

**OVERSEAS SWEATSHOP ABUSES, THEIR IMPACT
ON U.S. WORKERS, AND THE NEED FOR
ANTI-SWEATSHOP LEGISLATION**

HEARING

BEFORE THE

SUBCOMMITTEE ON INTERSTATE COMMERCE,
TRADE, AND TOURISM

OF THE

COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION

UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

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FEBRUARY 14, 2007
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ONE HUNDRED TENTH CONGRESS

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FOR ANTI-SWEATSHOP LEGISLATION**

WEDNESDAY, FEBRUARY 14, 2007

U.S. SENATE,
SUBCOMMITTEE ON INTERSTATE COMMERCE, TRADE, AND
TOURISM,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:05 a.m. in room SR-253, Russell Senate Office Building, Hon. Byron L. Dorgan, Chairman of the Subcommittee, presiding.

**OPENING STATEMENT OF HON. BYRON L. DORGAN,
U.S. SENATOR FROM NORTH DAKOTA**

Senator DORGAN. I am calling the hearing to order this morning.

This is a hearing of the Subcommittee of the Commerce Committee, and I am Chairman of the Interstate Commerce, Trade, and Tourism Subcommittee. Senator DeMint, who is the Ranking Member, will be with us shortly. And when he does arrive, I will recognize him for an opening statement.

We have a hearing today on the issue of overseas sweatshop abuses, their impact on U.S. workers, and the need for anti-sweatshop legislation. I have introduced such legislation here in the U.S. Senate, and today we will examine this issue in some detail.

The global economy is producing a lot of interesting results, some quite wonderful and some very beneficial to our country and others around the world, and some that are not so wonderful, some that cause very significant problems in our country. And yesterday's announcement of a trade deficit, for the last year, of \$832 billion is a demonstration of the fact that our trade policy is far out of balance and needs to be changed.

When manufacturing plants in foreign countries are able to grossly mistreat workers with impunity, our own workers will suffer, as well. We see a movement going on, in the global economy, of American jobs moving overseas, and some think that's fine. I don't. It is an opportunity for those that produce products to circle the globe and find the lowest cost of production, and, with that lowest cost of production, to employ foreign workers—in some cases, in countries where you can pay pennies an hour; in some cases, in countries where if someone dares talk about organizing workers, they can be sent to prison; in some cases, in countries where workers have no rights at all.

I think while there are differences of opinion about these trade issues, I believe there should be general uniform opinion on a couple of things. We've already reached a uniform judgment on the question of whether products that are produced in foreign prisons—that is, products of prison labor—should be imported into this country and represented as products that are engaged in fair competition with our producers. The answer for our country has been to say no, the product of prison labor is not acceptable. And so, we do not allow the import of the product of prison labor.

What about the product of labor that is produced—or of goods that are produced in sweatshop labor conditions, in plants in which gross violations of the existing laws in the existing countries—gross violations of workers' rights, are routine? Should the product that comes from foreign sweatshops be allowed into this country? If not, what do we do to try to prevent the import of goods produced in sweatshop conditions?

I've introduced a piece of legislation to deal with these problems, S. 367, the Decent Working Conditions and Fair Competition Act. The bill would do two things. First, the bill says it is illegal to bring the product of sweatshop factories to this country. In this bill, a "sweatshop factory," is one where workers are abused, in violation of their own country's labor laws. Second, the bill would allow U.S. retailers the right to sue their competitors for damages in U.S. courts if their competitors are sourcing their merchandise from sweatshop factories.

This is a bipartisan bill. I'm grateful that Senator Lindsey Graham, the Senator from South Carolina, has agreed to be the lead Republican cosponsor.

And the reason I decided to introduce the bill was the revelation that there are serious sweatshop abuses in a number of areas of the country; most recently, discussions about sweatshop abuses in the country of Jordan. Some witnesses invited to testify today will speak about this issue.

When our trade negotiators negotiated the Jordan Free Trade Agreement, in October of 2000, I gave the Clinton Administration credit for giving some thought to putting labor provisions in that trade agreement. It is the only trade agreement in which labor provisions have been included. But those labor provisions have not been enforced, and the result is the proliferation of sweatshops in a portion of Jordan. Examples of workers promised \$120 in a month, and hardly paid at all; one worker, paid \$50 for 5 full months of work; a 40-hour shift in one plant—not a 40-hour week, a 40-hour shift.

