



Senate Subcommittee Hears Mix of Views On Bill to Ban Import of Sweatshop Products

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A union representative, workers' rights advocates, and two foreign laborers told a Senate trade subcommittee Feb. 14 that legislation (S. 367) that would bar the import or sale of "sweatshop products" in the United States would help curtail a "race to the bottom" in which multinational companies seeking low-cost labor tolerate abusive working conditions in overseas plants.

A Republican senator and a libertarian think-tank representative, however, warned that the proposed Decent Working Conditions and Fair Competition Act could harm U.S. companies by exposing them to increased liability and could hurt the bill's intended beneficiaries by costing the jobs of low-wage foreign workers.

Sen. Byron L. Dorgan (D-N.D.), chairman of the Senate Commerce, Science, and Transportation Subcommittee on Interstate Commerce, Trade and Tourism, has co-sponsored S. 367 with Sen. Lindsey O. Graham (R-S.C.) (15 DER A-22, 01/24/07). In addition to barring imports from sweatshops, the bill would give U.S. retailers the right to sue competitors if they are obtaining merchandise from foreign plants that flout their own country's labor laws.

"Companies that decide to import products into this country should not be allowed to gain an unfair competitive advantage by deliberately sourcing from sweatshop factories that have abused workers abroad," Dorgan said at the Feb. 14 hearing.

Sen. Jim DeMint (R-S.C.) said trade between the United States and developing countries "has done

much to raise the standard of living" in foreign countries. DeMint said he is "very aware that we still have problems" with foreign exploitation of child and adult laborers, but he expressed hope that the United States could "begin to solve [the problems] by working with our corporate citizens" who already are monitoring factories worldwide for compliance with local laws and basic workers' rights.

"It's important that we don't do more harm than good," said DeMint, adding that he wants to ensure that as Congress tries to "stamp out bad actors," it does not "eliminate low-wage jobs around the world."

Abuse Alleged by Workers

Betty Fuentes, who worked at a Splendor flower plantation in Colombia owned by Dole Food Co., testified that when she and others tried to form a union in 2004, the firm formed a "company union" and threatened workers who refused to join. Speaking through an interpreter, Fuentes said that after Colombia certified the workers' original union as the legal representative, Dole closed the Splendor plantation rather than deal with an independent union.

Colombian flower workers lack protection against occupational health risks and female employees are questioned about whether they are pregnant or plan to become so, Fuentes added. A requirement that female workers undergo exams by a company doctor to confirm they are not pregnant is "common industry practice," Fuentes said.

Sk Nazma, a textile worker in Bangladesh who founded the Bangladesh Center for Workers' Solidarity, testified that corporate monitoring failed to uncover the illegal use of child labor at Harvest Rich in Bangladesh, which made clothing for Wal-Mart Stores Inc., Hanesbrands Inc., J.C. Penney, and Puma.

Also speaking through an interpreter, Nazma said Harvest Rich maintained "double books" and kept underage workers out of sight when auditors for large U.S. companies visited. Although Harvest Rich showed U.S. visitors records that indicated legal compliance, Nazma said, the company actually was using children as young as 11 years old to work 11 to 14 hours a day with no overtime pay and two days a month off. Supervisors beat workers who complained, according to Nazma.

Industry Inspector Cites Progress

Stephen Jesseph, president and chief executive of the Worldwide Responsible Apparel Production (WRAP) program, acknowledged there are "bad factories out there" but testified he also has "seen a lot of very good progress in the quality of management and working conditions in factories" in the past five years.

He said WRAP, which inspects, certifies, and monitors factories in developing countries, is funded by registration fees from applicant factories, training fees, and monitor accreditation fees. "We believe that WRAP is the most rigorous and comprehensive code of conduct for labor-intensive manufacturing of consumer products covering not only labor and human rights issues, but addressing environmental protection, customs compliance and security as well," Jesseph said.

A WRAP certification is valid for one year and gives U.S. companies "reasonable assurance that the factory is in compliance with accepted standards," Jesseph said. WRAP conducts unannounced follow-up audits of factories and does not hesitate to decertify plants and inform their customers, Jesseph said. "Accordingly, there are strong economic incentives for factories to maintain compliance with WRAP standards," he said.

