



International Labor Rights Forum
2001 S Street NW, Suite 420, Washington, DC 20009

TESTIMONY OF BRIAN CAMPBELL
ATTORNEY, INTERNATIONAL LABOR RIGHTS FORUM

before the Trade Policy Staff Committee
at the Office of the United States Trade Representative

In Re: Dole Packaged Foods, LLC petition to add pineapple juice (not concentrated)
HTSUS 2009.41.20 and 2009.49.20), Cases 2008-08 and 09.

October 20, 2008

I would like to thank the Committee for providing us the opportunity to testify regarding Dole's petition to expand the GSP to include pineapple juice.

As envisioned by Congress, the purpose of the GSP program is to “promote the notion that trade . . . is a more effective . . . way of promoting broad-based sustained economic development.”¹ Internationally recognized workers rights, particularly the right to form unions and bargain collectively to achieve higher wages and better working conditions, is “essential for workers in developing countries to attain decent living standards and to overcome hunger and poverty” and “an important means of ensuring that the broadest sectors of the population . . . benefit from the GSP program.”² Therefore, when taking action on a product petition, this Committee is instructed to examine “whether or not such country has taken or is taking steps to afford workers in that country (including in any designated zone in that country) internationally recognized workers’ rights.”³

Dole produces most of its pineapple products at its 24,000 acre plantation and processing plant in Mindanao, Philippines, where Dole's workforce of around 6000 full-time employees and around 14,000 contract laborers dedicating their lives to producing wealth for Dole and its family of companies. However, Dole's workforce is prevented from fully enjoying the benefits of the internationally recognized workers' rights, including the right to freedom of association and the right to acceptable conditions at work.

First, many workers are outright denied right to join a union. Since the late 1980s, Dole's business model and expansion plans have relied on outsourced and contracted labor. Unlike regular workers, these workers are underpaid, deprived of union benefits, and left in constant job insecurity.⁴ Many have also been stripped of their lands.⁵ Contractual

¹ See General Systems of Preferences Renewal Act of 1984, P.L. 98-573, 98 Stat. 3019

² See General Systems of Preferences Renewal Act of 1984, House Report No. 98-1090, 1984 U.S.S.C.A.N. 5101, 5111 (October 1984).

³ See 19 USC §§2463(1), 2462(c)(7).

⁴ Field research conducted by ILRF partners in the provinces of Sultan Kudarat, South Cotabato and Sarangani between June 2006 and June 2007. Primary data-gathering included surveys, interviews, and

pineapple harvesters who labor for Dole are paid on average a mere US \$1.86 per day, nearly three times less than the Filipino minimum wage.⁶ Outsourcing labor, which is intended to deprive most of its workforce the benefits of freedom of association and acceptable conditions at work with respect to minimum wage and hours of work, are directly contrary to the development goals GSP program seeks to promote.⁷

Second, workers are threatened and intimidated by the anti-union tactics employed in and around Dole's personal special economic zone. Both the Philippine Government and Dole are undertaking significant efforts to intimidate and harass workers and their democratically-elected representatives.

The Armed Forces of the Philippines is engaged in systematic anti-union activities at Dole intended to intimidate workers and malign the union leadership. According to Major Medel Aguilar of the AFP, the military's "job is to protect free enterprises as mandated by the president's policy of foreign investment and resource development."⁸ To achieve these objectives, the Armed Forces of the Philippines (AFP) 27th Infantry Battalion is assigned to protect Dole Philippines' operations from possible terrorist threats. According to the AFP, though, one of the terrorist threats is the workers' own democratically elected union representatives, AK-NAFLU-KMU, or Amado Kadena. According to Lt. Col. Ricardo Santiago of the 27th IB, Dole has been "infiltrated by" the KMU, which the AFP alleges is a front for the New Peoples' Army. As this committee is aware, these are serious accusations which have led, in other contexts, to the death or disappearance of union members.

Dole's Philippines operations were not "infiltrated" by the union, Amado Kadena. The union was democratically-elected by Dole's full-time workers. Despite this, the 27th IB continues to conduct "information drives", which is often a euphemism for harassing Dole workers, to combat the union at the Dole facilities, directly interfering with the Dole's workers' right to freely choose their own union without government intervention.⁹

Dole also engages in anti-democratic efforts to intimidate the union and the workers the union represents through abuse of the legal system and taking advantage of weak labor law enforcement. In particular, we are very concerned that Dole Philippines has filed criminal charges against one of Amado Kadena's union leaders stemming from one press report about a union rally at Dole's facility where participants discussed pollution from Dole's operations and its impact on the local community. Now, that union leader, if convicted under the Philippines' strict criminal libel laws, faces 4 years in prison or more, even if the pollution allegations are true. Unfortunately, criminal charges, like libel and sedition, are commonly used to quell dissent and intimidate people in the Philippines.

focus group discussions with key informants such as union leaders, company officers, community leaders, government officials, plantation growers, land owners, and children. 91 individuals were interviewed.

⁵ Borrás, Saturino M. Jr. and Jennifer C. Franco. "Struggles for Land and Livelihood: Redistributive Reform in Agribusiness Plantations in the Philippines." *Critical Asian Studies* 37:3 (2005): 339.

⁶ Field research conducted by ILRF partners in the provinces of Sultan Kudarat, South Cotabato and Sarangani between June 2006 and June 2007.

⁷ 19 U.S.C. §2467(4)

⁸ Brad Miller, *Philippines: State Forces Shield Corporations from Leftists*, Global Information Network, March 13, 2008.

⁹ Id.

In total, there are over 45 cases stemming from the hostile environment created by Dole and the Armed Forces of the Philippines pitting themselves against the union. Conflict between the union and Dole has led to 19 workers being fired by Dole and dozens more suspended, requiring the union to seek redress in courts in what Dole knows will be a lengthy process that will likely end poorly for the workers. The union also asserts that Dole has been encouraging some workers to file vexation claims against union leaders, which they believe are intended to foment conflict amongst the workers and lead to bitterness and more legal fights. Tactics like these are intended to polarize the workforce and the local communities, and will not further the purposes of the GSP.

The ILRF is not opposed to Dole eventually receiving GSP benefits for its pineapple juice. We ask, though, that the Committee defer any decision on Dole's petition for at least one year until Dole takes measures to ensure that its workforce can freely enjoy the right to freedom of association and enjoys acceptable conditions of work, as is one of the goals of the GSP program. Also, Dole should not receive any benefits as long as the Philippine military continues harassing workers and the members of Amado Kaden. **Dole and the Philippine government must commit to respecting the right of the Dole workforce, including contract laborers, to elect their own representatives without interference.**

Without strong adherence to the workers' rights protections, the GSP program would work against US foreign policy initiatives aimed at promoting equitable and sustainable economic development as a path towards peace. As Congress warned when creating the GSP program:

“The denial of internationally recognized workers' rights in developing countries tends to perpetuate poverty, to limit the benefits of economic growth and development to narrow privileged elites, and to sow the seeds of social instability and political rebellion.”¹⁰

The people in Mindanao need participatory, equitable, and sustainable development that will address the causes of the myriad conflicts on the island. Much of the conflict in Mindanao is over access to land and exacerbated by widespread environmental degradation that are the result of controversial land and labor policies favoring elite agribusiness and mining interests like Dole. Extending benefits to Dole without conditions will only exacerbate the very real threats to peace and development in Mindanao.

¹⁰ See General Systems of Preferences Renewal Act of 1984, House Report No. 98-1090, 1984 U.S.S.C.A.N. 5101, 5111 (October 1984).