In November of 2006, *BusinessWeek* had a cover story on sweatshop abuses, titled "Secrets, Lies, and Sweatshops." The article begins with a description of a Chinese company, called Ningbo Beifa Group. This Chinese company has made a great deal of money as a top supplier of pens, mechanical pencils, and highlighters to Wal-Mart stores and other major retailers.

In 2005, according to the *BusinessWeek* stories, Wal-Mart inspected the company's factories. It found that the company in China was paying its 3,000 workers less than China's minimum wage, and violating overtime rules. So, they asked the company to fix the problems. On three successive inspections, it was clear the

Chinese company had failed to do so. Three times, Wal-Mart told the company it would get another chance. When Wal-Mart issued a fourth warning, the Chinese turned to another Chinese company, called the Shanghai Corporate Responsibility Management & Consulting Company. For a \$5,000 fee, the company promised to send a consultant to take care of the Wal-Mart problem. That consultant provided advice on how to create fake, but authentic-looking, payroll records, and the consultant also told the company that, on the day of the fourth Wal-Mart audit, they should give the day off to any workers with grievances so that they would not tell any inconvenient stories. Following the consultant's advice, the Chinese factory passed the Wal-Mart audit, even though the China company later admitted it didn't change—hadn't changed any of its practices.

I don't believe, in this case, Wal-Mart deliberately turned a blind eye to these practices. There are certainly documented cases of other companies that sell sweatshop products in the United States. But I do think that companies that decide to import products into this country should not be allowed to gain an unfair advantage by deliberately sourcing from sweatshop factories that abuse workers abroad.

The bill I've introduced with Senator Graham would address such abuses by banning the importation or sale of products made in factories under, quote, "sweatshop," unquote, conditions.

This bill has also been sent to the Finance Committee. I've written to Chairman Baucus, asking for a hearing in that committee. It's appropriate for this committee to also hold a hearing to examine the issue of sweatshops. The import restrictions on sweatshop goods under this bill would be administered by the Federal Trade Commission, which falls within the jurisdiction of this subcommittee.

Today, we're going to hear from a broad range of witnesses about the issue of overseas sweatshops, and I thank them for coming. Betty Fuentes is a Colombian worker in a flower plantation, and, 3 years ago, founded one of the first unions of flower workers in that country. Sheikh Nazma began working in a Bangladeshi sweatshop when she was 10 years old, and eventually organized her co-workers and formed the Bangladesh Center for Worker Solidarity. Charles Kernaghan is the executive director of the National Labor Committee, which has spearheaded a number of investigations into sweatshop abuses around the world. Jim English is secretary treasurer of the United Steel Workers, which has been actively involved in the fight against sweatshop abuses overseas. William Jones is chairman of the U.S. Business and Industry Council but it is my understanding that Mr. Jones, because of travel problems in Chicago, is not able to be with us today. David Socolow, a New Jersey commissioner of labor, is part of a multistate effort to fight sweatshop abuses through rules on State government procurement. Steven Jesseph is the vice chairman of Worldwide Responsible Apparel Production, a group founded by the American Apparel and Footwear Association. And Dan Griswold, director of the Center for Trade Policy Studies at the Cato Institute, a think tank based in Washington, D.C.

I want to thank all of the witnesses who have come today, and let me call next, for an opening statement, on my colleague Senator DeMint.

Senator DeMint?

**STATEMENT OF HON. JIM DEMINT,
U.S. SENATOR FROM SOUTH CAROLINA**

Senator DEMINT. Thank you, Mr. Chairman. I appreciate you pulling together this hearing. It is important that we have a comprehensive review of labor conditions that our companies are doing business with and that our consumers are buying products from.

I think we all know that trade, on the whole, has done much around the world to raise the standard of living of many people. We've also seen that good trade agreements with other countries not only help to guarantee human rights, but also set labor standards, which these trade agreements call on for enforcement.

We're very aware that we still have problems around the world. Hearings like this can continue to shine the light on those problems, and, hopefully, we can begin to solve them, working with our corporate citizens as well as other countries.

We know the media has helped to bring these problems to light. Most of our companies in this country have demonstrated a lot of corporate responsibility in how they've dealt with this. Again, most are good. But we have some examples, as we'll hear today, where not all is perfect.

One of the best things, I think, that is going on is the monitoring and certification of plants around the world so that American customers of these products will know who they're doing business with, and we can continue to put pressure on companies abroad.

As we do that, it's important that we don't cause more harm than good. While there are sweatshops which we need to look at, Mr. Chairman, certainly many jobs have been provided around the world by American companies buying products from all over the world, and we want to make sure that, as we attempt to stamp out the bad actors, that we don't eliminate jobs for many low-income workers around the world by creating undue liability and risk for companies who make products made abroad. A comprehensive evaluation is important.

