give notice to the courts and
authorities in Argentina and in Canada, as it was
required to do immediately.

And it has failed to comply with this
very simple, administerial step, showing, in our
submission, their bad faith and consistent with
their stated policy of not complying with the
award, finding every possible mechanism to
circumvent compliance with the award, as a matter
of national interest in the word of their own
senior officials. Anything you might want to
add, Mr. Bishop?

MR. BISHOP: No. I think that covers
it. We did immediately demand that Ecuador give
notice to the national courts where enforcement
was pending and Ecuador has refused to do so.
It's as simple as that.

MR. MANDELL: Thank you. One follow-
up -- has, to date, any of the enforcement
actions outside of Ecuador, been successful in
reaching a judicial finding that the award shall
be enforced in any foreign jurisdictions?

MR. ROMERO: To date, they have not
been successful. I would submit that has no
bearing on the question of whether Ecuador is
meeting its obligation under the GSP statute of
enforcing the awards against it.

It has not been because of Ecuador's
conduct that the enforcement proceedings against
the company and the large scale judicial attack
against the company in multiple jurisdictions
around the world have been unsuccessful, to date.

It has been in spite of Ecuador's
conduct and despite this active support of the
two corrupt lawyers behind this action and active
support for the enforcement of this bought and
paid for multi-billion dollar judgment against
the company.

If your question is as to whether
there has been harm to the company or there's an
imminent risk to the company, I would submit that
the answer is yes. There is a -- I cannot
overstate the significance of forcing the
company, dragging the company around the world,
to defend actions seeking to enforce a corrupt,
fraudulent judgment, in multiple venues
simultaneously and trying to prove over and over
again, in every one of these courts, that this is
a fraudulent, corrupt judgment.

It's a significant, substantial
devour and something that Ecuador has within
its power to stop. It should not be a
controversial proposition that a judgment that
was obtained through bribery should not be
enforceable.

It is remarkable for Ecuador to take
the position that since the judgment has not been
enforced, there's no harm. What should be
uncontroversial and an undisputed view is, if the
fraud -- faced with overwhelming evidence of
fraud and corruption, this is not a judgment that
should be allowed to stand in any country.
Well, if the award requires Ecuador to reimburse Chevron for any payments it required to make under this corrupt judgment, will Ecuador commit to immediately reimburse Chevron $9.5 billion dollars without delay, if any of these actions are ever successful? Clearly not.

In September, right before this same Subcommittee, Ecuador was asked whether they will commit to comply with the award, they said, no, they won't. And that's consistent with their public position -- public position from very senior government officials, that Ecuador refuses to recognize as binding and enforce the award, an award that, again, says something that's controversial.

There cannot be a serious debate as to whether this is a corrupt judgment. The tribunal is not alone in finding -- making findings of fraud and corruption. The findings are made over hundreds of pages in great detail and are entirely consistent with the findings of U.S. courts, that found the judgment to have been the
part of racketeering activity and violations of the Hobbs Act, of wire fraud, of obstruction of justice, witness tampering, bribery of foreign officials and FCPA violations.

Every court that has looked at the issue outside of Ecuador has concluded that this is a judgment that's deeply flawed, that it's a corrupt judgment. And it should not be controversial. That's not a judgment that should be allowed to stand.

What the tribunal ordered Ecuador is, take steps to the remove the status of enforceability of that judgment. And it's what the company believes is appropriate and the GSP statute calls for. Anything you would like to add to that, Mr. Bishop?

MR. BISHOP: No. I think that's very comprehensive. Thank you.

MR. ROMERO: Okay.

MR. MANDELL: In the interest of time, maybe just one further question regarding your description of the steps that you view Ecuador as
being required to take to comply with the
tribunal's partial award. You've also mentioned
in your pre-hearing brief, and you've just stated
here today, the obligation of Ecuador to "remove
the status of enforceability" of the Lago Agrio
judgment.

You've also highlighted in your pre-
hearing brief the requirement to "preclude the
Plaintiffs from enforcing any part of the Lago
Agrio judgment" and also to "wipe out all of the
consequences" of Ecuador's wrongful acts. The
tribunal phrased these orders as actions that
Ecuador is required to take, to take immediate
steps of its own choosing.

Can you be specific and list a few
examples of actions that Ecuador could take to
comply with these three other orders from the
tribunal?

MR. ROMERO: Well, the tribunal
established as obligations of result and
obligations imposed on the Republic of Ecuador,
the state as a whole, not any given branch.
It's up to Ecuador to decide whether they will achieve that through judicial action, court proceedings, actions by the attorney or the Prosecutor General, legislative action. That's why it's open to Ecuador to decide how to do it. But why did they achieve their result of removing the status of enforceability of the judgment.

We have previously in prior submissions, outlined examples of steps that Ecuador could easily take. You, in your questions, reference one, for example, informing the foreign courts where the enforcement proceedings are pending, that the award has made these findings, that this is a judgment that shouldn't be recognized.

Some of the examples that we have provided previously remain relevant and appropriate. And it can, of course, take steps to revoke the court order that made the judgment enforceable in the first place.

It can do what the tribunal specifically ordered and send letters to the
courts in Argentina and Canada. It can take judicial action to -- seeking to enjoin the Plaintiffs from enforcing the corrupt judgment.

It can comply with its own law, with Article 11 of the Constitution, which requires every public servant, even on its own initiative to take all required steps to protect constitutional rights, which include the constitutional rights of the company that have been grossly violated through the domestic proceedings in Ecuador.

The tribunal would have the constitutional authority to issue an opinion to a court, the courts and authorities around the Ecuador on the unenforceability of that judgment or take action, either under the procedural devices that it decides to seek to remove the status of enforceability of the judgment.

And it can certainly do something very easily which is stop taking affirmative steps to support enforcement of the judgment. As we detailed in Annex A of our pre-hearing
submission, the level of support is astounding.

It goes from everything from giving funding to the very parties involved in the fraud recently, attending a recent conference in Canada promoting the enforcement of the corrupt judgment against the company in Canada, and openly supporting the Plaintiffs in a variety of ways.

So, it is not just by omission that Ecuador is failing to comply with the award, but also through their actions. Anything that you would like to add, Mr. Bishop?

MR. BISHOP: No. I think that covers it, again, pretty comprehensively. If they take those actions, they will, effectively, make the judgment unenforceable. And that's what we're really seeking and that's exactly what the tribunal ordered.

MR. HERFINDAHL: Great. Well, I'd like to thank you for your participation today. And again, you'll receive some further questions from us in writing. And we would appreciate it if you could answer them in the post-hearing.
MR. ROMERO: We would be very glad to do so. Thank you very much for allowing us to participate today. Thank you, Mr. Chairman, for accommodating the schedule and scheduling this this morning.

MR. HERFINDAHL: Thank you. Now, if I could ask the Ambassador of Ecuador to come forward, please, for your statement?

MR. CARRION MENA: Good morning. I'm the Ambassador of Ecuador to the United States. And in my capacity, I am here to say that we appreciate this opportunity to present our position on this point of the agenda.

I would like to start by celebrating that the bilateral relations between Ecuador and the United States have really deepened recently. In one year-and-a-half, it has been great change between the whole relations between the two countries.

This has been reflected among many other elements in the recent visit of Vice-President Pence to Quito, Ecuador on June of this
year, as well as the reactivation of the trade and investment agreement, TIC, that held its meeting on November 15, a few days ago here in Washington.

We value the strong historical ties between our two countries, as well as the potential expansion of our bilateral relations in this new era. I would say that we are working hand-in-hand. As a sign of good faith, Ecuador agreed to review issues related to the GSP at a meeting of the TIC held exactly two weeks ago, I think in this same room or a similar one. So, it's familiar for us to be here. And, on that occasion, Ecuador presented elements, not only on this issue, but also in other important areas of bilateral concern.

And we committed ourselves to establishing a broader cooperation framework in order to strengthen bilateral relations in all fields. Likewise, Ecuador submitted a pre-hearing brief within the time and format described by the USTR.
With this, I want to highlight, again, that Ecuador has taken every opportunity to answer to the USTR on this matter and in others, of course. And we highly appreciate the effort made by the USTR to provide the forums so we can present our position.

Now, if you allow me, I will give the floor to Mr. Juan Carlos Sanchez, the Deputy Chief of the Embassy of Ecuador in Washington, who will give a more detailed explanation of the arguments included by Ecuador in its pre-hearing brief.

We hope that these explanations can contribute to better understanding of the Ecuadorian position in this regard. But before, I would like to clarify that once finishing the following presentation, we will take note of the questions that the panel would have in order to answer them in detail through our post-hearing brief that we will send in due time as will be agreed.

With that, I will thank you very much,
Mr. Chair, and members of the panel for this opportunity to explain the position of Ecuador.

Mr. Sanchez, please?

MR. SANCHEZ: Thank you very much, Mr. Chair and members of the panel. I would like to focus this presentation in three elements. The first one is that Ecuador has a clean record of compliance with final awards.

The element two is the Track II award is a partial award and it is subject to judicial review and other courts awarded remedies. And element three is that Ecuador continues to engage in good faith to fulfill its international law obligations.

Regarding the first element, the guiding principle for Ecuador has been to always comply with final awards. Ecuador's record shows a previous position to satisfy international obligations once ours are final.

As this panel is aware, in a previous arbitration proceeding initiated by Chevron, which has been referred to commercial cases
arbitration, Ecuador paid Chevron more than $112 million in 2016, thus fully satisfying the commercial cases award.

Payment of the commission award, followed a decision by the U.S. Supreme Court denying Ecuador's petition to reconsider a 2011 decision confirming the commercial cases award issued by a U.S. District Court and a set-aside proceeding before the courts of the Netherlands in which Ecuador did not succeed.

Payment of the commercial cases award is consistent with Ecuador's history of such final arbitration awards. This history also includes payments made in satisfaction of other final awards, including, number one, a payment of approximately $1 billion in an accident arbitration initiated by Occidental Exploration and Production Company, which is an American company under the U.S.-Ecuador BIP.

This case was known as Occi-II. The example number two is the satisfaction of an arbitration award entered on July 2014 in favor
of Occidental. Also, under the BIT between the U.S. and Ecuador. This is the case Occi won.

The payment and satisfaction of an accident award entered on February 2017 in favor of Bordington Resources, Inc. under the BIT, U.S.-Ecuador. And finally, the fourth example is the payment of an accident award entered on December 2010 in favor of Moore Exploration and Pollution Company International.

This history shows Ecuador's uncontroverted record of good faith and compliance with all international obligations arising from and coming to a final decision. It is worth noticing that all of the awards mentioned before establish monetary obligation or money damage.

Where there is a Track II award, there's not. Instead, the Track II award imposes a specific performance orders an injunctive relief. Complications arise when the orders are at odds with domestic law and when they compete with other international obligations.
In this regard, it is important to consider that in the United States, the Supreme Court has expressed that, under U.S. law, and I quote, "Foreign judgments awarding injunctive relief are not generally enforceable." So, the U.S. would like to find that some orders are not enforceable.

Also, there is only, to Ecuadorian knowledge, there is only one instance where a country's status at GSP has been suspended on the basis of non-compliance with final arbitral awards. That was in 2012 when Argentina was found in non-compliance two such awards.

There were final awards only after they were confirmed in their respective annulment proceedings and they imposed monetary obligations. In connection with the second element, the Track II award is a partial award.

And it is still subject to judicial review and other post-award remedies. Chevron labors to effect the award as a final award. To be sure, this award can be considered definitive
only in that it resolves the issues considered by
the panel in this phase of the arbitration.

However, the Track II award could
still be subject to judicial review at the seat
of arbitration. Also, if it's subject to post-
award remedies, pursuant to the rules. Under
Dutch law, it qualifies as still a right to ask
the Dutch courts to nullify this and decide if it
should be set aside partially or completely.

The award will be final to the extent
it is confirmed by the Dutch courts. Ecuador,
following its rights, will present such request
before the Dutch courts. A decision from ruling
court, could modify the award as restrictive to
scope or nullify entire sections or others among
other options.

For Ecuador, it is not reasonable for
Chevron to intend to disrupt its bilateral
relations on the basis of an award who's legality
could still be put under the scrutiny of the
Dutch court.

Again, we have to repeat here that
there has been only one instance where a
country's status of GSP beneficiary has been
suspended on the basis of non-compliance with
final arbitration awards, the two cases of
Argentina that we mentioned.

These were final awards, after they
were confirmed in their respective annulment
proceedings. Finally, regarding the third
element, Ecuador continues to engage in good
faith to fulfill its international law
obligations.

It is worth to notice that the GSP
statute implies that a good faith and ability to
comply is not a basis to terminate trade
preference. Even if non-compliance with an award
that is under review in the course of the
arbitration was a basis to terminate trade
preference, the GSP statute requires a showing of
bad faith. And Chevron has not provided any
proof of this. For the sake of clarity, Ecuador
would like to divide this third element into	hree parts.
The first part is Chevron's reliance
on public statements and symbolic political acts
is misguided. The arbitrator never found that
public comments about Chevron or about the
arbitration process constituted a violation of
the BIT or of any award ordered.

To the contrary, they have repeatedly
affirmed that it would not inject itself into the
parties' respective public relations battles.
And it expressly declined to impose a gag order
on either party.

Before responding to Chevron's many
attacks, Ecuador originally sought assistance
from the tribunal, which declined to intervene
and instead opted to permit the parties to
publicly comment freely on the dispute.

Ecuador has every right to comment on
this proceeding. It shows that Chevron has
abided itself on its right to do so through no
fewer than seven public relations firms.
Chevron's reference to Vice-President Vicuna's
political statement related to the case, is
irrelevant for this proceeding. Chevron's reference to Attorney General Salvador's statements at meetings are mischaracterized and taken out of context.

Chevron's continued focus on political statements and political acts only serves to highlight its failure to question the good faith of Ecuador through Ecuador's court of opinion in considering competing international law obligations.

In the Track II award, the tribunal confirmed again that Ecuador's political statements and acts do not amount to international grounds. It also pointed out that political statements in the context of an environmental pollution case are very common in most countries and are understandable.

The examples include statements from former President Barack Obama and his administration after the Deepwater Horizon oil spill. There is no basis to terminate trade preference based on conduct that the tribunal
itself found permissible and acceptable.

The second part of this third element is, at the termination of Ecuador's good faith or bad faith, it requires an analysis of Ecuador's Court of Appeals. Pursuant to Ecuadorian law, the Court of Appeals was the sole decision-maker that at the time, Ecuador had no legal capacity to comply with internal awards. In the more than six years since issuance of a 2012 Court of Appeals decision and the many opportunities to address this decision in this form and in arbitration, Chevron has never challenged the good faith of the Ecuadorian Court of Appeals.

Since the issuance of the Track II award on August 30, 2018, Ecuador's officials are currently exploring whether there is a legal right to implement some of the orders. A possible notion currently explored is trying to seek an updated consideration or reconsideration by the Court of Appeals of Ecuador.

