

**Congress of the United States**  
**Washington, DC 20515**

June 9, 2003

The Honorable Robert B. Zoellick, Ambassador  
United States Trade Representative  
Winder Building, 600 17<sup>th</sup> Street, NW  
Washington, D.C. 20508

Dear Ambassador Zoellick:

We the undersigned are concerned that Ecuador continues to violate Andean Trade Promotion and Drug Eradication Act (ATPDEA) eligibility criteria requiring designee countries to provide internationally- recognized worker rights. **We are particularly troubled that Ecuador has not upheld labor rights commitments made to the United States last October as a condition for receiving ATPDEA beneficiary status and urge you to set a short deadline for Ecuador to make good on these promises.**

In October, Ecuador committed to improve labor law enforcement and assess whether its laws meet international standards, particularly on freedom of association. Ecuador pledged to apply International Labor Organization (ILO) recommendations and consider submitting legislation to its congress to improve protection for the right to organize. **Eight months later, Ecuador has not fulfilled either of these commitments. Laws intended to protect freedom of association are still deficient, and the weak existing laws are still not effectively enforced in the banana sector.**

Despite obstacles, Los Alamos banana plantation workers unionized last year. They were the victims of anti-union conduct, including dismissals and intimidation. In early 2003, Ecuador belatedly fulfilled its October commitment to form a high-level commission to investigate these workers' rights abuses, but as of May 16 had yet to uphold its promise to submit a final commission report to the United States. Most of the commission's preliminary recommendations merely urged further investigation; no sanctions have been imposed; and Ecuador has promised to implement only some of the commission's final recommendations.

Striking Los Alamos workers were also victims of anti-union violence. Ecuador committed to investigate that violence fully and press charges against those responsible. Yet the prosecution was based on a flawed investigation that focused on only sixteen of the over two hundred assailants; ignored certain incidents of violence; focused on the case of one injured policeman, rather than the at least nine injured workers; and failed to interview worker witnesses. Without a new investigation, intellectual authors and all but sixteen of the several hundred perpetrators will enjoy impunity. Ecuador has not taken steps to initiate a new examination of the case.

Last fall, Ecuador also promised to uphold its obligation to eliminate the worst forms of child labor. In an April 2002 report, Human Rights Watch documented hazardous child labor in the banana sector. In February 13, 2003, the New York Times reported harmful child labor in the flower sector. **Although Ecuador has taken steps to address these problems, the steps are not sufficient to address adequately the key problem of ineffective child labor law enforcement.** Ecuador still violates its law requiring at least one child labor inspector per province; has failed to implement its new System for Inspection and Monitoring of Child Labor; and lacks meaningful programs to rehabilitate fired child workers.

**Because Ecuador has failed to fulfill its obligation to eliminate the worst forms of child labor and protect workers' right to organize, we believe that fulfillment of the following benchmarks by August 1, 2003, should be required for Ecuador's continued designation as an ATPDEA beneficiary.**

*The Los Alamos Case and Freedom of Association*

- Complete a new, comprehensive investigation of the violence against striking banana workers; adequately charge all responsible, including intellectual authors; and serve justice without delay.
- Complete an investigation of whether employers illegally hired replacement workers, interfered with workers' organizations, fired workers for unionizing, and are violating laws on temporary contracts and subcontracting and of whether the Ministry of Labor improperly handled workers' negotiating demands and collective contract proposals. If so, impose adequate penalties.
- Complete an investigation into police response to the labor conflict; take appropriate action against officials who failed to uphold workers' rights; revise internal police procedures for addressing such situations; and adequately compensate workers.
- Improve enforcement of laws governing the right to organize.

*Child Labor*

- Designate at least one labor inspector for children in each province, as required by Ecuadorian law, and provide them with sufficient resources. These inspectors should be in addition to existing labor inspectors.

*Freedom of Association*

Ecuador should submit legislative reforms to improve protection for the right to organize that include the following:

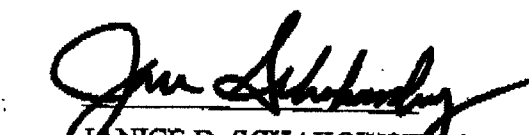
- Prohibit employer interference in the establishment or functioning of workers' organizations;
- Require reinstatement of workers fired for union activity and payment of their lost wages;

- Explicitly prohibit employer failure to hire workers due to organizing activity and establish adequate penalties to deter employers from engaging in this or other anti-union discrimination;
- Consistent with the intent of Article 35(11) of the Constitution of Ecuador, allow subcontracted workers to unionize and bargain collectively with the employer that hired the contractor, when that employer in practice dictates the workers' employment conditions and the use of the intermediary has the effect of preventing workers from freely exercising their right to freedom of association;
- As recommended repeatedly by the ILO, reduce from thirty the minimum number of workers required to form a union to a number that does not hinder union establishment;

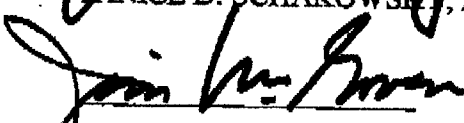
We thank you for your consideration of this matter and we look forward to your immediate response.


Sincerely,

  
GEORGE MILLER, M.C.

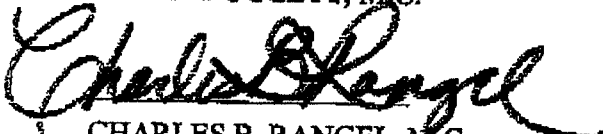
  
JANICE D. SCHAKOWSKY, M.C.

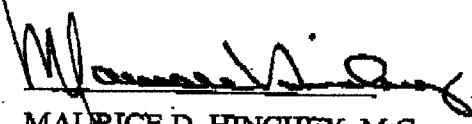
  
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JAMES P. MCGOVERN, M.C.

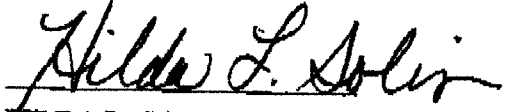
  
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cc: William Clatanoff, Assistant U.S. Trade Representative for Labor, Office of the United States Trade Representative

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