And, Mr. Chairman, if it would be acceptable to you, as part of the first panel, I understand that Steven Jesseph has some scheduling difficulties, and I may not be able to stay through the entire second panel, and it would probably provide good balance, on the first panel, if we could hear from the problems, but also how monitoring and certification is working. And unless you object, sir, could Mr. Jesseph possibly be the third witness on the first panel this morning?

Senator DORGAN. That would be perfectly acceptable if Mr. Jesseph would be willing to come forward. I understand you have some scheduling issues, and I expect there are a lot of people in Washington, D.C., trying to figure out their schedules these days.

Senator DEMINT. Yes.

Senator DORGAN. But let us have you on the first panel, and we will have you provide your testimony following the first two witnesses.

Senator DEMINT. Thank you, Mr. Chairman.

Senator DORGAN. Of course.

Senator DEMINT. And I'll yield back.

Senator DORGAN. Let me introduce the first panel.

First, we have Betty Fuentes, a Colombian worker in a flower plantation. Three years ago, she founded one of the first unions of flower workers in that country. Her visit has been sponsored by the International Labor Rights Fund. Since Ms. Fuentes speaks very little English, Nora Ferm, of the International Labor Rights Fund, will serve as an interpreter. Nora speaks fluent Spanish and has worked in both Colombia and Ecuador.

Next, we will have Sheikh Nazma—I hope I have pronounced that correctly. She began working in textile sweatshops in Bangladesh when she was 10 years old, organized her co-workers, and formed a Bangladesh Center for Worker Solidarity.

I want to thank both of the witnesses for coming.

Nazma speaks very limited English, and we have an interpreter with her. And I'll ask the interpreter to identify herself when we have Ms. Nazma testify.

Let us hear now from Ms. Fuentes.

**STATEMENT OF BEATRIZ FUENTES, PRESIDENT,
SINTRASPLENDOR UNION, SPLENDOR FLOWERS**

Ms. FUENTES. My name is Beatriz Fuentes. I've been working in the flower industry in Colombia for 10 years, and I have two children. Today, on Valentine's Day, I'm here to talk about my experience in the flower sector.

First, workers face a lot of harassment and retaliation when we try to form a union, to exercise our right to freedom of association, and to improve our working conditions. At the Splendor Flowers Plantation, which is owned by the multinational company, Dole, my co-workers and I formed a union in November 2004. The company used many tactics to try to weaken our union and avoid negotiating a collective bargaining agreement. The management called up a company union and signed a collective bargaining agreement with them. Any worker that joined this company union received approximately \$20 as an incentive. In addition, management lent a company-owned bus to transport workers to the assembly of this management-sponsored union during working hours. Management representatives pressured workers not to join the independent union.

The Colombian Government gave our independent union legal recognition in 2005. However, despite this recognition, Dole decided to close the Splendor plantation instead of negotiating with the facility that now had the strongest independent union among Dole-owned plantations. There is no proof that Splendor was a losing enterprise. We fear that Dole will soon declare the closure of its only other plantation with an independent union, La Fragancia.

The second thing that worries us is the lack of protection against occupational health risks. This leads to health issues—allergies, respiratory complications, and eye problems. One reason I decided to organize a union was that I saw how they were simply firing my sick co-workers. If you are sick, you are simply out of a job.

Another issue in the flower industry is the requirement that female job applicants submit to questioning regarding whether or not they are, or plan to become in the near future, pregnant. As well, they're required to undergo a medical examination by a company doctor to prove they are not pregnant. Unfortunately, this is common industry practice.

Aggravating the situation for workers is the inordinately long time it takes for the Ministry of Labor to resolve worker-rights cases. For example, in early 2005, my union filed several complaints before a labor judge regarding occupational health problems and violations of the right to organize. As I sit here, not one of these cases has been resolved. In contrast, there's another decision to be rendered rather quickly next week. It is one where Splendor Flowers, just 6 weeks ago, asked the Ministry of Labor to approve the mass firing of all workers at that plantation. Next week, you Senators will still have your jobs, but my workers may not have theirs.

In sum, workers in the Colombian flower industry are faced with low wages, long working hours, and poor and illegal company practices. All of this adds up to social instability and the disintegration of families in the flower-growing region.

Thank you for allowing me to share this testimony, and I hope you take it into consideration in considering S. 367.