Under this scenario, the enforceability of the Track II award would be
addressed by this court given the competing international law requirements under the Inter-
American Human Rights Convention.

But also considering the conclusion of the tribunal and its Track II award. U.S. courts generally require state and federal courts to deem valid Medellin v. Texas the acts of foreign courts taken within their own jurisdictions.

The third part of this third element is the decision of Ecuador's Court of Appeals is similar to the new Supreme Court decision in. In previous years' submissions, Ecuador has noted the parallel here to the Medellin case, in so far as the United States' failure to comply with that international court of justice internal award and, subsequently, an ICJ judgment.

In the Medellin case, the U.S. Supreme Court found that the U.S. could not comply with a judgment issued by the ICJ because of its domestic law. The court concluded that even though an international treaty may constitute an international commitment, it is not binding
domestic law unless Congress has enacted, institutes, implementation.

It is self-executing. The United States did not act in bad faith, in the same manner as Ecuador is not acting in bad faith now. In fact, Ecuador's certain that the international and domestic legal issues raised by the interim award and the Track II award are quite similar to those in Medellin and more complex than those faced by the U.S. government in the Medellin case.

In the Medellin case, the United States agrees that a part, a difficult part, to comply. Whereas, Ecuador had no part at all. Ecuador has noted in the past that in the case of Medellin, the only value to U.S. compliance was domestic law which, by definition, could have been remedied by the United States.

In contrast, Ecuador's situation is more difficult due to the existence of a competing international law commitment. Ecuador cannot unilaterally alter the text of commitments
contained in the Human Rights Conventions.

And finally, Mr. Chair and members of
the panel, I would like to make some brief
comments about the importance of GSP for Ecuador. GSP represents the recognition by developed
countries of the need to support developing
countries in order for them to have greater
opportunity of participating in international
trade, which is one of the main elements to
reduce poverty and create jobs.

At the same time, GSP has been an
important driver for the development of several
industries in the countries that were granted
preference. In summary, GSP benefits the
economies of the preference-granting countries,
as well as the beneficiary countries.

In the case of Ecuador, a fair amount
of the products that benefit from the GSP, come
from the small and medium-sized enterprises and
are produced in rural areas. The GSP has enabled
these people to continue producing in a
sustainable manner.
It is worth mentioning that in the last decade, the agricultural sector in Ecuador has helped to reduce poverty from 61 percent to 38 percent. Agriculture accounts for 25 percent of the economic populations in Ecuador.

Between 2010 and 2017, the participation of the imports made by the United States from Ecuador, under the GSP has increased significantly, both in the number of products as well as on their imported value.

The imports made by the United States from Ecuador under the GSP went from U.S. dollars $54 million, in 2010 to $435 million in 2017. While, 2010, the imports made by the U.S. from Ecuador under GSP represented just 3 percent of the total non-oil imports from our country, this percentage increased to 17 percent in 2017.

During this same period, the number of products imported by the United States from Ecuador under the GSP also increased from 168 to 309, which is an increase of 4 -- of 141. In 2010, the number of exporters that benefit from
the U.S.-GSP was 623. During 2016, that number rose to 801, increasing by 178 exporters.

A loss of preference will surely mean the disappearance of growth in businesses in Ecuador, increasing poverty and denying the whole purpose for which this scheme was created four decades ago, to support the development of developing countries.

In this sense, Ecuador asks the USTR not to allow an arbitration process that is not yet finalized to interrupt the very fruitful cooperation between our two countries and decide to strengthen trade relations. Thank you very much.

MR. HERFINDAHL: So, thank you very much for your comprehensive statement, Mr. Ambassador. I took note of your request that you provide responses in writing to our questions.

So, we, both respecting that, and in the interest of time, we will submit all our questions to you in writing for a response in the post-hearing brief. Thank you very much for your
participation today.

MR. CARRION MENA: Let me only say a final sentence because we have a problem with this with Chevron. It's only to regulate that Ecuador wants to finish this long-standing issue. It's too much. But under, of course, the rule of law, and not by pressure, we will exercise all our means in due law to make this issue terminate.

Because, as I said in the beginning, we are opening a new era of relations between our countries. And we want not to have any more of these problems that have affected our relations. Thank you very much.

MR. HERFINDAHL: Thank you very much, Mr. Ambassador, and thank you for your participation today. So, at this time, we will adjourn until 1:15, when we'll take up Thailand's worker rights issue. Thank you.

(Whereupon, the above-entitled matter went off the record at 12:27 p.m. and resumed at 1:19 p.m.)
MR. HERFINDAHL: So, welcome to the Royal Government of Thailand, we're delighted to have you here.

We'll recommence our hearing. The agenda for the afternoon, I would note, we have a very full agenda. We're covering four countries this afternoon. So, we would ask that everyone who's speaking stick to the five minutes so we have plenty of time for questions and answers.

So, with that, I'd like to turn it over to the Government of Thailand for your statement, please.

MR. KUNTAMAS: Thank you.

Hello, I am Minister Noppadon Kuntamas of the Office of Commercial Affairs of the Royal Thai Government Embassy to the United States.

The Royal Thai Government really appreciates the opportunity to testify in front of GSP Subcommittee today. And, we thank you for your commitment to the generalized system of preferences GSP.

The GSP is important, too, for
Thailand economic development. The RTG really appreciates the creation of this important economic development vehicle and is wholly committed to the same essential objective.

The RTG views GSP as one of the most tools available to improve the standard of living of our Thai people while providing U.S. business input and products essential to their successful operation and job creation.

In the past, many Thai people did not have the chance to find a good job in Thailand, a predominantly agricultural society. Most agricultural work allowed the people to earn very little. The nature of the Thai economy has been changing, however, to be mixed with agricultural and industrial opportunities.

The RTG seeks to prepare Thai people for this new way of life, as well as to monitor the situations in which they work. The Government has put in place on a fairly recent basis the formal social support required to facilitate a change.
In 1993, the RTG moved a very small department under the Ministry of the Interior to become a standalone Ministry of Labour to help workers transition to very different working environments.

In 2002, the RTG established the Ministry of Labour and Social -- I'm sorry, the Ministry of Social Development and Human Security, a former small department to provide more support of the transition.

The RTG recognizes that putting in place key laws and effective enforcement is paramount for fulfilling GSP's opportunities for Thailand and its people, as they increase the standard of living while being afforded internationally recognized workers' rights.

Labour reform is a key priority within Thailand and we are currently knee deep in a multi-step process to amend the country's top two labor relation laws, LRA and SELRA.

Thailand acknowledges the frustration with the pace of the conclusion of this process.
As Director General Vivathana will discuss, the solicitation and essential integration of hundreds of comments into revised drafts was far more complex and time consuming than anticipated.

We are committed to achieve the shared goal of providing workers with internationally recognized standards of protected rights.

To do so, our Government is actively working towards successful passage of the draft bills while adhering to the steps required by our Constitution and legal system.

Furthermore, the Ministry of Labour is currently working to accelerate the process by requesting cooperation from the State of Council to shorten the duration of the draft bills consideration.

Although this legal reform process is not as expeditious as many would prefer, it is comprehensive and inclusive and adheres to requirements of our legal system.

I would like now to introduce Mr. Vivathana, the Director General of the Department
of Labour and Protection and Welfare.

MR. THANGHONG: Thank you, Minister Noppadon for your introduction and thank you to you to --

(Off microphone comments)

MR. THANGHONG: Thank you to the GSP Subcommittee. I will update the Subcommittee on the Royal Thai Government's concrete steps to reform the Labour Relations Act and State Enterprises Labour Relation Act to provide an international standard of working rights.

In addition, I would like to describe how the Government has also fulfilled its commitment and Constitutional mandate to involve all interested stakeholders in the meaningful review of the revised laws draft.

The Ministry of Labour, through the Department of Labour Protection and Welfare proposed draft revisions of the Labour Relations Act, the LRA, and the State Enterprises Labour Relations Act, SELRA, in 2014.

The purpose of the revisions was to
expand the ability of workers to organize and bargain collectively.

While the two draft Acts were being considered by the Cabinet in 2015, the Thai Labour Solidarity Committee, the TLSC, submitted a proposal to the Ministry of Labour to halt their process of submission.

The Thai Labour Solidarity Committee felt that the drafted Acts needed revision to comply with the principles of ILO Conventions Number 87 and 98 to facilitate their ratification.

Just weeks later, in March 2015, the Ministry of Labour convened a meeting with representatives from the labor organizations and employers organizations to consider the proposal of the Thai Labour Solidarity Committee.

The meeting concluded with these resolutions.

Firstly, the two Acts drafted by the Government needed to be withdrawn by the Ministry of Labour.
And, secondly, a working group was to be established, comprising representatives of the Government, employers and employee organizations to draft new versions of the Labour Relations Act and the State Enterprises Labor Relations Act.

The Ministry of Labour subsequently withdrew the then draft Acts from the Cabinet's consideration and established the Tripartite Working Group whose non-government members were nominated by their organizations, respectively, including representatives from the TLSC.

The Tripartite Working Group reviewed the proposed legislative changes to establish a draft that was then reviewed the ILO.

However, later on, representatives from the TLSC withdrew themselves from the Tripartite Working Group.

The public hearing process began in February of this year. It included holding four hearings around the country which were attended by 674 people.

Public hearing attendees included
representatives of employees organizations, employers organizations, activists on labor rights, Government sectors and the Chamber of Commerce. Workers from 15 labor congresses also testified as did employers of 15 employers confederations.

To give you an example of the views expressed at the hearings, a representative of the Thai Labour Solidarity Committee testified against migrant workers rights to form a union.

Of the 218 hearing attendees who filled out a questionnaire asking their views subject to the rights to organize of migrant workers, 92 percent disagreed with migrant workers rights to form a union.

Each completed questionnaire was reviewed by the Ministry of Labour. The results were proposed to the Ministry of Labour's Ministerial Law Development Committee which integrated them into the draft labor relations law.

Initially, only 19 provisions of the
draft law were thought to require change. The
process of review by the Ministerial Law
Development Committee, however, was found to be
more complex.

A change to one provision then
required changes to other provisions.

Hence, the Ministerial Law Development
Committee was unable to finish the revised draft
labor relations law as scheduled and as
previously communicated to USTR.

Before I conclude, I would like to
emphasize four important points.

Firstly, labor law reform to protect
all employees continues to be a top priority of
the Royal Thai Government.

Secondly, the reform delay was caused
by the extensive public hearing and public input
integration process. This was complex and
unexpectedly time consuming.

Thirdly, in early November, review and
integration of the public comments was complete.
I am happy to report that, under the legal
revision process, the Ministry of Labour has formally submitted the revised, amended laws to the Cabinet for its consideration and approval in principle.

Looking ahead, it would be very helpful and mutually beneficial if the Royal Thai Government and the U.S. Government can join hands and work together in the spirit of partnership on labor issue.

From the Thai side, there are many things that I believe we could learn from experience and best practice of the United States. We could also work with the United States on capacity building where needed.

We would be open to discussing with the U.S. side on how the two countries can move forward with this partnership framework.

Thank you.

MR. KUNTAMAS: And, that concludes our testimony in support of the Royal Thai Government. Thank you again, and we welcome your questions.
Thank you.

MR. HERFINDAHL: Thank you very much.

I know that we'll have several questions for you.

MR. KARAWA: Thank you, again, for your attendance and comments.

My question is regarding the time frame. Your submission explains why it has taken longer to amend the Labor Relations Act than presented to us in recent time lines.

What are the next steps in the process for amending this Labor Relations Act and what is the Government anticipated time frame? Are these simple estimates or are these required procedures which you said the time frame was possible?

Thank you.

MR. THANGHONG: So, thank you for your questions. I would like to reaffirm that, at present, the draft is under the process of submission to the Cabinet.

It is expected the Cabinet will approve the draft in principle in December of
this year. Next, the Council of State, which normally takes three months to consider the wording and content.

So, it's supposed to be finished by March 2019. Then the draft report to the process of ad hoc comments that are already assembled for considering the viability of enforcement and its impact.

This step normally takes two months, so it's proposed to be finished within May 2019. After that, the draft will be put in queue for approval by the National Facility Assembly.

MR. KUNTAMAS: Let me add to RTG for a little bit why it is late. As he was mentioning earlier that actually initially only 19 provisions of the draft law were thought to require change.

But, when it comes to take an action, one relates to another. So, that would have more comments than we anticipated. Thank you.

MR. O’DONOVAN: Good afternoon, and
good to see you again, Director General.

In your submission, you state that Thailand is not ready to set up a system of labor unions formed by migrant workers in your pre-hearing brief.

In your testimony here before us today, you talk about how members of the Thai Labor Solidarity Committee testified against migrant workers' rights to form a union and 92 percent disagreed with the migrant workers' rights to form a union -- to form independent unions unaffiliated with existing unions.

I'm wondering, what is the rationale for Thailand's decision to deny migrant workers the right of association? Is the rationale because 92 percent of respondents argued against it or is there another reason?

MR. KUNTAMAS: He will translate.

MR. THANGHONG: It may be more easy for me to answer in Thai language.

MR. THRIRATTANAWONG (TRANSLATOR FOR MR. THANGHONG): He said, under the Thai
Constitution, we have to have public hearings and we have to take those comments into consideration.

Anyway, migrant workers should be able to -- we allow to be a member of the Labor Union Committee on a ratio of one to five.

And, under our consideration by the Council of State, the Ministry of Labour will try to advise to include the prohibition that allow the migrant workers forming labor unions again.

Right now, the Government tried to legalize the migrant worker by asking to register so they can be protected under the law. So, that -- the new principle and the step that are going to take to protect the migrant workers.

MR. O'DONOVAN: Thank you for that answer. One quick follow up question if I may, I'm wondering if what steps the Government took during the process of those hearings to educate the public and the public who attended those public hearings regarding the fundamental rights of migrant workers to associate in the union of...
their choice?

MR. THANGHONG: We do several seminars on this to inform the migrant workers of their rights. And several educational information as in even to migrant workers and also any employers.

MS. SANDLER: What was that last?

MR. THANGHONG: Employers.

MR. HERFINDAHL: Could you just repeat it in the microphone?

MR. THANGHONG: The Ministry of Labour have organized several seminars or educational programs to the migrant workers or any employers of Thailand and also educational information has been distributed to them.

MR. O’DONOVAN: Thank you.

MS. HELM: Hi, your submission notes that a new revision to the draft law allows migrants to serve as members of a union Board of Directors in a ratio not exceeding 20 percent of Thai nationals.

The argument of the AFL-CIO is that
the existing unions do not serve migrant workers
in the sectors where they work because
proportionally few Thai nationals work in
fishing, construction or agriculture.

If there are no unions in these
sectors, then there are no unions for the migrant
workers to join.