Jesseph said there are other organizations similar to WRAP. "We are all trying to do essentially the same thing: eliminate abusive working conditions and protect the health, safety, and rights of workers through the positive force of economic incentives," he said.

Dorgan said WRAP's goals "are not at odds" with those contained in S. 367. When DeMint asked whether Jesseph thought it was reasonable to impose "legal liability" on U.S. companies that use sweatshop products, however, the witness demurred, saying he is not a lawyer.

Citing the Harvest Rich case and media reports of a Chinese pen manufacturer that hired a consultant who advised the Chinese firm to keep double books after it failed to pass Wal-Mart inspections, Dorgan asked Jesseph how effective the inspection and monitoring approach could be. "It has become a game and a practice to make sure auditors don't see what is actually happening," Dorgan said.

Jesseph replied that a challenge WRAP faces is "where companies deceive and lie to auditors." He emphasized that the factories have economic incentives to run a clean shop and remain certified. "Some of the best incentives are economic incentives of retaining the business," he said.

DeMint expressed concern about the "legal liability" that S. 367 would create. For example, he said, it is against the law to test workers for pregnancy in Colombia and Dole would have to prove that it did not do so to avoid being held liable by a U.S. competitor.

"We're going to come in with a sledgehammer here," DeMint warned. "The plaintiffs' lawyers may just eat them alive."

Although he declined to express an opinion about the bill's liability provisions, Jesseph said "market-based incentives" are "most effective" in compelling foreign plants to honor workers' rights. "The answer for me is to create positive market incentives," he said.

DeMint added that "trade, not aid" is the "best way to raise living standards" in developing nations that do business with U.S. firms. He warned that "a lot of job loss and economic loss" could occur in foreign countries if Congress enacts S. 367.

Dorgan, however, said he disagreed with Jesseph's assertion that "a lot of progress" has been made on foreign workers' conditions. He told Jesseph that "I want you to succeed but don't believe your work alone is sufficient." As for DeMint's objections, Dorgan said: "Liability is exactly the point of this legislation. ... You ought to be liable if you're using underage workers or abusive conditions."

Steelworkers Back Bill

James English, the international secretary-treasurer of the United Steelworkers, testified in support of S. 367. He was accompanied by two former union-represented employees of Pennsylvania House furniture in Lewisburg, Pa., who lost their jobs when the company shipped its assembly work to China.

"The problem is we don't have a level playing field for U.S. workers today," English said. "This legislation would be a good, strong step toward creating a level playing field but more importantly, a statement to the world that the United States supports basic worker rights, including fair wages and collective bargaining rights."

Charles Kernaghan, executive director of the National Labor Committee in New York, said Chinese furniture makers tend to work 14 to 15 hours a day for no overtime pay. The plants are "dangerous places to work" because of "wildly excessive" production goals, Kernaghan said, as he described workers with broken digits and maimed hands detailed in a recent report by Kernaghan's organization. Enactment of S. 367 would be the "most important single step that may be taken in the global economy to end the race to the bottom," Kernaghan said.

Daniel Griswold, director of the Cato Institute's Center for Trade Policy Studies, however, said "there is no race to the bottom in global standards." He said most U.S. firms are not seeking to lower wages when they set up operations abroad and pointed out that between 2003 and 2005, more than 80 percent of U.S. manufacturing jobs that moved overseas went to the European Union, Canada, and other wealthy nations.

Griswold said on balance, globalization benefits both the United States and developing nations. "If members of Congress want to encourage higher labor standards abroad, they should support free trade and investment flows so that less developed nations can grow more rapidly," he said. "As a complementary policy, Congress could seek a more robust International Labor Organization that could systematically monitor and report on enforcement of labor rights in member countries. ... The best policy for promoting economic growth at home and abroad--an economy open to global trade and investment--is also the best policy for promoting higher labor standards."

Disputing Griswold's views, Kernaghan pointed out that multinational companies themselves say U.S. workers' wages and benefits are no longer competitive in the global economy. "Right now, there is a race to the bottom where workers are pitted against each other," he said.

Asked by Dorgan about the effect on U.S. workers of sweatshop conditions elsewhere, Griswold replied that "there's a huge amount of evidence" that U.S. employees are better off than they were 20 or 30 years ago. He said a "churning" labor market is a "natural, healthy element" of a dynamic economy. The answer is not to "stop change from happening," he said.