[The prepared statement of Ms. Fuentes follows:]

PREPARED STATEMENT OF BEATRIZ FUENTES, PRESIDENT, SINTRASPLENDOR UNION,
SPLENDOR FLOWERS

Introduction

I am the President of the Sintrasplendor union, which was founded in November 2004 at the Splendor Flowers plantation in Colombia, a farm belonging to the multinational Dole. I have more than 10 years of experience working in the Colombian cut flower industry. For Valentine's Day, the day when more Americans buy cut flowers from Colombia than any other day of the year, I have traveled to the U.S. to share my testimony about the poor working conditions that exist in many Colombian flower plantations, and which I have experienced firsthand over the past decade.

My co-workers and I have witnessed the limitations of Colombian labor law enforcement, and voluntary initiatives in addressing these serious labor rights violations. New, enforceable strategies are needed to effectively guarantee workers' rights in this industry.

Occupational Health and Safety

Flower workers are inadequately protected against occupational hazards. In the greenhouses, we are exposed on a daily basis to highly toxic chemicals, without sufficient protection. We are also exposed to extreme temperatures, and we work long hours doing repetitive tasks. These conditions cause serious health problems including allergies, respiratory problems, eye problems, spinal problems, and carpal tunnel syndrome.

I have had a problem with carpal tunnel syndrome for the past 5 years, due to the fact that I have had to spend 8–10 hours straight cutting stems with scissors. Most workers are assigned to one job for several months at a time, frequently causing repetitive motion injuries. Currently, we must trim 300–400 flowers per hour.

On July 14, 2005, there was a tragic accident on one of the company buses on which we ride to work every day. On that day, as on most days, the bus was excessively overloaded. We had asked them to fix this problem but they hadn't done anything about it. Several workers were killed or injured. I was on this bus when the accident occurred.

Forced Pregnancy Testing

It is also common for flower plantations to require female job applicants to take a pregnancy test to demonstrate that they are not pregnant, which is illegal. Or

they ask if we are planning on having more children, and if we have had an operation. The management does not do this out of concern that the pregnant women are exposed to the same toxic pesticides as all of the other workers. They do it because they don't want to pay the maternity leave or the other benefits legally due to pregnant workers.

Union Busting

Colombia is the most dangerous country in the world to be a trade union leader. Compared to other sectors, the cut flower industry fortunately has not experienced the same extreme level of trade union violence. Other forms of retaliation against unions remain all too common, however, and we hope that the violence will not escalate.

My co-workers and I founded a new independent union at Splendor Flowers, called Sintrasplendor, in November 2004. We were motivated to form a union because of the worsening conditions at Splendor. The company began assigning more and more flowerbeds to each worker, making the workload intolerable. Over the past 10 years, the workload has doubled from 15–20 flowerbeds up to 30–40 flowerbeds per worker. This means more backbreaking labor for no more pay. Lately the company has been firing sick workers and old workers. They also announced that they would soon turn some jobs over to subcontractors, which means that those workers will lose the little job stability that they currently have. The company was writing up its own collective agreements and making the workers sign them, without even giving them a chance to voice their opinions. We hoped that a union would enable us to present a petition to the company, and therefore negotiate improved working conditions, guaranteed overtime pay, and salary increases.

Sintrasplendor was the first independent union to be successfully established in a Dole-owned flower company in Colombia. When Sintrasplendor received its registration from the Ministry of Social Protection, the company presented a list of objections, asking the Ministry to revoke the registration. Splendor Flowers used various forms of persecution against the independent union, including assigning extra work on days when the Sintrasplendor had planned assemblies and other union-related activities.

The company invited in another union and signed a collective bargaining agreement with them almost immediately. The agreement said that any worker who joined the company union, Sinaltraflor, would be rewarded with 40,000 pesos (approximately US\$20). The company wanted the majority of workers to join Sinaltraflor, because they could then negotiate with Sinaltraflor instead of with Sintrasplendor. The company even lent one of its buses to take workers to a Sinaltraflor meeting, during working hours. Company representatives pressured workers not to join Sintrasplendor. When we distributed flyers in the plantation to explain to workers why we had formed an independent union, the company prohibited workers from reading them. According to Colombian law, it is legal to read this kind of flyer inside the workplace, during lunchtime or a break.

The Colombian government recognized our union as a legal entity in 2005. Nevertheless, the company still has not sat down to negotiate with us.

On October 12, 2006 Dole announced that it would close the Corzo farm at Splendor Flowers. We believe that the motivation behind this closure is that the company did not want to provide basic rights and decent work conditions to its workers. Clearly, we can not trust our local laws to protect our labor rights—including our right to organize—but rather we need new and enforceable international legal tools to ensure these rights.