How does this provision help migrant
workers set up unions in those sectors?

MR. THANGHONG: So, thank you for your
question, it's a really very good question.

But, anyway, we will respond using our
post hearing submission. Thank you.

MS. MITCH: Thank you very much.

This question concerns the enforcement
of Labour Relations Committee decisions.

Petitioners submission and periodic updates
detailed examples of instances in which workers
have been subject to apparent unfair labor
practices and appealed to the Labour Relations
Committee for protection.

And, despite a favorable decision,
they've been unable to secure their rights because employers have not been forced to comply with the LRC decision.

How can the LRC better ensure that employers will enforce its orders and can you provide additional detail on how often the LRC takes civil or criminal proceedings against employers for failure to comply? What else may explain the apparently high rate of noncompliance?

MS. TECHAGOMAIN: In our new draft, we helped add the face which has determined if any decision which is made by the Committee on Labor Relations would not be a result to relief, even though you put those decisions into the appeal court.

So, basically it goes two ways, we have to act immediately after the decision made by the Committee. But then, on the employee side, they still have the right to go through the court.

So, different way, so actively and for
employee, they have the right to defend
themselves by the court.

So, that means they have to put any
action of the Committee right away.

And a statistics, we will send you
that late on the post-hearing. Thank you.

MR. O'DONOVAN: Thank you so much, we
appreciate any statistics or data you have
regarding the enforcement of unfair labor
practices in the post-hearing briefs.

But, if I could just ask a quick
follow up question, petitioners in this case have
pointed to a number of cases where there appears
to be a lack of enforcement.

If as you describe, employers must
first comply with the order while they're going
to court. What explains for the lack of
enforcement for the failure of the employers to
comply?

What happens if an employer does not
comply?

MR. THANGHONG: This one is a little
bit in detail, but the law process, so we will list this in our post-hearing submission.

MR. O'DONOVAN: Okay, thank you.

I get to ask the next question also.

Your submission, your pre-hearing brief rather notes that the draft Labour Relations Act provides protections for workers who are preparing to form a labor union, preparing to form a labor union at least is the English translation.

The Government has indicated that the provision is intended to protect preliminary collective activity such as holding a meeting to discuss work related concerns, for example.

However, preparing to form a labor union may reasonably be read by courts very narrowly.

In testimony at our last GSP hearing, you noted that this would be clarified by the Ministry of Labour when the draft LRA is published.

Can I ask, how would this
clarification be published and what would the
legal authority of that announcement for guidance
be?

MS. TECHAGOMAIN: The Ministry of
Labour is replacing the guideline that will be
instituted to all the related -- all interested
parties about this and how to form a labor union
and what it's to protect.

MR. THANGHONG: May I add something?
According to our preparations, this guideline
will, didn't mean it wasn't the preparation
process and then we will disseminate it to the
worker organization, the employer and also to the
court and to the police.

So, I believe you have the same
definition of preparation process.

MR. O'DONOVAN: And, what's the legal
authority of that document? Are courts required
to follow the interpretation in that guidance?

MR. THANGHONG: Yes, we would try to
keep the same way that we think on the
preparation of the formation of the labor union.
And, also, the Officer from the Ministry of Labour will be the witness in the case anyway. And then we can explain it to the court.

MR. O'DONOVAN: Thank you.

MS. LAURY: Good afternoon. I have a question about contract workers. In your pre-hearing brief, you note that contract workers are entitled to form or join a labor union of contract workers.

But, your brief does not say anything about joining existing workplace unions that may include permanent employees.

Is the Government working on addressing this gap? Furthermore, is the Ministry of Labour considering any steps to improve the enforcement of existing restrictions on the multiple renewals of short term contracts?

MR. THANGHONG: Okay, ma'am, thank you for your question.

I think that I have to, again, to respond to this question in our post-hearing submission.
MR. KUNTAMAS: Also, the previous question raised by USTR, we'll provide more
detail on that on the post-hearing. Thank you.

MR. ATHREYA: Good afternoon. I would
like to ask about the defamation law. The AFL-
CIO has pointed out for several years that the
anti-defamation laws in Thailand are sometimes
misused by employers to retaliate in cases of
collective negotiations and disputes.

And, one example of that that has been
raised in the past, the case of 14 migrant
workers on a poultry farm who were criminally
prosecuted for defamation after they filed
complaints with the Government about their
squalid living conditions.

Your pre-hearing brief makes it clear
that the Government of Thailand has chosen not to
accept technical suggestions for revisions to the
law that would strengthen and clarify protections
for workers.

The law as drafted leaves workers
vulnerable to these sorts of frivolous charges.
Can you please tell us if there are any other safeguards that the Government is contemplating to ensure such cases cannot be used to intimidate and harass workers?

MR. THANGHONG: Because the freedom of speech under the Thai Constitution is under the criminal law, there was a different judicial system from the U.S.

And, we cannot amend the labor law in different case, the procedure of criminal law. So, it's up to the Judge.

And for the new cases, it's based under the facts of the case. And we found that most of the cases are being terminated and there are new cases, we would like to get more details, so additional information from the USTR so we can investigate and put in our post-hearing brief.

MR. O'DONOVAN: A very quick follow up question, please. You noted that this law is in the criminal act, but in fact, there is also in Section 98 of the Labour Relations Act, there is a protection for workers for certain kinds of
speech.

And, I'm wondering whether steps --
whether the Government considered steps to
strengthen protections under Section 98 of the
existing act?

MR. THANGHONG: I'm so sorry, but it's
a good question, but there's a lot of detail
about this one because we have to consider is
this Section including the court procedure. So,
maybe I will respond to this in the post-hearing
briefs.

MR. O'DONOVAN: Post-hearing briefs,
very well, thank you.

MR. HERFINDAHL: Great, well, that's
all the questions we have. So, I really
appreciate all the members of the Royal Thai
Delegation here today. So, thank you very much
for your participation today.

Now, if I can ask the next panel of
the AFL-CIO and Human Rights Watch to come
forward, please?

MS. DRAKE: Good afternoon. I thank
the USTR and the GSP Subcommittee for your
consideration of the AFL-CIO's petition regarding
Thailand's failure to afford internationally
recognized worker rights as is required to
receive GSP benefits.

Since the AFL-CIO last testified on
this subject, the Royal Government of Thailand
has not taken steps to afford workers their
internationally recognized worker rights.

It fails in both law and practice,
starting with the Constitution that allows the
fundamental right of association to be abrogated
for virtually any reason.

Public sector workers, agricultural
workers, teachers at private schools and migrant
and informal sector workers collectively about 75
percent of all workers in Thailand are forbidden
from forming unions.

And, by the way, the TLSC does support
the right of migrant workers to form and join
unions.

Even basic activities that help
workers decide whether or not they want to establish a union, such as holding a meeting or protesting unsafe working conditions receive no protections at all under current law.

If workers can manage to form a union, Thai law allows undue interference in its activities by limiting who can hold leadership positions, nor does Thai law require employers to bargain in good faith.

When workers seek redress for labor violations, whether in court, at the Labour Relations Committee or with the local Labour Protection and Welfare Office, the result is usually the same, the very officials who should be upholding the law pressure workers to give up and take a buyout instead.

This happened to 28 EC Automotive workers and to the union president at LLIT Thailand.

When workers resist pressure and get a court judgment in their favor, the reinstatement orders often go unfulfilled, as was
the case for 11 workers at Nakashima Rubber, for 2 at NTN Manufacturing and 66 at General Motors.

The threat of criminal defamation continues to be used to restrict fundamental worker rights.

Despite a favorable ruling for 14 workers at Thammakaset Farm, the employer is appealing and continues to take new actions against workers who speak up about poor conditions and new investigations by prosecutors are already under way.

The Supreme Court has approved the firing of a union leader and severe restrictions on freedom of expression at Auto Alliance Thailand despite clearing workers of criminal charges.

It likewise ratified Mitsubishi Electric's grotesque and humiliating discipline of members of the Team Union, discipline which included four days of discipline and order training at a military base, five days of reflecting on their wrongdoing and one day in
which they were forced to clean other people's homes.

The Government not only allows such behavior, it assists in worker rights violations when it denies freedom of association to public employees, delays action, refuses to enforce its own orders, pressures workers to give up their legal rights, offers military bases for use by employers and employs the police and military to threaten and intimidate workers.

It has even been known to report to employers the names of workers attempting to register a union so that they can be fired before receiving legal protections.

Of particular importance is an update to a case that you may already know regarding the State Railway Union of Thailand.

As you may recall, SRUT leaders organized a health and safety action following a train derailment that killed seven passengers.

Thirteen leaders were fired as a result and seven were ordered to pay roughly half
a million dollars in fines plus interest to the State Railway.

Though the fired workers were eventually reinstated, the seven who were fined never received back pay to which they were entitled.

Last year, the Supreme Court of Thailand affirmed the massive fines, now up to about $650,000 or more, depending on how the interest is calculated.

The union leaders tried to negotiate with the railway to reduce the fines. But, on November 20th, just last week, without any notice, the railway began to deduct the fines from the leaders' monthly checks.

After the deductions, some of the leaders received as little as 300 Thai Baht or about $9 for the month. That's equivalent to Thailand's daily minimum wage.

The impact of these deductions is devastating. It is no exaggeration to say that $9 a month makes this a life or death issue.
That the Thai Government enforced this illegitimate fine, one that both the International Labor Organization and the National Human Rights Commission of Thailand recommended reversing while under a GSP review is astonishing and it should be considered as evidence that the Thai Government is not yet taking steps as required to maintain GSP benefits.

In sum, the Government of Thailand has not taken steps to afford internationally recognized worker rights including the right of association, the right to organize and bargain collectively and the right to be free from forced labor.

The AFL-CIO encourages the U.S. Government to consider the targeted suspension of tariff benefits for key exports to secure GSP compliance.

I thank the Committee and would be pleased to answer any questions you may have.

MR. HERFINDAHL: Thank you, Ms. Drake.

So, I think we'll turn to Mr. Sifton
and then ask questions of both of you after that.

MR. SIFTON: Great, thank you. Time is at a premium, so I'll move quickly.

The panel has already received my pre-hearing submissions, so I hope it speaks for itself.

I'm instead going to just cut straight to the heart of the matter. I think the question before this panel and for U.S. trade representatives in particular is, GSP privileges under U.S. law, 19 USC 2462(b)(2)(g), in short, is Thailand taking steps to afford internationally recognized worker rights to workers in the country?

And, the simple answer is no. The Government has undertaken some reform on paper and they've made some changes in implementation and I'll be glad to talk about that during the question period.

But, the truth is, on the grand scale, on the macro scale, the bulk of recommended reforms and necessary reforms that are needed to
make those eligibility requirements be met have
either stalled or not been implemented.

And, it's vital that none of us allow
ourselves to be misled by Thailand's long history
in this regard of recycled promises and foot
dragging and buck passing and elevation of words
over action, which is really what I see most in
the submission that the Government has provided
to you.

The submission demonstrates that
Thailand -- something that we've been saying for
a long time which is that Thailand is more
concerned with appearing as though it is
addressing labor issues than in actually address
labor rights issues.

This is a pattern and it has been a
pattern of Thailand for well over a decade. I
mean, the labor rights problems, especially with
foreign workers in the seafood and agricultural
sectors in particular has been a focus of
international scrutiny for well over a decade and
yet, even now, the government can't stop itself
from making the same kind of excuses that it's been making for years.

This pre-hearing submission essentially proves our argument. It's filled with those same excuses we've been hearing for years.

The Government says they haven't passed a key new law, the LRA, because its Labour Secretary, quote, suddenly resigned and because of legal requirements regarding consultations even though many other laws have passed the National Assembly without those requirements being met.

And, we're all for consultations, but this sort of excuse just isn't being made in good faith.

This highly misleading claim about stakeholders being against foreign workers being given the right to organize, that is simply an untrue statement, unless the stakeholders the Thai government is talking about are a very narrow band of stakeholders that doesn't
represent all of the stakeholders in question.

And then, later, a sort of different excuse for why foreign workers are not being allowed to organize, simply, we are not -- we, the government of Thailand, are not ready to set those system responding to the labor unions formed by migrant workers. We are not ready.

Which doesn't seem to be a justification as much as an explanation.

So, look, we're all for consultations, but let's be honest, Thailand is not a democracy and the National Assembly is not a deliberative legislative body. It does and will do whatever the Prime Minister and the NCPO tell it to do.

And, I say this not to gratuitously insult the Government of Thailand, but merely as a fact. We want democracy to be restored to Thailand.

But, in the meantime, the argument that things don't happen because of the deliberative process just doesn't -- it can't be taken to be made in good faith.
My pre-hearing submission acknowledges that the small pieces of supposed progress, including plans and initiatives and other announcements and changes in policies, especially in the seafood sector have occurred.

But, my point in the presentation now is to say that all of this taken together doesn't add up to the type of change that I think the GSP requirements require.

So, we share the AFL-CIO's view, enough is enough. After a decade of scrutiny and discussion, it's no longer plausible to suggest that Thailand has been serious about labor rights reforms.

And, it is, therefore, no longer possible to plausibly argue that the country is eligible for GSP benefits.

As an organization that's been focused on these issues for well over a decade, Human Rights Watch strongly urges you to revoke Thailand's GSP status or use the targets approach that the AFL-CIO's proposed.
It's important to send the Government the message that they need to get serious for reform. It's time for a tough message and not just with words, but with actions.

And I am over and we can take your questions.

MS. LAURY: Thank you both for your testimony this afternoon.

I have a question for Ms. Drake on the consultation process. The Government has noted in its petition that it held four public consultations during 2018 on the draft amendments and incorporated feedback from stakeholder groups.

Did your organization or any of its partners participate in this public consultation? If not, did they seek to provide feedback to the Government through other mechanisms?

MS. DRAKE: So, our partners on the ground have attempted to participate in public consultations. And, the feedback that we've gotten were that the consultations were
dysfunctional. They were not meaningful.

In particular, our partners pulled out of the Labor Law Reform Subcommittee for the specific reason that their input was not being taken seriously and the Subcommittee seemed to be stacked with non-democratic, non-representative yellow unions under the influence of Government and the employers and they felt that continued participation would really give legitimacy to a process that was not legitimate.

So, you know, we would suggest perhaps that future consultations include only unions that are democratic, include unions that are most representative that could actually follow ILO guidance for social dialogue, do something that's better and that doesn't come across as a really stacked, unfair process that's not looking for real input.

MR. SIFTON: May I just add to that? The suggestion that the Tripartite framework of consultation has been some kind of fully consultative process with the relevant
stakeholders is what I meant by saying
disingenuous.

That is just not the case. There are
huge numbers of stakeholders who feel excluded
from that or who feel that it is not an adequate
forum to take their concerns seriously.

So, when the Thai Government proposes
here that they have talked to everybody and 92
percent think, you know, foreign workers, bad
idea, that just seems to be an inaccurate polling
of the relevant stakeholders.

