

AN EXAMINATION OF WORKER RIGHTS
PROVISIONS IN SEVERAL IMPORTANT U.S. FOREIGN
TRADE AND OVERSEAS INVESTMENT LEGISLATION

Cing-kae Chiao

Abstract

In the past six years, the U.S. Congress has enacted several important foreign trade and overseas investment legislation for the purpose of reducing imports from countries with poor working conditions and improving labor laws and practices in other countries. For instance, the Caribbean Basin Economic Recovery Act of 1983 contains provisions requiring the beneficiary countries to afford reasonable workplace conditions to their workers and to allow them the right to organize and bargain collectively in order to receive duty-free treatment from the U.S.. The Generalized System of Preferences (GSP) Renewal Act of 1984 permits the President to grant unilateral, non-reciprocal duty-free treatment to eligible articles from developing countries when they afford their citizens internationally recognized worker rights. Besides, both the Overseas Private Investment Corporation Amendments Act of 1985 and the Comprehensive Anti-Apartheid Act of 1986 also contain several labor-related provisions. More recently, the Omnibus Trade and Competitiveness Act of 1988 even makes the denial of internationally recognized worker rights actionable under section 301 of the Trade Act of 1974.

The purpose of this article is to make an in-depth examination of these worker rights provisions and the outline what positive results have been achieved. In addition, it also tries to analyze the influence of these provisions our recent labor

reform program in the Republic of China (ROC). Firstly, this article describes briefly, in a chronological order, the history of linking worker rights with foreign trade and investment policies in the United States. Secondly, it examines in detail the worker rights provisions in these five important legislation. Their legislative objectives, statutory framework, and substantive and procedural requirements are fully discussed. Thirdly, this article investigates the relationships between fair labor standards and international trade. Aside from reviewing the pros and cons of imposing internationally recognized worker rights on foreign trade and overseas investment legislation, it also tries to define the precise scope of these rights and to assess some positive results achieved through the implementation of these worker rights provisions. Fourthly, it points out that since the ROC has become the largest recipient of the U.S. GSP benefits, U.S. private investments on that island have increased enormously, and its trade surplus with the U.S. has grown exponentially in recent years, it understandably faces a tremendous pressure from the U.S. Government to reform its rather obsolete labor law system. This section tries to describe several important reform programs conducted in the past five years. Finally, this article concludes that although the ROC has made several improvements for its deserving workforce, there are still several critical labor problems remain unreserved. Because American pressure to reform in the labor sector is so closely coincidental with the ROC's domestic demands, the ROC Government should respond more favorably to this pressure and further improve its workers' basic rights and general welfare.