Splendor-Corzo will officially close in mid 2007 after the company completes the necessary legal processes. Corzo is the larger of the two farms at Splendor Flowers. Dole justifies the closure of Splendor-Corzo by saying that it has “historically produced products with limited/seasonal demand and have high costs”. However, in 2001 Splendor Flowers was the second most successful flower company in Colombia, reaching 19 million dollars in sales. Dole has not provided evidence that Splendor is a losing enterprise. It appears that the plantation closure is a response to the growing support for Sintrasplendor. Splendor management has been offering workers compensation to get them to resign. This past weekend, they fired over 200 workers. Of more than 2000 workers employed at this plantation in 2006, only 150 remain. We are worried that Dole will soon announce the closure of La Fragancia, the other plantation where an independent union has successfully been established.

Lack of Recourse to Labor Authorities

Colombian workers who want to file complaints about labor rights violations are often discouraged because governmental institutions like the Ministry of Labor take so long to resolve these cases. For example, in early 2005, my union filed several

complaints before a labor judge, regarding occupational health problems and violations of the right to organize. Almost 2 years have passed and none of these cases have been resolved. Meanwhile, a month and a half ago the company filed a request with the Ministry of Labor to approve the mass firing of all workers at Splendor Flowers, so they can close the farm. The decision is expected to be released next week. Apparently, justice comes faster for companies than for workers.

Conclusion

Because of the low wages in this sector and the long working hours, I have very little time to spend with my two young children, and lack the money to give them a decent education. The realities of the flower industry have contributed to social instability and disintegration of many families in the flower-growing region of Colombia.

We need effective legal mechanisms to ensure that these companies give us safe, healthy, and decent workplaces. Thank you for allowing me to share this testimony, and I hope you take it into account in the consideration of S. 367.

Senator DORGAN. Ms. Fuentes, thank you very much for your testimony.

Next, we'll hear from Ms. Nazma. And will the interpreter identify herself?

Ms. IQBAL. My name is Sunita Iqbal. I'm a paralegal in New York, and I was asked to interpret for her. My parents speak Bengali, and I've been speaking it in the house since I was a child, so translating, in that sense.

STATEMENT OF SHEIKH NAZMA, FOUNDER/ FORMER PRESIDENT, BANGLADESH CENTER FOR WORKER SOLIDARITY

Ms. NAZMA. My name is Sheikh Nazma. I'm from Bangladesh. I started working, when I was 12 years old, as a helper in a garment export factory, and we worked 10 to 14 hours a day, 7 days a week.

In 1993, I helped organize the first major struggle in a garment factory to win our rights and organize a union. I started—later on, I started the Bangladesh Center for Worker Solidarity, and—of which I was president. That is when serious threats began. Gang members, thugs, sent by management, constantly harassed and threatened me. On many occasions, I was assaulted and ruthlessly beaten.

In March 2005, the threats became serious for me, and I had to come to the United States. In 2006, I applied for asylum. My colleagues at the Bangladesh Center for Worker Solidarity have been involved in a 9-month investigation of a large factory called Harvest Rich, which is located in the Narayarganj District of Bangladesh, where clothing is sewn for Wal-Mart, Hanes, JCPenney, Puma, and other European companies.

When the research began, in June, we discovered scores of children, just 11, 12, and 13 years of age, working at the Harvest Rich factory; more than three- to four hundred adolescents, 14, 15, to 16 and 17 years old were also illegally employed at Harvest Rich. Halima was one of the 11-year-old workers. She was routinely forced to work 11 to 14 hours, from 8 a.m. to 7 p.m., and most commonly until 10 p.m. She was at the factory 7 days a week, with an average of just 2 days off a month.

It was not uncommon for Halima and the other children to be working at the factory 95 hours a week, but the situation got even worse. Before clothing shipments had to leave for the U.S., they were often mandatory 19- to 20-hour shifts, from 8 a.m. to 3-to-4

a.m. The workers would sleep on the factory floor for the next few hours before getting up for their next shift in the morning. If they did anything wrong, they were beaten every day. They were also cursed at. And if they fell behind in their production goal, they were also beaten. For this, Halima and the other children were paid 6 cents an hour, 53 cents a day, and \$3.20 a week. We estimate that the workers were cheated for up to half of their wages legally due to them, and anyone daring to ask for their legal wages would be fired.

Corporate monitoring did not work at the Harvest Rich factory. The monitors arrived, the children workers were hidden in the filthy bathrooms or put on the roof. The factory kept two sets of time records, using the falsified one to show to the monitors.