MS. ATHREYA: Thank you.

The next question is for Mr. Sifton.

I'm going to cite from your pre-hearing brief,
Human Rights Watch noted that the Government has,
quote, attempted to overhaul the fishing industry
monitoring control and management regimes and
establish new interagency inspection frameworks
for the fishing sector.

Can you tell us more about why you
feel those reforms have failed? Have not been
effective? And whether there are any reforms
that have succeeded in mitigating the labor
exploitation in this sector?

MR. SIFTON: Yes, I mean, I think we
should give credit where credit is due and the
fishing registration process, for instance, was a
step forward to ensure the fishers were legally
registered under their own names.

And, I think that that had an impact
in checking the number of fisher folk on board
ships makes it impossible for the captains of
those ships to, well, frankly, kill the workers
and dump them overboard and then return to port.
When you have to account for your crew now.

It also -- the requirements also mean
that ships have to make landfall more often,
which is a good thing. It allows workers to
escape from traffic forced labor more easily.
You can't escape when you're at sea.

But, unfortunately, there was flip
side to it. The pink card registration process
which is now over, but there's this new boat
captain's sort of the ship log process had a
perhaps unintended impact which is, now, more forcefully links a fisherman or fisher person with a crew and a ship and it makes it much more difficult for them to leave that employer because now they are essentially bound on paper to that ship.

And, the Government of Thailand probably didn't intend that to happen, but that is what happened. And so, a lot of workers have told us, and we quote this in our new report, that they felt it impossible to leave abusive conditions, even when they made landfall because they were essentially made into illegal workers if they left that fishing vessel.

So, that was sort of an unintended --

Now, you asked what could they do? I mean, look, there's a bunch of things we've been recommending about implementation, not just these legal reforms because, again, the Government's submission goes into length about all the legal reforms.

But, there's a lot of things about
implementation and when I see that the Labour
Ministry, you know, isn't -- doesn't even want to
be involved in the implementation and enforcement
of the forced labor amendments that are being
proposed, you know, that's a big concern to us.

And, while I'm on the subject of
forced labor, let me just say one quick thing, in
terms of implementation versus reform, Thailand
has a long history of ratifying agreements,
whether it's the convention against torture or
the ILO convention protocols for 29 on forced
labor and then not doing anything to implement
their terms.

So, nobody should be fooled by the
argument like, well, okay, Thailand has ratified
such and such a convention. Until you actually
see the implementing legislation on the books and
then the relevant entities are then enforcing it
by forming inspections, prosecuting people who
are not in compliance and actually doing things
that make the law have meaning as opposed to just
being a piece of paper, then it's just a promise
on paper.

MR. KARAWA: This question is for Ms. Drake. It's regarding defamation and I think you alluded to it in your testimony.

Does the recent decision in the former custody of the poultry case in which the workers were held harmless alleviate any concerns regarding the issue of defamation?

Does this decision offer or set a precedent for other workers seeking legal redress? If not, what legal redress or policy changes would be needed to curtail the abuse of criminal defamation laws to reflect liabilities?

MS. DRAKE: Thank you for your question.

The case actually doesn't offer much confidence that things are changing. I would first note that the case is not final. It's currently under appeal.

So, the workers that appear to have won, you know, may not keep that status and the precedential values is, therefore, questionable.
In addition, the company has launched additional lawsuits alleging defamation against the Migrant Workers Rights Network, against Andy Hall, against others, there are other workers that are currently under investigation, as I noted.

And, defamation is still being used to silence civil society more generally. I have some articles that I brought that I'd like to submit for the record.

But, certainly, even though the workers won their case, there are cases now against the activists who made short video tapes of those workers who now supposedly aren't doing anything wrong but those who videotaped them and shared them on social media are now being charged with doing something wrong.

And, defamation is also being used just against regular civil society protests, for instance, against a group who is working to protest a housing development being built in part of a forest and it's being used against them.
So, I'd like to submit those, if that's okay.

And, in terms of what could be done, there's a whole variety of things that could be done and I think you all and your questions to the previous panel alluded to some of those issues.

You know, just on the basic level of labor rights, you know, labor -- concerted protected activity could be totally excluded from defamation, both in terms of criminal and civil.

Thailand could also institute what are known as anti-SLAPP statutes and SLAPP is an acronym for Strategic Lawsuits Against Public Participation.

And so, if there was an anti-SLAPP statute, it could say this is not appropriate to use defamation as a way to intimidate, to threaten, to silence workers, whether they are already in a union or whether they're acting together in concerted activity and may be forming a union in the future.
The defamation laws in general could be tightened, it could be decriminalized. So, there are a lot of things that could be done, but we think now is not the time to say that things are getting better just because there happens to be a positive outcome so far in the Thammakaset Farm case.

MR. PAJUSI: I have a question for Mr. Sifton. In your pre-hearing submission, you noted, you urged the Government to pass a standalone forced labor law.

Can you tell me what, in your view, are the most critical changes in law or regulation or practice that a separate forced labor law would help to address?

MR. SIFTON: I mean, we say standalone because the sense that it would be an amendment to another law is part of what feeds into this problem where an entire ministry absolves itself of responsibility of enforcing the law.

So, how it gets passed has an impact on that.
The Department of Labor protects --
the Department for Labor Protection and Welfare
needs to staff up and be part of any enforcement
of a law against forced labor.

But, if it gets passed as an amendment
for something else, it's going to -- what's going
to happen is exactly what the Department of Labor
Protection and Welfare wants which is for the
police to have the primary role in enforcing the
law which just means, you know, raids of brothels
and things like that and not an effort to address
some of the underlying problems, trafficking and
the brokers role.

And, just not seed the whole matter to
the police.

But, the other issue is about labor
penalties which are much lower. I mean, really,
if you want to get people to follow the law, then
penalties are an important aspect of it.

And, I think a standalone law that
specifies key strong penalties for those who
engage in forced labor and doesn't, you know,
focus only on one part of the problem like traffickers but focuses on the employers, too. That's a very important aspect as well.

I would just add, I mean, I don't know how you -- you can't print the whole thing in the Federal Register, but our recent report, Hidden Chains, published this year has a whole litany of recommendations specifically about this issue.

MR. HERFINDAHL: Thank you.

So, we have a number of other questions for you that I think in the interest of time we'll submit to you in writing and that we would request that you would respond to in post-hearing briefs.

So, thank you so much to both of you for your participation today.

MR. SIFTON: Thank you.

MS. DRAKE: Thank you.

MR. HERFINDAHL: So, if I could now ask the -- Mr. Lamar and Mr. Heffner to come forward, please, for our third panel?

MR. HEFFNER: Good afternoon. Members
of the GSP Subcommittee, thank you for your time
today. I am Douglas Heffner of Drinker, Biddle &
Reath, counsel to the Dole Package Foods, LLC and
Dole Thailand, or for ease of reference, just
Dole.

Dole respectfully requests that USTR
not revoke Thailand's eligibility for GSP
benefits in response to allegations raised by
AFL-CIO regarding potential labor right abuses in
Thailand.

Dole agrees that the U.S. Government
should exercise reasonable measures to ensure
that its trading partners enforce international
labor rights standards.

Nevertheless, Dole believes that the
U.S. should coordinate with the Thai Government
to address specific instances of unfair labor
practices rather than withholding GSP benefits.

In previous cases, USTR has revoked
GSP benefits due to very serious labor rights
abuses such as case of Bangladesh.

Any labor right abuses that may exist
in Thailand are limited in scope and certainly do not rise to the level that warrants withdrawal of GSP benefits.

Instead, Dole believes that labor right abuses should be investigated and remedied in a narrower manner that are not as egregious as GSP revocation.

Dole respectfully requests that USTR address any concerns that it may have by working directly with the RTG to resolve any labor rights issues, and specific context in which they appear.

This targeted approach would allow USTR and RTG to address potential labor right violations in the offending businesses or industries while abstaining from disrupting the activities of other GSP beneficiary businesses or industries that are fully compliant with labor laws that otherwise have no GSP compliance concerns in which benefit U.S. companies.

In addition, as discussed in detail by the RTG in its testimony, the RTG has addressed
the issue by introducing amendments to its labor
right laws to ensure that they conform to
internationally recognized standards.

I won't get into any more because you
heard pretty much what they had to say about
that. But, it is moving along, although there
appears to be some delay.

Moreover, withdrawing countrywide GSP
duty preference eligibility for Thai imports and
making them less cost competitive would most
likely not benefit other poor and developing
countries.

Instead, and we've said this before,
the loss of GSP duty preferences for Dole's
products would likely result in the shift of
production to China which would likely increase
exports to the United States.

China competes fiercely with Thai
exports, it already dominates many of Thailand's
traditional export markets despite GSP treatment
for Thailand.

For the United States, the net result
of eliminating GSP benefits for Thailand for these products would be a broadening of the United States substantial trade deficit with China and likely -- and little change in trade with other GSP users.

Likewise, the possible shift from Thai products to Chinese products could affect the current sourcing of U.S. products including those purchased by Dole Thailand from the United States.

Continuing Thailand's GSP benefits will maintain support for a valued trading partner and will benefit the Thai economy.

Agriculture and food production, as you heard earlier, is a primary industry in Thailand and GSP benefits have played a significant role in the growth of Thai exports.

The potential price competition that would ensue due to loss of GSP would immediately impact jobs and harm the economy in regions where Dole Thailand has production operations.

In conclusion, the continuation of
Thailand's GSP benefits is of particular interest to Dole and other U.S. companies that supply fruit to Dole Thailand for use in the production of various packaged food products.

Because many of Dole's products are subsequently re-exported to the United States and other countries, if Thailand GSP benefits are revoked, U.S. demand for Dole products is likely to decrease.

In turn, this will result in reduced demand for fruits supplied by U.S. companies, thereby harming U.S. companies.

Thank you and with time, I'll close there.

MR. LAMAR: Thank you for the opportunity to testify today. I am the Executive Vice President of the American Apparel and Footwear Association and I'm also testifying on behalf of the Travel Goods Association, the Accessories Council and the Council of Fashion Designers of America.

Together, our members span the
industry of U.S. companies that make, market and
sell travel goods which we define broadly as
luggage, handbags, backpacks, briefcases and
related fashion accessories.

We are appearing today to urge that
Thailand not lose its GSP eligibility status with
respect to travel goods and related fashion
accessories.

GSP benefits for U.S. travel goods and
accessory imports from Thailand have benefitted
American businesses, workers and consumers.
These benefits will continue to be important in
the years to come.

We're sensitive to the underlying
worker rights problems and we'll do everything we
can to encourage the Royal Thai Government to
improve its worker rights practices.

To the power of global value chains,
the travel goods industry supports approximately
100,000 U.S. workers in such diverse areas as
design, compliance, marketing, IT and retail.

Although there are some manufacturing
activities which are supported by imports,
there's richly no large scale commercial travel
goods production in the United States nor has
there been for decades.

At more than 99 percent import
penetration by volume, the travel goods industry
today is largely dependent on China.

Until July 2017, when President Trump
declared all eligible U.S. travel goods imports
duty free from all GSP countries, China share of
the U.S. import market was 85 percent.

Companies in the travel goods
industries had few viable options for the large
scale commercial production of travel goods
outside of China.

Much of the industrial capacity, not
just for final assembly, but also for materials
and components have been concentrated there for
years.

Making travel goods eligible for GSP
duty free benefits in countries such as Thailand
changed all that.
Our members pay a high tax on travel goods imports. In June 2017, travel goods were assessed an effective average duty rate of 12.7 percent with most duties between 17.6 percent and 20 percent.

Compare this to the average for all goods imported into the United States of 1.4 percent.

Duty free access under the GSP gave the industry its real -- first real opportunity to diversity away from China and to build factory capacity and skills in other countries and to save on our crushing duty burden.

And, the U.S. industry has taken advantage of that opportunity.

Since 2017, China's share of the U.S. travel goods import market has dropped 3 percentage points to 82 percent and it continues to drop.

These duty savings now mean that companies can invest in the development of factory capacity in countries other than China.
As one would expect, the drop in China's market share has been accompanied by an increase in the market share of GSP countries. The percentage of U.S. imports of travel goods from GSP countries has grown significantly in the past few months from 5 percent of imports before GSP to just 9 percent today and it's still growing.

Consumers are also poised to see benefits, lower duty bills mean companies can pass on the savings in the form of lower prices or invest in innovation and design to deliver high value products at the same price point.

Of course, companies can also return this duty savings to shareholders in the form of dividends or employees in the form of new hires and salary increases.

Based on data from the first nine months of 2018, U.S. companies importing travel goods are likely to save almost $200 million in duties in 2018 thanks to GSP, savings that will translate in the lower prices for U.S. consumers.
and more jobs for U.S. workers.

In the past few months, GSP's ability to help companies diversify from China has taken on added significance as the Administration has now included all travel goods on times three of the China Section 301 punitive tariffs.

Starting in September, the high volume of travel goods still being imported from China faced a 10 percent additional tariff and this rises to 25 percent in 33 days.

To see how dramatic this impact is, let's look back at the tariff rates that I mentioned before.

In June 2017, the average tariff rate as 12.7 percent. In July 2017, when the proclamation for travel goods for all the GSP countries took effect, the average rate dropped to 11 percent and has remained below 12 percent for every month through August 2018 and has even dropped below 11 percent on three occasions.

Yet, in September 2018, when the new 10 percent China 301 rate took effect for just
the last six days of the month, the tariff rate shot back up to 12.2 percent.

There is no question that China tariffs have now offset gains companies were starting to make through the GSP program. This will get many times worse in just a few weeks as the punitive tariff rates more than double to 25 percent.

This is bad enough as it introduces new costs that are not easily absorbed by the supply chains that already operate on razor thin margins. But removing GSP from Thailand, especially since other top travel -- GSP travel goods suppliers are also facing GSP reviews would be devastating to the industry and the American companies, workers and consumers its serves.

Let me share some very specific Thailand information in the seconds that I have left.

While we're sympathetic to the concerns raised with respect to workers rights problems in Thailand, and again, urge the Royal
Thai Government to improve its worker rights practices, we don't support removal of GSP benefits for travel goods from Thailand.

Thailand has long been in the luggage business, although very small, the addition of travel goods to the GSP program for Thailand back on the map as a major supplier making it the seventh largest supplier of travel goods under GSP.

Taking -- talking with one small luggage manufacturer, for example, they employ about 12 workers with a significant amount of their sourcing from Thailand.

We asked them what would happen if they had to withdraw and they said, withdrawal of GSP benefits would be devastating for the companies. They would either have to charge higher prices and lose business or try to absorb the higher duties by laying off workers.

I think in the interest of time, I'll stop here. I just thank you for the opportunity to testify and just welcome any questions you may
have.

MR. HERFINDAHL: Thank you, I think we'll just ask a couple questions and submit the rest to you for response in writing in the post-hearing brief.