Since the campaign has started on Harvest Rich, it has been largely successful in ending the hiring of children under 13 years of age, though they're not getting their labor rights or violations—and they're being violated in the factory.

The garment industry is doing very well in Bangladesh, and this would be good news if the garment workers were getting their legal rights and they were respected and they earned a wage that would allow them to live well. Bangladesh is sending 1 billion garments to the U.S. last year, and it would be a good thing if the workers were being treated fairly and they were receiving their rights properly.

The demands of the Harvest Rich workers are very modest. They're willing to work 10 to 12 hours a day, as long as the overtime is voluntary and paid correctly. They need 1 day off a week, as they are exhausted. And the beatings must end.

Bangladeshi workers want to be able to work properly, but they also want their rights respected and the law followed.

Thank you.

[The prepared statement of Ms. Nazma follows:]

PREPARED STATEMENT OF SHEIKH NAZMA, FOUNDER/FORMER PRESIDENT,
BANGLADESH CENTER FOR WORKER SOLIDARITY

My name is Sheikh Nazma and I am from Bangladesh.

I started working when I was 12 years old, as a helper in a garment export factory called Bay Garments Ltd. At that time, in 1984 we worked 10–14 hours a day and 7 days a week. For this we earned 240 Taka a month, which comes to 2½ U.S. cents an hour. I worked for 10 years in the garment factories, eventually becoming a skilled sewing operator. But in every factory I worked, the legal rights of the workers—80 percent of whom were young women—were repressed. Then, in 1993, I helped to organize the first major struggle in a garment factory to win our rights and organize a union. The factory was called Comtret Apparels Ltd. It took 6 months of struggle, but eventually we won.

That was how the Bangladesh Center for Worker Solidarity (BCWS) was formed, of which I was the president. The AFL–CIO Solidarity Center has helped us in our struggle.

That is when the serious threats began. Gang members, thugs, sent by management constantly harassed and threatened us. On many occasions I was assaulted and ruthlessly beaten.

For years, as we carried out the work of the Bangladesh Center for Worker Solidarity Center, accompanying and providing support for the garment workers in their struggle to win their legal rights, the threats continued.

In March 2005 the threats against my life became very serious and I had to flee to the United States, where I was granted legal asylum on 2006.

In 1992, there were as many as 100,000 child workers toiling under unsafe conditions in Bangladesh's booming garment export factories. It was a huge problem, with children as young as 6, 7, 8 years old, forced to work 12 or more hours a day,

often 7 days a week. Then, largely due to legislation proposed in the U.S. Senate, the exploitation of child workers was ended.

But it is starting to come back again, and this is what I want to focus my testimony on.

My colleagues at the Bangladesh Center for Workers Solidarity have been involved in a nine-month investigation of a large factory called Harvest Rich, which is located in the Narayarganj District of Bangladesh, where clothing is sewn for Wal-Mart, Hanes, J.C. Penney, Puma and other European companies.

This is what we found. When the research began in June, we discovered scores of children just 11, 12 and 13 years of age working at the Harvest Rich factory. More than 300 to 400 adolescents—14, 15, 16 and 17 years old—were also illegally employed at Harvest Rich. Under Bangladeshi law, factories are strictly prohibited from hiring anyone under 14 years of age, while adolescent workers between the ages of 14 and 17 can only be employed under special circumstances, and are allowed to work just 5 hours a day for a maximum of 30 hours per week. Also, adolescents may never work at night.

Halima was one of the 11 year-old workers. Routinely, she was forced to work 11 to 14 hours a day, from 8 a.m. to 7, or more commonly 10 p.m. She was at the factory 7 days a week, with an average of just 2 days off a month. It was not uncommon for Halima and the other children to be at the factory 95 hours a week.

But it got even worse. Before clothing shipments had to leave for the U.S., there were often mandatory 19 to 20-hour all-night shifts from 8 a.m. right through to 3 or 4 a.m. the following day, after which the workers would sleep on the factory floor for a few hours before beginning the next shift at 8 a.m. that same morning. Even the child workers could be forced to work such grueling all-night shifts three or four times a month. While paying a very rare unannounced visit to the Harvest Rich factory in November, U.S. company representatives found dozens of workers at 12:30 a.m. still sewing boys Faded Glory jeans for Wal-Mart, 16½ hours into what would have been a 19 to 20-hour shift had the executives not sent the exhausted workers home.

Halima worked as a helper, just as I did when I started out when I was 12. A helper's job is to clean the finished garment by cutting off any loose threads that may remain. Halima was given a mandatory production goal of cleaning 150 garments an hour—she was working on Hanes underwear—one every 24 seconds. The pace was relentless.