So, my first question is for Mr. Heffner. Many of the labor rights issues that have been discussed in this review appear to originate from a lack of legal protections and a general failure to effectively enforce laws.

Yet, in your submission and remarks today, you state that these are isolated incidents. Could you elaborate on why you're convinced that these are isolated incidents that can be addressed individually rather than systematically?

MR. HEFFNER: Well, all I can say is, on behalf of Dole, we believe that what we do is the right thing in Thailand.

And, no, I don't have any perspective other than that, other than their perspective to say that they believe that the labor system in
Thailand is not -- does not suffer from a lot of problems.

So, that's all I can say as far as that goes.

MS. HELM: This question is for Mr. Lamar. American Apparel and Footwear Association has actively worked with governments around the world to address worker rights concerns.

Do you have similar concerns in Thailand? If so, have you provided recommendations to the Government of Thailand regarding its pending labor law reform?

MR. LAMAR: We haven't provided specific recommendations, but it's something that we're looking at doing and will probably be weighing in, either ourselves or in concert with other groups within the org.

MR. HERFINDAHL: Thank you. So, I think we'll submit our additional questions in writing.

But, I want to thank you both so much for your participation today.
Now, moving forward in the agenda, we'd like to turn to Georgia, so I'd like to ask the Georgian delegation to come forward at this time, please?

MR. BERIDZE: Hi.
MR. HERFINDAHL: Hi.
You may proceed when you're ready.
MS. JGERENAIA: May I start? Okay, thank you.

Good afternoon, distinguished members of GSP Subcommittee. It's my pleasure to represent and to deliver and to update you about the recent developments in Georgia's labor institutionalization.

On behalf of the Ministry of Labour Health and Social Affairs and new issues as well, because we became the bigger one of the Ministry which covers internally displaced persons from occupied territories as well.

Especially, I am representing the head of the Department of Labour and Employment Policy and I would like to update you about the
achievements on labor, especially labor
inspectorates and developments.

            But, a few words about reforming and
before the petition -- when one petition was
submitted in 2010, the picture of about Georgia,
it was absolutely dramatically changed since 2010
when the paradoxical issue was the Ministry of
Labour was holding the name of labor but there
was not any structural unit responsible for labor
policy.

            And, moreover, since 2006, the labor
inspection was abolished and then since 2015 when
we started to reform labor, to implement labor
reform, we established labor inspection first and
the process of this is ongoing and developing.

            And, I would like to touch in my very
brief delivery some information about the major
and the crucial points about the developing of
labor inspectorates, about the institutional
level and legislation and the implementation
establishing labor mediation and social dialogue
-- development of social dialogue and the
Tripartite which was established.

And based on this Tripartite, a social dialogue. All this reform was discussed with our social partners and engagement of trade union and employers representatives.

So, it was very intensive and all amendments which was passed and submitted to Parliament, it was very intensive.

And, through the Tripartite Commission it was adopted.

And, I would like to draw your attention about the new law which was adopted in March. The Commission held the safety which defines the functions and duties and responsibilities not only for employers and employees but the fact other persons and representatives.

So, for employees and the companies and we are operating in three dimensions. What is the very strongest of this system the sanction mechanism, the first step is warning.

We are issuing not only verbal but a
written warning and giving them reasonable time
for amends and for remedy the labor condition.

And then, after the -- we're
monitoring after the -- when it expires, the
reasonable time. We are re-monitoring the
companies and then we are giving sanction.

And, we have some statistics. Despite
the fact that we started implementing mandatory
inspections since the 1st August. And, we have
the results and some findings and pictures.

Because in the beginning it was
started from the state program as a piloting.
And, the first mandatory mandates that the power
was giving for trafficking identification for the
trafficking, the companies.

And, we still -- we are maintaining
this and we have quite intensive cooperation with
criminal police.

And, unfortunately, there was not any
case, there is no case of trafficking issues.

But, they still -- what was until the
end of this year, the Commission health and
safety laws will cover the limited sector which
is the criteria of this sector was the increased
harm and hazardous working conditions and which
covers almost 11 sectors, including metallurgy,
construction, electricity, gas transports.

And, we have the list, according to
the adopted new law was issued and it improved
this resolution.

And we have this working -- this list
of hazardous waste which is covered according to
this new law.

But, it's not the last, I would like
to stress and draw your attention about the
future, the plan, the new draft with a new bill
which now is in the process of Congress and
discussion at the Parliament and which is
initiated by the members of Parliament.

And, this draft law covers not only
the all private sectors, but including the public
sectors as well.

And, the powers will be strengthened
of labor inspectorate, it will be strengthened.
And, the sanction mechanism when it comes to prior notification, they will be removed.

And, now the current law, the occupation health and safety law, they are removed the prior notification and when entering selective based companies, there is no necessity to get a permission and they can enter this annually approve the list of companies which is not public for those companies which is intended to be inspected.

And then, the second and re-monitoring based on to which we are planning -- we are implementing the second inspection. And, based on which, we are imposing sanction and/or et cetera.

And, what the main issue is, we have the power, one of the strongest power of labor inspection which was defined by the law is the suspension of working activities.

And, it is only in the case when it's critical and noncompliance, extreme noncompliance. Because we define based on
criteria a substantial noncompliance, no substantial noncompliance and the critical noncompliance.

When it comes to critical noncompliance, then we have the power to suspend the working -- the activity, we close these concrete, this exactly this place and then go to court for a process to get the confirmation.

This is the very brief, if I have time, I would cover all this by questions because I know you are, even for me, it's very -- the big issue and what we have seen is developing, incrementally developing the process.

What we got from employers who had been very resistant in the beginning, but having this experience based on monitoring and based on engagement of social partners, this process and public events and campaigns, they not only accept -- they not only accepting, they focus on health and safety issues, but they are -- they have the willingness to be trained properly.

And, because the most issue is how to
train, how to outreach about the new regulations
because we are committed according to association
agreement, the chapter effects the third -- this
section defines the -- all labor issues regarding
the gender equality, labor rights and
occupational health and safety issues.

    And, when it comes to labor rights, we
-- the process of preparation of amendments of
labor legislation, especially labor code, is in
the process at Department. And, which means that
this amendment will define the supervisory body
who will take the power and enforce the mechanism
on labor rights as well.

    And, the discussion on the labor
rights, enforcement of labor rights mechanism
will be after this draft will be submitted to the
Government and then according to procedures.

    And, the -- as an institutional level,
the labor inspectorate, so far, we have now 45.
The inspection, the Department was established in
2015 and which consists of two division, one --
the one division composed of all labor inspectors
and the second division is responsible for reporting and monitoring, analyzing the consequences of inspections.

So, for inspection and on the next step which will be discussed with social partners is how to shift and how to begin the independent body of labor inspectors.

Now, this Department is operating under the Ministry as a structural unit, as a department. But, as centralized -- which is centralized but and they don't -- we don't have the representatives to regional level.

And, in order to reach the goal effective and fully implemented, labor inspection, we do need to establish and to create independent agency which is called -- a legal entity under the Ministry.

And, having the representative at the regional level.

And, what we are planning, based to that, we plan to double the number of labor inspectors.
And, we are in the process of capacity building of labor inspectorate. Recently, we recreated additional 20, approximate 20 inspectors and this process which has to be highlighted, I think, the Commission, we have invited social partners and they -- we engage the very intensively in the processing of audits to make it transparency.

What kind of inspectors we are recruiting based on professions, qualifications which needs to be of scale as well.

I'm sorry, I'm ready to answer your questions. Thank you for your patience.

MR. HERFINDAHL: Thank you very much for your testimony.

MS. ATHREYA: Thank you so much and good afternoon.

The first question is we just want to clarify, we understand that a new edition of the Georgian Constitution will take effect following the inauguration of a new president and that Article 26 of the new Constitution states the
right to safe working conditions and other labor rights shall be protected by the organic law.

Can you explain what effect that will have on this occupation safety and health law that was just passed? And also any other implications on current labor laws?

MS. JGERENAIA: Thank you very much for this very important question.

When the law which is adopted and which is called a law on occupational health and safety and which will become an organic law means that to give them more guarantee for -- we have the labor code which is organic law and which is considered as a high legitimacy.

And, the occupational health and safety law as well will be high legitimacy and which gives guarantee from the any changes and gives more -- to maintain all these -- it defines the norms which will be reflected.

And, this organic law, I mentioned about this, this new bill which is now in the discussion and which expands the scope of the
The organic law will cover not only limited sector, I have with me the list of these limited sectors, even though this is quite a long list, this is a hazardous working list.

But, it will cover all private sectors and additionally, private and public sectors as well because we are committed to according to association agreements which says that one directive according to which the law was adopted.

It defines that this directive must cover all public and private sectors. And, the supervisory body has to have the power to inspect based on the having the sanction mechanism penalties which is proportionate.

And, I have to mention one issue, even if we impose the sanction, it's not a guarantee that fines and penalties will -- the fines will be paid by employers, but if they don't remedy situation, it doesn't mean that it's enough.

We -- what is the additional power for labor inspectorate is to suspend before this
condition will not be corrected and not be in 
compliance with international standards.

And, this is the one of the -- which 
is defined even in this current law.

MR. LAURY: Thank you for your 
testimony.

What steps is the Government taking to 
address Georgian businesses concerns that 
inspectors do not abuse their authority or 
undermine the competitiveness of Georgian 
businesses to excessive regulation and 
bureaucracy?

MS. JGERENAIA: A Georgian business 
specialty, our social partners, our employers 
association, business association are very fully 
engaged. We have fully engaged not only in the 
working process, but in Tripartite Commission.

When the bill draft was submitted and 
discussed, as I said in the beginning, they had 
the resistance, but they have now more -- they 
are more friendly and they are more engaged in 
the developing process.
And, we have quite intensive cooperation.

I have to mention about the fact that Tripartite Commission has released the agenda for two years and we have the issues which is initiated by social partners for businesses as well.

And, they -- what they are initiating and initiated so far is arbitration to establish the arbitration and establish and develop code system, especially labor direction, labor code which is not characterized for Georgian case.

And, which will be discussed, but as a position of Government, it will not an alternative for labor inspectorate, it will be additional institution. It's like labor mediation which is quite -- which since 2014 it's working and operating and the businesses is quite I would summarize this question, they are quite in close cooperation with Government and not only Government, but trade union as well.

MR. O'DONOVAN: Can I ask a quick
follow up? Just a quick follow up question to that.

In speaking with Georgian business associations, the private sector has expressed reservations about, to put it indelicately, about the corruption of inspectors in the past.

MS. JGERENAIA: Yes.

MR. O'DONOVAN: But, what steps is the inspectorate taking today to ensure that those same kinds of issues don't happen again?

MS. JGERENAIA: Thank you very much for this question.

It was the big concern that it was one of the big obstacles and that's the reason why it was abolished in 2006, it was a corrupted system.

But, after abolishing this system, the -- some of the function covering the labor inspection was disseminated in different state bodies.

Now, we are collecting and we are trying -- we established a working group with representatives from each of these state entities
in order to not overlap, in order to not
duplicate the sanction mechanism. And, we are
working in this direction.

When it comes to corruption, the first
step which was taken by government, we invited
them in recruiting process and they participated
in the recruiting process, having -- and we, in
composition -- as a composition of labor
inspectorate, the first.

The second is they have -- they will
be equipped with camera as a transparency and
they have rights and to have complaint if there
is any breeches of law. But, thanks to these
practices, we didn't have this.

And, we have, according to this law,
we have the counsel. We're going to have the
counsel of negotiation about inspection process.

And, not only inspection, the results
of inspection. But, how to select which company
will be based on criteria, will be inspected.

And, that's why this is the one of the
transparency which was not in previous, in the
past.

MR. O’DONOVAN: Thank you.

MS. JGERENAIA: Thank you.

MR. KARAWA: Thank you again for your testimony.

My question is related to the law of OSH or Occupation Safety that was passed earlier this year. It does not protect rights related to freedom of association, employee wages and hours, forced labor, child labor and employment discrimination.

How will the Government protect these labor rights?

MS. JGERENAIA: Thank you for your question.

Now, I would start with this discrimination, and the bill in draft which the amendments of the legislation, it was submitted to the Parliament and it relates to discrimination cases.

Not only the pre-contractual, but in contractual and to avoid and properly beat
discrimination. And, this draft is now in the process of discussion in the Parliament.

When it comes to the labor rights, whether it will be covered, the labor inspection, Government of Georgia, after signing the association agreement, which means that to approximate the local legislation to European legislation, means that we have to follow all these norms, which is defined, all these directives, according to agenda and the alliance. And the approach of Government is incrementally approach.

And, as I mentioned, the next step, we are preparing the amendments, the package which relates to labor rights and which gives the power and, as a supervisory body, as a labor inspection, to enforce this mechanism labor rights.

Especially, it relates part-time work, which now the legislation on labor is silent. There is no definition about full-time and part-time. That's why we are working on this to
implement this.

But, in addition, I would emphasize that we are working on a regulation and pact assessment as well with trade union. And this is the evidence why we are working. Each new norms must be assessed as a cost-benefit and cost-effective way. And it needs to be assessed on impact how to react and influence on the economic condition. That's why we have cooperated with GIZ, an international organization.

And, having this opportunity, we did not have on some of them a directive, we're going to have impact assessment to submit the draft with arguments and with evidence and the consequences.

MR. HERFINDAHL: Thank you very much for your testimony and your responses to all our questions today. We'll also have some additional questions for you if you could answer them in writing in the post-hearing brief.

MS. JGERENAIA: It's my pleasure, sir.

MR. HERFINDAHL: Thank you so much.
MS. JGERENAIJA: Thank you.

MR. HERFINDAHL: Now, if I could ask AFL-CIO to come back up, please?

MR. O'DONOVAN: We should also congratulate you on your presidential election of yesterday.

MR. HERFINDAHL: Go ahead.

MR. FINNEGAN: Thank you very much.

Thank you, my name is --

MR. HERFINDAHL: Is the mic on?

MR. FINNEGAN: My name is Brian Finnegan and I'm here on behalf of the AFL-CIO and today we are joined by Raisa Liperteliani who is the Deputy Vice President of the GTUC, so I think we can take advantage of that.

We're here with the AFL-CIO to explain why we firmly believe that the Government of Georgia continues to fail to ensure that workers can freely exercise their internationally recognized labor rights.

In 2006, the Government of Georgia abolished its labor inspectorate. Twelve years
later, the country still lacks a functioning labor inspectorate.

We recognize that a new, very limited labor inspection law has recently gone into effect and that a list of dangerous work places have been approved with social dialogue.

However, we must note that these piecemeal steps take place in the context of Government actions that tell both employers and workers that labor rights will not be protected by the Government when acting as a Government or respected when the Government is acting as an employer.

Georgia's failure to protect labor rights is broad and systematic. Unions are routinely destroyed through Government action and inaction.

The cumulative effect of Georgia's laws, policies and actions is the everyday denial of the internationally recognized workers rights we're here to discuss today.

Of the 14 cases of denial of freedom
of association tracked over the eight years since
our original submission, 9 ended in the
destruction of the union. Three continue now and
require concrete action by the Government to
demonstrate its seriousness about guaranteeing
basic worker rights.

In only two cases can we report
progress.

Many of the clearest cases of abuse
involve the denial of rights when the government
is the employer. Of the nine cases in which
unions have been busted, four involve employers
at various levels of government.

The government can no longer claim
that they inherited the labor rights problem.
The current government now owns these anti-union
practices and encourages them in public and
private sectors where broad and sustained denial
of the freedom of association in collective
bargaining persists.

The systematic violations of worker
rights at government owned enterprises where the
government has the authority and responsibility
to discipline problematic managers and high level
officials continues.

Rather than reign in these violations,
those leading their implementation as policy have
been elevated to higher positions in management
of these state owned enterprises and even to
Ministerial level positions in the national
government.

The situations at Georgia State
Railway and Georgia Post show how the national
government makes clear to workers what they will
face should they attempt to exercise the
internationally recognized worker rights to
freedom of association to organize and to bargain колlectively.

These long running and well known
cases encourage private employers to retaliate
against workers and refuse to bargain in good
faith.

We note that our submission also
included two public sector cases in which we have
seen progress. We urge the government to 
intervene positively as an employer respecting 
labor rights in more cases and demonstrate a real 
commitment to internationally recognized worker 
rights.

Despite recent measures, labor 
inspection remains a problem. As a result of 
Georgia's decimated capacity to inspect work 
places and the absence of effective monitoring 
and enforcement, many workers die and suffer 
injuries, aside their submission.

Between 2007 and March 2018, 1,306 
people died or were injured at their workplace. 
The high rate of fatalities brought thousands of 
people to the streets to demand better health and 
safety at work at the beginning of this year.

In 2017, there were 81 industrial 
accidents that claimed 41 lives and causes 66 
injuries.

From January to July of this year, 31 
people died and 33 were seriously injured.

A study published this September shows
Georgia's workplace fatality rate as being over three times that of the European Union average.

In such a context, where the state is not exercising the vital labor inspection function, the ability of workers to form union of their own choosing and defend themselves from many abuses and dangerous conditions becomes even more vital.

The AFL-CIO is not alone in our evaluation of systematic problems well beyond sustained failure to inspect workplaces. The European Union's 2018 analysis of Georgia under its GSP-Plus program supports our position regarding the lack of freedom of association in Georgia.

The workers, union leaders and unions that have demonstrated independence from employers and the government, the GTUC and its affiliates are targeted for persecution. Independence is the very essence of freedom of association, even where it is protected and respected, defending the rights of workers is
difficult. Without respect for this enabling right, countless others cannot be exercised.

The AFL-CIO urges the administration to suspend in whole or in part the application of duty-free treatment unless the government takes prompt, concrete and effective steps to change both laws and practice to ensure that workers can freely exercise their rights without employer and government domination, interference and harassment.

So, I have brought a study that I mentioned about the European Union comparison to submit as well. And we welcome any questions and I'll be joined by my colleague from Georgia in that.

MS. ATHREYA: Great. Thank you very much for your testimony.

So, to start, I want to reference in the original petition you had noted that the largest union federation on the verge of collapse after the government discontinued automatic dues check off and support of a yellow union.
Tell us about the status of the teachers' union today and what has caused the change?

MR. FINNEGAN: I'll mention something briefly and then defer to -- first, I'll just say that from our understanding, there was a previous Minister of Education who was willing to negotiate a kind of framework agreement and that's been somewhat important in keeping things going.

MS. LIPERTELIANI: Thank you for your question. Brian already mentioned that there was two cases which showed result positively and one of them was teachers case which is one of the more challenging issue because, despite of having, it was the largest union and in one thing, we had no one member, even single member the entire sector of the union.

So, it started the process of reinstatement during this acting Government, so starting from 2012 and now it is the only sector union in Georgia which has a sectorial collective
agreement.

So, it is successful case, results at the moment, so we don't have any problems in this sector.

Thank you.

MS. LAURY: Good afternoon. I have a question about labor inspection mechanisms. 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 would the Government of Georgia take to meet these principles?

MR. FINNEGAN: Again, I'll start and let my colleague continue.

I would say that, initially, this must be clearly defined as a state function, as a service that the government must train a civil service, hire sufficient numbers with sufficient training in the full range of what a labor inspectorate is supposed to cover, not just
occupational safety and health.

One quick example, what we understand, there are a lot of collective bargaining agreements that are not being complied with and the labor inspectorate that's only looking at health and safety wouldn't be in a position to do anything about that.

Touching on the corruption issue, we've seen in many countries where there is not sufficient funding, whether it's the salary or transportation, this opens the door to corruption in the labor inspectorate.

So, you can't just have it and then start it because it would be out of control.

I'll let my colleague continue.

MS. LIPERTELIANI: So, why, of course, in the beginning, I should mention that, in fact, creation of labor inspection is a positive step. This I could say on newly adopted law and incorporation of health and safety.

But, still, there are some problems we are facing and it's related to some kind of many
aspects of labor inspection, how they should like according to ILO standards. We are referring to ILO standards because we are a member of organization plus, it was already mentioned, we have association with you and, as you know, you mainly want to refer to labor standards, it is based on ILO standards.

And, what does it say, I mean, ILO convention, one, it should cover not occupational health and safety only, as my colleague already mentioned, but labor rights.

On the other hand, it's really interlinked. And, in many cases, or when job accidents happens, it happens because of violation of labor rights because people work overtime, because people work at night. We don't leave, so on.

And, it's, of course, it's sometimes reasons of job accident.

So, it is artificial to police these two dimensions of labor rights and say that, I, as a country, I am only somehow covering
occupational health and safety and not for labor rights. And, it's against ILO standards.

On the other hand, the main aspect also is related to a mandate of labor inspectors and sectors which are covered by the ILO.

As you know, it is a quite limited number of sectors, it's 11 only. In the beginning, we started from higher because of the conditions of work. But, it's affected sectors as needed.

Of course, it means that it is not in compliance with ILO standards.

On the other hand, another problem is related to access to workplaces. There are only some exceptional cases no labor inspector have access to workplaces. It's related on to plant reasons when it takes place in moratorium cases and when job accident happens.

In the rest of cases, for example, if sometimes employee or trade unions are comply to labor inspectors asking inspections, in this case, labor inspector needs to go to court to get
permission and only after they can inspect the
workplaces.

We think that it will prevent, in some
cases, to have proper inspection, timely
inspection.

On the other hand, it is quite
challenging issue what should be discussed by
court. We don't have practice yet. But once
labor inspector applies to court, they don't have
any kind of evidence or papers and so on, it's
only a statement from someone which could be even
be confidential. So, how court should discuss
and how should they base their judgment on which
kind of circumstances or evidence is really
unclear.

And, it's also a concern from the
court system. We don't, as already mentioned, we
don't have practice when permission from court
was required. But, we are somehow predicting
that some challenges also will be related to not
only to the nature of getting permission, but to
the content, how to get it.
So, these are three main aspects why we think that this acting labor inspection is not in compliance with ILO standards.

Thank you.

MR. FINNEGAN: Just to clear up from what was said just before we came up, this is still by far the predominant or the norm is to have to ask permission first. It's the exception that there are visits without that.

One other issue I'd mention is about the skills and protocols of worker interviews and labor inspection which, even in countries with long traditions of labor inspection, a lot of problem persist and that's not something that's learned or institutionalized overnight. And, it can't be desk bound research.

MR. KARAWA: Thank you, again.

My question is regarding the TSPC. The government in its submission refer to the increasing meetings of this body and an increasingly substantive workload.

Do you agree with this view and is
this body important to improving social dialogue?

MS. LIPERTELIANI: You mean the Tripartite Commission? As was already mentioned, we have Tripartite Commission as a country, but we don't find it so efficient as it could be, because it's usually Tripartite Commission should have meetings once per quarter, but only we can manage to have it once per year. So, we would like to have it more efficient, more frequent and so on.

So, we are not very satisfied on this level of topics and discussions by Tripartite Commission. So, we feel it should be, it should somehow be more active and Georgia Government should do something to promote collective bargaining and get the national level and at all levels.

And, Tripartite Commission, in fact, on paper is quite a good mechanism, but not so efficient as we would like to have.

And, on the other hand, I would like also to add one comment on corruption because
there are some arguments why labor inspection is
not needed or there are some risks of corruption,
what the government did and it is quite positive
step.

It was created the Anti-corruption
Council at government level. And, in the Council
there are representatives from trade unions, from
business representatives as well. So, if they
have some concerns related to some corruption,
cases of corruption, they can just deal with this
issue there inside this Commission.

But, it -- we don't find it to be a
realistic argument and reason because maybe labor
inspection is newly established, but there are
many other supervisory bodies in the country and
we cannot say that corruption is a challenge at
least in Georgia in general.

So, we -- I cannot even remember one
single case when someone, I mean, suffered from
any kind of inspections which are under the
Ministry of Economy or under municipality or
someone get bribe or there are no such cases in
So, I think it's very artificial and only to have such argument and it's the main idea why such arguments, some people -- sometimes business have it just to prevent to have real mechanism at additional level like labor inspection.

MR. FINNEGAN: I would just add very quickly that given what we heard about the quantity of really important labor related legislation that is in draft form and probably moving, it seems like robust social dialogue is more important than in a lot of situations because of all the things they're going to be treating that would need some sort of consultation.

MS. HELM: 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 these sectors that should have been included in the HHH list that were not?

MR. FINNEGAN: Very quickly, I'll just say that I think we've seen a lot of mobilization in the country around this issue, it is not a remote issue. It's very high profile that tells you a lot.

And that from what we can tell, this step forward is absolutely welcome, but it's clearly a step. I think we've already heard a lot of the reasons why it needs to be more integrated and a more complete approach and it's just it's a welcome first step.

MS. LIPERTELIANI: Yes, of course, this mining sector is also included in the list which was adopted by the government and it was negotiated with social partners.

And, of course, we expect to have less number of job accidents, but I cannot say but we should wait because it's very newly adopted laws, this instrument is very new and we should wait
how this statistics will look like for the next year, for example.

    Maybe because of some problems which are related towards those challenges I already mentioned knows the statistics will not be improved so much but, of course, it should have its influence because this mining sector and construction and also sectors where there's job accidents mainly have been -- are covered by this list and it is a resolution of the government that it's under mandate of current labor inspection.

    MR. HERFINDAHL: Great. Well, I want to thank both of you so much for your testimony and your participation today.

    MS. LIPERTELIANI: Thank you.

    MR. HERFINDAHL: So, next on the agenda is Bolivia.

    So, welcome. Good to see you and thank you for coming today.

    INTERPRETER: I'm sorry, I'm going to interpret and two of the members wanted to hear
everything into Spanish and it will take 30
seconds to be ready.

MR. HERFINDAHL: Okay.

INTERPRETER: So, I have to get them
set up.

MR. HERFINDAHL: Of course.

INTERPRETER: Thank you.

MR. HERFINDAHL: Ready?

INTERPRETER: Yes.

MR. HERFINDAHL: Great, thank you.

As I was saying, thank you and
welcome. We would just ask that you start with a
five minute statement and then we'll give some
questions from the government side.

MR. FERNANDEZ-RUELAS: Okay, thank
you, thank you everyone.

It's my pleasure to be here again.

So, but, with good news this time. We are today
represented here with the Bolivian State that's
now represented by the Minister Principle Advisor
Ambassador Benjamin Blanco, he is Director of
Child and Elderly Persons in Bolivia and is on
the Ministry of Justice and Transparency and
which is the head of Integration and Commerce
operation, at the Minister of -- Ministry of the
Foreign Affairs.

So, we're going to take a couple of
minutes for our Minister to explain our position
and then we are -- we'll be ready for Q&A.

So, this is the Minister Advisor, so
the floor is with you.

Thank you.

(Non-English language spoken.)

MR. BANCO-FERRI (THROUGH INTERPRETER):

Thank you very much distinguished members, and
all the GSP Subcommittee.

I'm honored to be here for this very
important dialogue and to share our efforts in
dealing with issues, particularly child labor and
our efforts to eradicate the ongoing situation of
child labor.

We would like to begin by stating once
again that the minimum age for working in Bolivia
is age 14 and that's the case since the code in
1999 code as well as the 2014 code.

The main difference between the 1999 code and the 2014 code is Article 129, Paragraph 2 of the new code which established an exception to this rule on minimum age.

The Offices of Ombudsperson for children and adolescents could authorize self-employment for minors ages 10 to 14 years of age and work activity hired by another person for those ages 12 to 14.

And these exceptions provided that it would not apply to any activity that might undermine their rights to education. It must not be dangerous. It must not be insalubrious nor threaten their dignity or their comprehensive development.

Bolivia's approach really is much more ambitious. It aims to eradicate the causes of child labor and this is done by adopting public policies in the -- for the short, medium and long term.

And to this end, there are at least 12
plans, projects and programs underway in Bolivia in order to directly tackle child labor, to struggle against its causes to prevent dropout -- kids dropping out from school, to improve their diet and nutrition, to promote learning and training, create jobs for parents, protect children from hazardous work, prevent and punish human trafficking and provide social services and strengthen the institutions in order to supervise their well-being and ensure enforcement of the law.

The results of these plans and programs have been very encouraging and representative of -- for children of Ministry of Justice. We'll go into some more detail in a few moments.

The exception provided for an Article 129 of 2014 law was to be done to establish some exceptions and the spirit was to best protect the situation of children facing these situations.

So, under our new constitution, there is something known as the constitutional block
and under this, international human rights treaties and other community agreements with other nations by Bolivia are considered to be part of the essence of the constitution of the Bolivian constitutional law.

And this means that ILO Convention 138 has the same rank in Bolivia as the constitution of the country and that any measure of a law that might be adopted that is at odds with any provision set forth in human rights treaty ratified by Bolivia is found to be unconstitutional.

And so, the Office of the Ombudsman filed a challenge known as a constitutional challenge to this Article 129 that was on July 21st and this was -- and there was a finding that, indeed, the law was at odds with protections for children set forth in the conventional rights of the child and convention - - ILO Convention 138.

So, the Article 129 exception at this time is not enforced in Bolivia. And the
judgments of the constitutional court in Bolivia are all res judicata so there may be no subsequent remedy pursued and they are binding and they set case law. They go into effect immediately and are to provide guidance in future court decision in the country.

That's why no further legislative action or legal action is necessary in order to implement the judgment of this high court.

And so, to conclude, I want to close with two points. First, just to underscore the minimum age of 14 for work in Bolivia ever since the constitutional court judgment on July 2017.

No exceptions whatsoever are admitted.