She was on her feet all day, standing at a high table. Sometimes, she said, she just fell down or fainted from exhaustion. The factory was hot and all the workers were sweating.

If Halima or another young worker made a mistake, they were beaten. This happened every day, the workers said. They would be slapped very hard by their supervisor, who was always a man, and sometimes the children cried. They were also cursed at. If they fell behind in their production goal, they would also be beaten, or if they used the bathroom without permission. They were only allowed two visits a day, and the bathroom was filthy, without toilet paper, soap or towels.

For this, Halima and the other children were paid six cents an hour, 53 cents a day and \$3.20 a week. The wages are so low that Halima and many of the other workers actually brush their teeth with their fingers and ashes from the fire because they cannot afford a toothbrush or toothpaste.

Even the skilled sewing operators at the Harvest Rich plant are being paid a wage of just 17 cents an hour, \$1.35 a day and \$8.09 a week. Such wages do not come close to providing even a minimally decent standard of living.

Overtime was mandatory, but not one worker in the Harvest Rich factory was paid their correct overtime wages. We estimate that the workers were cheated of up to half the wages legally due them. Anyone who objected to working on Friday, which was supposed to be their weekly holiday, would have 3 days' wages docked as punishment.

Anyone daring to ask for their legal wages would be fired.

The corporate monitoring, even by some of the largest corporations in America, did not work at the Harvest Rich factory. When the monitors arrived for their usual announced visits, the child workers were hidden in the filthy bathrooms or put on the roof. The factory kept two sets of time records, using the falsified one to show the monitors. All the workers knew this. But anyone who spoke one word of truth to a corporate monitor would be fired the minute the monitor walked out the door.

The workers at the Harvest Rich factory, and in garment factories all across Bangladesh, are in a trap. Of course our workers need their jobs—they desperately need these jobs, but without enforcement of Bangladesh's labor laws, the workers are left without rights and are actually seeing their wages falling every year.

As I mentioned earlier, the exploitation of child labor in Bangladesh's garment export industry was wiped out, or greatly diminished, in 1992. After that, child labor was not a problem. This is why BCWS had to act quickly when we saw the re-emergence of child labor at Harvest Rich, as well as in some nearby plants. The campaign focused on Harvest Rich has been largely successful in ending the hiring of children under 13 years of age, though many other labor rights violations continue in the factory. But at least for now, we believe that the resurgence of child labor in Bangladesh's garment industry has been blocked.

The garment industry in Bangladesh is booming—Bangladesh sent one billion garments to the U.S. last year—and this would be great news for the poor women garment workers if their legal rights were respected and they earned a wage that would allow them to climb out of misery. Today, there are 4,220 garment export factories in Bangladesh employing at least 2.2 million workers.

Yet despite booming exports over the last 12 years, the real wages of Bangladesh's garment workers have been cut nearly in half as a cumulative inflation rate of 88 percent has eaten away at the purchasing power of their wages.

The demands of the Harvest Rich workers are very modest. They are willing to work 10, 11 or even 12 hours a day, as long as overtime is voluntary and paid correctly. They need 1 day off a week, as they are exhausted. The beatings must end. The workers' dream would be to earn at least 5,000 taka a month, which is just \$71.50 a month, \$16.50 a week, or 35 cents an hour.

Surely it is not too much to ask that the great U.S. and European companies must respect the labor laws of Bangladesh. If this happened, it would be a great step forward for the over two million garment workers in Bangladesh, who are some of the hardest working people anywhere in the world, but also among the poorest.

Senator DORGAN. Ms. Nazma, thank you very much for your testimony.

And finally, on this panel, we will hear from Ms. Jesseph. Mr. Jesseph is President and CEO of Worldwide Responsible Apparel Production.

Mr. Jesseph, you may proceed.

**STATEMENT OF STEVEN A. JESSEPH, PRESIDENT/CEO,
WORLDWIDE RESPONSIBLE APPAREL PRODUCTION (WRAP)**

Mr. JESSEPH. Mr. Chairman, thank you for inviting me here today to discuss this critically important issue, and for the opportunity to testify before this committee on the subject of working conditions in factories around the world.

The views I express today are on behalf of the Worldwide Responsible Apparel Production Program, best known as WRAP. As the President and CEO of WRAP, I deal with these issues every day.