And, therefore, the problem that originally gave rise to the need for the country practice to review has been resolved.

We know that child labor continues to be a problem in Bolivia, in the United States, and around the world, and, therefore, we will continue implementing these new programs that have shown results in order to continue tackling
this scourge.

Thank you very much and would like to pass the floor to Ninoska Duran with the Ministry of Justice in Bolivia to discuss with us these results.

MS. DURAN BURGOA (THROUGH INTERPRETER): Thank you very much. Good afternoon, it's good to be here. I would like to share with you some of the actions that we've worked on, not only to -- in relation to implementing ILO Convention 138 but in terms of defending the human rights of children and particularly children who work in Bolivia.

Carrying out a transitory provision of Law 548, the code on children and adolescents, a survey was undertaken to look into the situation of children who work.

So, this survey has been carried out since 2008 and this as to assess the situation of child workers and the fact that it's carried out since 2008 also gives us a benchmark to compare further developments since then.
And this national survey is being carried out with the mandate from the highest level. The guiding -- the lead agency is the Ministry of Justice and Institutional Transparency because it's at the head of the national system for protecting child rights. It also includes the Ministry of Labor, Ministry of Planning, Statistics Office and others.

The survey has been fundamental, it surveyed three million children and adolescents ages 5 through 17 nationally, in addition to coming up with quantitative data, it has also allowed us to garner impressions from the children themselves who work.

Among the main results of the survey of the three million children and adolescents ages 5 to 17, 739,000 either are engaged in some work activity or work.

In 2008, in a similar survey, just to give you an idea for comparative purposes, it showed 800,000 children working.

And so, this yields important
information which is that there's been a 50 percent decline in children who work as there's now 393,000 children working.

Also important regarding hazardous work, the 2008 survey showed 756,000 children working. And so, this has been reduced by 80 percent, the 746,000 who had been working in hazardous conditions, now it's 154,000 who are either performing hazardous work or working in hazardous conditions.

As the Plurinational State of Bolivia, it's important to note that there is a legal mandate driving this work, but the actions taken are also very important to implement policies.

I would note in particular, technical assistance and resources from -- are being provided by UNICEF to supplement the budget already in the 2019 budget of the four institutions that I mentioned before. And, this, in order to further prevention and social protection program for children and adolescents who work.
And so, finally, this situation assessment provides us with quantitative and qualitative data that allows us to figure out what percentage of children are engaged in work, where and so forth.

And this will allow us to redouble our efforts for both preventing, but also eradicating child labor where it exists. It will help us to strengthen institutions such as the Office of Labor Inspection which carries out inspections at factories and other sites where suspected children may be working. And, with the 2017 constitutional court judgment, there is no more exception. The exception is not part of Bolivian law and, therefore, Bolivian law is consistent with the constitutional block that I mentioned before which means -- which includes, among others, convention on the rights of the child and ILO Convention 138.

MR. FERNANDEZ RUELAS: Well, this is our presentation and we are open for your questions and here’s the Ambassador of Bolivia,
so you can ask and we're open for all of your
questions.

MR. HERFINDAHL: Great, well, I want
to thank you very much for your very
comprehensive presentation. I'll turn to my
colleague from the State Department.

MR. PAJUSI: Yes, I'll go with the
first question.

With the court ruling that Mr. Blanco
referred to, the implementation of child labor
laws would appear to shift back from the
defensorias to the labor inspectorate. And, I
think you just talked about this a little but,
but does the Government of Bolivia have plans to
increase the number of labor inspectors and the
resources available to them including resources
specifically dedicated to the elimination of
child labor?

MS. DURAN BURGOA (THROUGH
INTERPRETER): Thank you for the question. The
multi-sectorial programming that we have for 2019
looks to strengthen the capacity of the labor
inspector offices and of the defensorias, not increasing their number, but --- and they have a presence, the defensorias have a presence closer to where the children are and there are the labor inspector offices also existing.

The idea is to form specialized human resources so as to be able to strengthen our efforts through these institutions both qualitatively and quantitatively.

MR. BANCO-FERRI (THROUGH INTERPRETER):

Just to complement what my colleague said, there is also a 15 percent increase in the budget for the Offices of Labor Inspector and there's going to now be mobile inspector's offices which have not existed yet in order to make sure that their labor inspections can really make it to all parts of the country. We'll share more information both on the budgets and on the numbers of inspectors in what we submit after the hearing.

MS. MITCH: Thanks very much.

I believe you referred to this already as well, but does the government intend to
consult with international organizations such as
the ILO and UNICEF as it implements the revised
law and to help raise awareness among relevant
stakeholders of the impact of the constitutional
tribunal's decision?

In addition, does the government plan
to seek technical assistance in meeting the
government's goal of eradicating child labor by
2025?

MS. DURAN BURGOA (THROUGH
INTERPRETER): Yes, the resources that are
earmarked to this program are public resources,
but we are also working with international
organizations, with UNICEF very much on board, we
can probably tighten up the relationship for
support from ILO.

And also, there has been a recent
decree adopted that is the communication of the
state's strategy for publicizing children's
rights and defending children's rights.

The idea is also to wage a campaign to
raise awareness about the prohibition on child
labor, yet, at the same time, about the rights of
children, the fact that some children can work in
some situations, but delimited respecting rights
and so forth.

MR. O'DONOVAN: Good afternoon and
thank you for your testimony.

The constitutional court decision was
clear that any employment of children below the
age of 14 is prohibited.

However, ILO Convention 138 which the
tribunal sought to interpret and to ensure
compliance does allow certain exceptions for
children between the ages of 12 and 14 to engage
in light work in some circumstances.

Does Bolivia currently have plans to
amend its code for children and adolescents to
allow certain types of light work for children
under 14?

MS. DURAN BURGOA (THROUGH
INTERPRETER): The judgment of the constitutional
court that we referred to, it's 0-5. It begins
analyzing ILO Convention 138 and the convention
of the rights of the child, both of which are part of our essential constitutional block.

And, it declares unconstitutional Article 129, too, which had opened up a possible exception to the prohibition on child labor. But now, it, as a matter of statutory and constitutional law in Bolivia, 14 is the minimum age.

There's no subsequent review. It is binding and it is case law. And, it's binding case law.

MR. LAURY: Good afternoon, as noted in the U.S. Department of Labor's worst forms of child labor report, the age of completion of compulsory education in Bolivia generally in 16 years, which is also the end of secondary school.

What steps is the government taking to ensure that working children or those above the age of 14 are able to complete their compulsory education?

MS. DURAN BURGOA (THROUGH INTERPRETER): So, the Ministry of Education has
a program that works not just with adolescents
who work, and face these -- and have difficulties
accessing their full education, and this includes
children who work -- who live in border towns,
children with disabilities or who otherwise just
don't have the same opportunities, and in
particular, there's a program that has been set
up that is a mobile educational brigade program
to be able to work with the children with these
special conditions. And, as I say, it's not
limited to children who work.

And go to where they are to be able to
make up for any educational situations that there
may be in that regard.

MR. HERFINDAHL: Well, I'd like to
thank the delegation from Bolivia for your
participation today. We really appreciate it.

MR. FERNANDEZ RUELAS: Thank you,
everyone, again. We are going to complement
everything in the post-hearing briefing, so and
again, thank you.

MR. HERFINDAHL: Could I ask the
delegation of Indonesia to come forward, please?

(Off microphone comments)

MR. HERFINDAHL: Well, thank you very much for coming and it's good to see you. You can proceed with your five minute statement and then we'll have a few questions from the government panel.

Oh, and I just want to introduce, we have Conor Harrington here from USTR as well.

MR. PAHLEVI CHAIRUL: Good afternoon, thank you, Mr. Chairman and members of GSP Subcommittee. I hope that you are -- you had a good Thanksgiving weekend last week.

So, my name is Reza Pahlevi Chairul and I'm the Commercial Attache at the Indonesian Embassy in Washington, D.C.

I would like to thank the USTR for allowing us to be present here today. At this hearing I wish to raise some points regarding Indonesia progress on intellectual property rights protections for your considerations on the ongoing GSP country practice review.
With regard to the case under review, intellectual property right regime has been one of the top priorities for the Indonesian Government for the past decade.

And, the Indonesian Government has taken and will continue to take concrete steps and actions to enhance protections and enforcement of IPR in Indonesia including the amendment of IPR law, improvement of interagency coordinations as well as international operations.

Indonesia has had regulations on protections of copyrights with law number 28 2014 with landlord liability clause as well as industry property rights that prefers patent law, trademark, geographical indications, the signs of integrated equip and trade secret law.

It's also worth noting that with the Indonesian Government Regulation Number 20 2017, Indonesia has equipped its custom divisions with the authority to monitor IPR infringement on export and import activities at the border.
The Government of Indonesia is also continuously improving its platform on IPR surfaces such as implementations of complain mechanism by the IP owner or holder, online registration system for copyright, patent, industry design and trademark.

Improved regulation on film law with relaxed local content requirement and full foreign investor ownership.

As for the enforcement of IPR regulations, since the adoptions of such mechanism, there has been almost 200 IP infringement reports filed to the central and regional government.

During the period of 2016 through 2018 alone, the government agency have handled 93 cases and prevented 2,000 attempts of IP violations.

This achievement was met with the help from other stakeholders including non-governmental organizations in creative industry that help in termination of 471 websites and IP
violations.

   Nevertheless, the Government of Indonesia also acknowledges that there are some shortcomings in implementations of the IP protection laws, particularly in the rise of digital era where transaction of counterfeit and virus materials can no longer be in the form of tangible goods in physical market but can happen virtually through online market or even social media.

   Therefore, we realize that there is still a lot of room for improvement in domestic IPR protections and is welcoming assistance and cooperation from foreign parties.

   May 2018 is one of our milestones where the U.S. and Indonesian governments have finally agreed on the work plan on IPR at the 17 trade investment framework agreement meeting in Jakarta.

   Conclusion of the work plan that had been discussed extensively since 2012 signifies a concrete foundation of IPR protection joint
efforts.

The Government of Indonesia has followed up the work plan by conducting interagency meetings on 2019 action plan and budgeting that is expected to be done by early 2019.

We have also conducted several workshops, especially in cooperation with the U.S. Patent and Trademark Office that aims to improve capacity and quality of IPR regulators and government officials like the one in September 2018, joint workshop between the Indonesian Ministry of Justice and Human Rights Affairs with USPTO.

To conclude, let me summarize that it is in Indonesia interest to create conducive environment for trade and investment including in IPR protections.

Indonesia work plan on IPR is on track and progressing towards an improved state of IP protections.

Our efforts and improvement that I
have mentioned earlier show that Indonesia IP protection is progressing positively and we expect this to be taken into full consideration by the panels.

Termination of Indonesia eligibility on GSP will not bring benefit for either side, especially U.S. stakeholders, consumers, farmers and manufacturers who will take the price of losing the opportunity of Indonesia quality product at competitive price.

With the same remark, we also expect positive outcome for the ongoing parallel GSP country practice review in related to market access surface and investment issue.

I think that's all my short comment and thank you for your considerations.

MS. COHEN: Thank you very much for your comments.

I'm going to ask one question with two parts. Thank you for acknowledging shortcomings in Indonesia Law 13-2016 and for sharing information on Ministerial Regulation Number 15-
2018 that allows patent holders to request postponement of local manufacturing requirements.

What are Indonesia's plans to amend this law and which specific areas are to be addressed?

Thank you.

MR. PAHLEVI CHAIRUL: Thank you. I think we will, in detail, we will proffer it in post-hearing briefing. But, just short, you know that we have revised the patent rights, you said about the patent, all landlord --

MS. COHEN: Yes, correct, the patent.

MR. PAHLEVI CHAIRUL: For the patent, yes. As you noted, we have revised Article 20 that, I mean, you could request postponement of our IP production and manufacturing in Indonesia.

So, it gives us some flexibility to accommodate U.S. IP with this industry and then we will continue to revise another related laws about patent.

But, at least in Article 20, we have revised to give flexibility.
MS. COHEN: Okay, thank you very much.

MS. LAURY: Good afternoon, thank you for your testimony.

Indonesia's submission notes that Indonesia's law and industrial design, Law Number 31 of 2000 needs to be improved and is currently in the process of revision.

What is the time line on the revision and which areas will be covered?

MR. PAHLEVI CHAIRUL: Thank you, again. We will answer in detail in post-hearing brief. But, again, this law under revision but we will consult with the capital about which area that we need to be improved.

MS. LAURY: Okay.

MR. PAJUSI: Mr. Chairul, thank you for sharing information regarding Indonesia's IP law enforcement complaint mechanism.

In your testimony, you mentioned the statistic, but I just want to be clear, in your submission, you said that there were 187 IP infringement reports have been filed.
And, can you please just tell us what time period that covers? And also, are there any rejected criminal complaints not included in this figure or does this reflect all potential infringement cases?

MR. PAHLEVI CHAIRUL: Yes, thank you. Again, we will proffer statistic in detail about the cases that we have done.

As you noted, in our submission we have handled around 93 cases of IP in which there are 21 have been prevented and 8 have been prosecuted.

And then, we have -- we adopted a complaint mechanism to make it easier for IP owner to report online. And this is still ongoing, but at least we have a template for IP owner to report online.

But, like I said, we will provide you in detail. And again, in related to pharmacy sector, actually, we have five cases, as you see in the -- in our submission. And there is one in 2018 October. This is a confiscation of illegal
drug from United States.

And then, our Indonesian Food and
Agency have conducted investigation to stop this
illegal drugs from the United States.

MR. PAJUSI: Thank you.

MR. HARRINGTON: Thank you very much.

As your submission notes, the United
States and Indonesia agreed on a work plan on IPR
in May of 2018 at the annual trade and investment
framework agreement meeting in Jakarta.

What progress has Indonesia made to
address the concerns that the U.S. Government has
raised regarding intellectual property? And,
what further steps are underway or planned?

And, in particular, you mentioned
there were budgeting and planning activities that
have already taken place and that work was to be
completed in early 2019. Could you describe that
in a bit more detail, please?

Thank you.

MR. PAHLEVI CHAIRUL: Thank you so
much about the working plan. I think this is
good momentum for us. I think since 2012, we have discussed work plan. And, I think the final initiation of our working plan in May 2018 this year should be commendable.

I mean, what I'm trying to say, this is great momentum for us to work IPR protections and enforcement as well.

So, related to all market access and a lot have to be done, we understand that more work remains to be done. But, at least we have working plan.

And, as information from Jakarta, they had internal meeting to, I mean, to prepare an action plan. What I mean by action plan is to implement this working plan because a lot of issues have been written here regarding about the landlord liability about protections, about the enforcement publications, corporations as well but at least we have some mechanism and I do believe that U.S. already appreciate what we have done.

Even more work to be done, but at
least with this work plan, we have a scheme to be
done and we will, again, provide you in detail in
our post-hearing brief about the setting about
this working plan, action plan.

So, and we talk also about the
budgeting because we need budget to implement
this and we have our interagency meeting as well.
Because when we talk about IPR issue, for
example, like patent, it's not only about
Ministry of Trade, but also other ministry-
related. That is why we also improve our
interagency coordinations as requested by USTR
during our negotiation for the couple years.

MS. MITCH: Thank you very much.

In its submission, the International
Intellectual Property Alliance identifies a
number of different enforcement actions or
legislative reforms that could help ensure
effective protection of intellectual property
rights in Indonesia.

One of the issues they raise is the
need for additional steps to combat piracy
devices and apps which enable the dissemination
of unauthorized motion picture and television
content.

Could you describe what steps
Indonesia is taking to combat these devices and
apps?

MR. PAHLEVI CHAIRUL: Yes, I think we
just received that actually petition from IIPA
and we noted IIPA is the original petition for
Indonesia since 2011.

And then, I think this is about
copyright, as you noted, we have a copyright law
and we do some improvement, for example, like
CMO, we have to collect royal property and also,
but about the landlord that first asked by the
panel.

And, of course, we will to do the
positive way, but at least we have some
improvement about what landlord to prevent
copyright infringement.

And, in detail, we will provide you in
post-hearing brief. But, at least there are two
things that we have a positive outcome, first
about the landlord provisions and also about CMO
to collect property, IPR property.

MR. KARAWA: Thank you.

My question is on the legislative
side. The International Intellectual Property
Alliance recommends the elimination of provisions
from the film law that serve as barriers to
market access such as local screen quarters and
prohibitions on dubbing imported films.

Could you comment on this proposal,
please?

MR. PAHLEVI CHAIRUL: Thank you,
again, we will provide you in detail. But, we
take note actually about this restriction in film
law, our restriction about our negative
investment.

But, in our working plan, Indonesia
will create a more profitable investment
including the one in creative industry like film
and music sector and also pharmaceutical.

We will provide you answer in detail
in the post-hearing brief.

    MR. HERFINDAHL: Could you tell us the
status of Indonesia's National IP Task Force? We
understand it's under -- it was undergoing
revitalization. And, has this been completed?

    MR. PAHLEVI CHAIRUL: Yes, thank you,
Mr. Herfindahl. Yes, I think a couple last month
I believe that it was in meetings among related
agencies in Indonesia.

    And, there was a discussion to
rejuvenate the task force, IPR Task Force in
Indonesia.

    What we need is to restructure this
task force, also the budgeting and what kind of
activities that have to be done in 2019.

    And, I do believe that this is a
positive way, but of course, we need time to
coordinate among ourselves and probably one way
to increase this effort is to do like a digital
video conference between USTR and Indonesia
Ministry of Human Rights to expedite the
completion of Indonesia National Task Force
related to IPR.

Actually, this task force was created a couple years ago, but, like I mentioned, we would like to re-modernize or modernize this task force to cover IP issues and violations.

MS. COHEN: I have a question about border enforcement. Has the DGCE's ex officio border enforcement system been implemented and is it in operation? And, if so, will the Government of Indonesia reconsider the requirement that firms be domiciled in Indonesia to use the border enforcement system?

MR. PAHLEVI CHAIRUL: We will answer in post-hearing briefing about the border. But we have one regulation, government -- I don't know if this is related or not, but we have Government Regulation Number 20 2010 27 about export or import control of good provided or resulting from intellectual property rights enforcement at the border.

So, our customs official has a right to seize the illegal product exported or
imported. This law -- this government regulation
was created last year, 2017.

MS. COHEN: Thank you.

MR. HERFINDAHL: And, I'd like to
really thank the Government of Indonesia for your
participation today. It's been very helpful.

So, thank you very much.

MR. PAHLEVI CHAIRUL: One more thing,
Mr. Herfindahl, thank you so much for having us
at your meeting today. As you know, that
Indonesia always protects IPR as our prosperity
and to enhance our relationships.

And, Indonesia always have seen and
always see U.S. as our strategic partners and we
do hope also that U.S. also see us as a strategic
partner.

Thank you.

MR. HERFINDAHL: Yes, thank you, and
that's very encouraging to hear.

Okay, Steve, you're up again.

MR. LAMAR: Thank you, and as the last
witness, I'll try and go as fast as I can or at
least I'll wrap up.

And, I'm also here again on behalf of the organizations I mentioned before. A lot of my testimony has a lot of the same comments that we made previously when I was speaking on Thailand.

So, rather than repeat all that, you'll see all that for the record. I'm just going to go right into some of our specifics on Indonesia.

And, again, it makes a lot of the very same points about the benefits of GSP for the country, for the -- for our industry and also for how our industry is structured.

So, Indonesia is the fifth largest and one of the fastest growing suppliers of travel goods under GSP.

Indonesia has already established a reputation as a producer of quality travel goods, hand bags, totes, backpacks.

I'm going to provide comments from just two companies and then we can go on to
questions if you have any, we can do them for the record.

So, this comes from -- directly from two of our member companies who are members of several of the organizations that I'm here representing.

In their own words, GSP not only helps diversify out of China, but also helps diversify enterprise wide, risks resulting from having too much volume in a single country.

Indonesia is a good sourcing country for travel goods. They can produce a quality product on day one. It's a good hedge even though -- even against other non-GSP countries such as Vietnam, which most companies have now heavily diversified into, increasing the enterprise wide risk.

While we have diversified out of China with the extension of GSP, some of the volumes have gone to lesser developed countries that still need more time and infrastructure improvement before they can produce to a level of
Even the Philippines has not lived up to its expectations in terms of quality. Cambodia and Myanmar required an additional month of lead time for supply chain planning.

So, I mention them just because, as we're looking at if you're removing GSP from Indonesia, where does the industry go?

A lot of times, folks say, geez, you can go to one of these other countries, but some of these other countries do create issues for, again, individual companies.

Removing Indonesia from GSP will push volumes back to China as other countries are not able to produce the high quality that we expect, as I mentioned before with tariffs coming out of China, that creates additional issues as well.

And then, from the other company, since 2016, they just provided numbers, the share of product they import from Indonesia has quadrupled from 4 percent to 15 percent. So they are much more dependent on Indonesia.
And, during that same period, China's share, their share from China dropped from 53 to 19 percent.

So, I just want to emphasize, we're very sympathetic to the concerns about IP. In fact, in our notorious markets comments and our special 301 comments, we do identify both notorious markets comments from comment notorious markets in Indonesia as well as IP practices in Indonesia that create concerns for us.

But, we're recommending that at least with respect to travel goods, that Indonesia not lose its GSP status.

So, with that, I'll take some questions.

Thanks.

MR. HARRINGTON: Thank you.

Is there a role businesses can play in eliminating violations of intellectual property rights in Indonesia?

MR. LAMAR: Absolutely. Well we do a bunch of things, it's partly education and partly
coordination.

   Education is just to make sure the
governments understand not only the value of
these brands' IP, and we look at it from a brand
perspective, we're not so much the like what you
find for motion pictures or trademarks. But, our
trademarks themselves.

   The -- we make sure they understand
that as they're protecting IP, it helps protect
the jobs that they -- that these industries are
supporting in their country. So, they actually
see this isn't just something that the brands
have and it protects jobs in the United States,
but it protects jobs in their country as well.

   So, that's the first thing.

   And, the second thing is, to work with
them so they see that there is a role in
enforcement.

   And, in fact, one of the concerns
we've had is getting cooperation from the
Indonesian Government on enforcement.

   Every year is better than the year
before. Next year will be better than it is this year. But, it's sort of a constant effort to reach out to them and get more participation and to act on the tips that we provide them.

So, we're kind of their eyes and ears. But then, at the same time, make sure that as they're prosecuting cases, they're actually prosecuting them, you know, to the fullest extent because, you know, there's a deterrent ability or deterrent factor that goes into grant protection and we want to make sure that that full deterrent factor has an impact.

MR. KARAWA: Thank you, again, Mr. Lamar.

My question is about the plausible, how would your members' social status change if GSP benefits were revoked for Indonesia?

MR. LAMAR: So, companies would look to -- there's really, I think three options and none of those options is coming back to the U.S. There isn't a industry to speak of here that they can come to or if they did, it would take a
1 generation to develop.

2 The options are going back into China.

3 And everyone's trying to diversify out of China especially with the tariffs that have been imposed.

4 Going into Vietnam which is becoming a large volume producer of travel goods. But, Vietnam is at capacity and so, as you're putting more business there, those costs are going up.

5 Or going into other GSP countries. The -- and the benefit of that, of course, is because you get that duty benefit.

6 The duty benefit is especially helpful now because now we're paying additional tariffs away from China. So, you're also looking for ways to kind of, you know, mitigate against those duty concerns, too.

7 That creates problems as well because you run into, (a) capacity issues as there may not be enough factory capacity. It may not be the right factories, it takes a lot to qualify the factories and so forth.
Or, (b) you may be going into another country that's also under another review. Both India and, as we talked about earlier today, Thailand are under review.

So, you could find you're kind of going out of the frying pan into the fire, as it were.

So, it does create a complicated picture. We invest a lot in developing these supply chains.

And also, in developing compliance, not only on the IP but also on the labor side as well. And so, you know, we're hoping that that gets recognized as well. So, as we spend our time and energy trying to develop these compliant facilities, it may be that the neighborhood has some concerns or issues but that the U.S. companies that are exporting their values to improve the business climate there or to improve the specific situations around the factories and the communities those factories support, can continue to see the benefit there and those
investments don't get undermined if we lose the GSP status.

MR. KARAWA: You mentioned that you invest a lot into compliance, could you kindly in your post provide --

MR. LAMAR: Absolutely, yes. Yes, we do a lot of that. I'll just say one thing we do is also do a lot of educational work on that, too.

MR. HERFINDAHL: Just a quick follow-up. I was surprised one of your options wasn't stay in Indonesia and pay the tariff.

So, you think, if Indonesia lost GSP, your industry would actively seek to get out of the market?

MR. LAMAR: That's what people are telling us. I mean, it may be different for individual companies, but that's the message that we've gotten so far.

MS. COHEN: Do any of your member companies have concerns doing business in Indonesia due to intellectual property concerns?
MR. LAMAR: Well, -- I mean, members will kind of wear two different hats. So, one hat is the sourcing hat. As you know, we're looking for a place and you want to find a predictable place and they follow the rule of law and that's obviously something that we value very much.

And the other one is, you want to make sure that they are -- so you can produce a product and get the product, you can get inputs in, you can produce the products out, you can employ the workers. We'll be able to treat the workers according to the laws, et cetera.

I mean, all of that is sort of on the sourcing side.

And then, on the IP side, you want to make sure that they're not violating the IP and, you know, the products are being knocked off or that other people's ideas knocked off.

So, you want to, you know, we obviously as good corporate citizens in the country are going to be working to make sure that they're improving that.
Is that going to be always the best -- we find that there are IP problems in a lot of countries where we do business, including in the United States, I might add, where we've found online counterfeit problems here, too.

So, we -- when we encounter those problems, we have direct conversations with the countries to try and improve them. It's usually the IP enforcement teams of our members that are having those conversations. But we do spend a lot of time trying to improve them as well.

MR. PAJUSI: Mr. Lamar, could you tell me if any of your members have used Indonesia's IP law enforcement complaint mechanism? And, if so, what was their experience?

MR. LAMAR: I don't -- I suspect they have, but I don't know what their experience is. Because the companies that reported, for example, less than stellar cooperation on enforcement activities are really good at sort of availing themselves of all of the different tools.

So, I'll go back and ask them and see
if anything like that happened.

    MR. PAJUSI: If you have anything that you can share with us later.

    MR. LAMAR: Yes, I'll do that.

    MS. MITCH: Thank you very much.

Have your members discussed having to adapt their business models to protect themselves for intellectual property right infringement concerns? How so?

    MR. LAMAR: We do that all over the world. So, a lot of that has to do with, you know, it just -- it starts with making sure the factory environment is compliant. So, you know, you're -- if a factory is cheating on IP, there's a good chance that they're also cheating in other areas too, whether it's child labor, whether it's overtime, you know, bad factory safety standards and so forth.

    So, when you are going in to do factory compliance, you are making sure that they're, you know, that the supply chain is intact because, you know, they're not diverting
logos and labels that might end up being used to produce something, or that there's a third or a second or a third or a fourth shift where they're producing some knock off versions.

I mean, that's something that happens in -- something that's a discipline that we enforce in a lot of countries to make sure that doesn't happen.

It is investing in, as I mentioned before, investing in education with the countries and the governments so they see the value of IP, not just as something that we're asking but they intrinsically make it something that they want to do themselves.

And, you know, we have different levels of success with different countries on that. So, these are just a couple of areas, but, you know, you have to protect your IP and that means we have to expend a lot of resources to do that.

So, that's another way in which we really changed our business around.
MS. LAURY: So sorry.

MR. LAMAR: No, that's okay.

MS. LAURY: For the last and final question, in your experience, how experienced are your members with the GSP benefits? How are GSP benefits weighted when your members are making sourcing decisions?

MR. LAMAR: Well, so a lot of people don't realize this, but the apparel, footwear, travel goods, textile industry is a huge payer of duties to the United States.

We import about 6 percent by value of all of the products that come into the U.S. We pay about 51 percent of all the duties.

So, we are always looking for duty reduction or duty free opportunities, whether it's in the form of preference programs like GSP, free trade agreements for other devices that folks can use to reduce duties.

So, GSP is something that people very much like to use when they can use it. Of course, until a few years ago, most of the
products that most of my members made were entirely excluded from GSP.

Travel goods was added a couple of years ago, this administration, it was kind of partly done by the Obama Administration and partly done by the Trump Administration.

And there's, you know, people are talking about should there be other ways to expand GSP to include other products that are currently statutorily excluded.

So, there's definitely a lot of interest in that. And we also look at GSP as an opportunity for enforcement and, you know, very much like the process we're going through right now that there's opportunities to, you know, make sure other countries and make sure the countries that are participating are doing those things, they're taking steps, they're constantly moving forward.

And so, when we're in those countries, we're saying, there's a benefit. I was just in Cambodia talking about this with them a couple of
weeks ago that there's a benefit to this program
and there's also an obligation.

And, you need to constantly look at
the benefit of something that you can take
advantage of but look at the obligation of
something you need to constantly improve.

And, that's the message that we carry
forward I think pretty much throughout. And, our
members do that as well.

MR. HERFINDAHL: Well, thank you so
much for your participation today, Steve. We
really appreciate it.

So, that concludes our questions for
today. As I noted before, the post-hearing
briefs are due on the 17th of December.

So, this hearing is now adjourned.

(Whereupon, the above-entitled matter
went off the record at 4:22 p.m.)
CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: Public Country Practice Hearing
US Generalized System of Preferences

Before: USTR

Date: 11-29-18

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