From 1997 to 2000, the American Apparel and Footwear Association, or the AAFA, funded a task force of outside consultants and industry experts to examine working conditions in apparel and textile factories in major apparel-producing countries. Member companies made a clear commitment that they did not want to be associated with sweatshop conditions, and believed the best way to address the challenge was to create an industrywide global code of conduct enforced through a factory monitoring and certification program.

In January of 2000, WRAP started operations as an independent 501(c)(6) nonprofit organization with its own 10-member board and funding dedicated to ensuring legal, ethical, and humane working conditions in the manufacture of its own products. We believe WRAP is the most rigorous code of conduct for labor-intensive consumer products manufacturing, covering not only labor and human

rights, but addressing environmental protection, Customs compliance, and security, as well.

WRAP is completely separate from the AAFA; however, we do enjoy the support of the AAFA and 20 other trade associations that encourage members to have their factories and their supply chains certified to the WRAP standard. We have no members, and we do not rely on government grants. We're funded by registration fees from applicant factories, training fees, and monitor accreditation fees only.

Our certification process involves a lengthy application that must be submitted by the factory. The factory must answer detailed questions regarding its practices in the areas of age of workers, working hours, wages and benefits, health and safety, and more. Then, an independent monitoring firm performs a rigorous inspection of the factory to determine if the information they've submitted to us is accurate. Frequently, factories do not pass on the first inspection. There are some areas of noncompliance we will not tolerate, such as prison labor, child labor, serious health-and-safety abuses, and physical abuse. A certification is generally valid for 1 year. And it gives companies considering using the factory a reasonable assurance that the factory's in compliance with accepted standards. Since the year 2000, over 5,000 factories have registered with WRAP.

We also created an audit methodology that, in most parts of the world, is effective in gaining a true understanding of what goes on inside factories. We regularly conduct unannounced follow-up audits of certified factories to maintain their ongoing compliance. If they don't maintain compliance, and if those noncompliances are sufficiently egregious, we decertify the factory and advise that factory of its—our actions. Clearly, there are strong economic incentives for factories to maintain compliance with WRAP standards.

There are other initiatives similar to WRAP. Their codes of conduct and audit methodologies might be a little different than ours, but we're all trying to do essentially the same thing: eliminate abusive working conditions and protect the health, safety, and rights of workers through positive force of economic incentives. Our experience has shown that training and education are essential to improving working conditions, and crucial at building capacity at the local level.

In 2000, we received a grant from the U.S. Department of Labor to conduct factory training in 35 countries around the world. That grant expired long ago, but our work continues.

In February of 2006, we participated in a USAID-funded trade capacity-building project related to technical barriers to trade in Colombia, South America.

For the past 35 years, I've worked in a variety of government, manufacturing, and consulting environments, and, for the last 12 years, in the area of code of conduct and factory monitoring. I've literally visited hundreds of factories in 44 countries on this planet. I've seen, firsthand, the good, the bad, and the ugly. Are there bad factories out there? Yes, there are. But I've also seen a lot of very good progress in the last 5 years. We still have a lot of work to do.

We need to help apparel-producing nations strengthen their rule of law and build expertise within their labor ministries. And we

need to help employees understand their rights under the laws of their sovereign states. WRAP has been helping to do this, and we plan to do more.

As we've learned from behavioral psychologists and economists, the best way to achieve positive and sustainable change is through market incentives and rewarding positive behavior. For us, that behavior is being in compliance with WRAP standards, and we believe we're on the right track.

Mr. Chairman, thank you for your leadership on this issue. We appreciate the opportunity to submit this testimony and would be happy to answer any questions you may have.

[The prepared statement of Mr. Jesseph follows:]

PREPARED STATEMENT OF STEVEN A. JESSEPH, PRESIDENT/CEO,
WORLDWIDE RESPONSIBLE APPAREL PRODUCTION (WRAP)

Mr. Chairman, thank you for inviting me here today to discuss this critically important issue and for the opportunity to testify before this Committee on the subject of working conditions in factories around the world. The views I express today are mine and represent the Worldwide Responsible Apparel Production program, best known as WRAP. My remarks do not represent the views of any trade association, retailer or branded company. As President and CEO of WRAP, I deal with these issues every day.

From 1997-2000, the American Apparel & Footwear Association, or the AAFA, funded a task force of outside consultants and industry experts to examine working conditions in apparel and textile facilities in the major apparel producing countries. Member companies made a clear commitment that it did not want to be associated with "sweatshops" and child labor conditions and believed the best way to address the challenge was to create an industry-wide, global code of conduct enforced through a factory-based monitoring and certification program. In January 2000, WRAP started operations as an independent, 501 (c)(6), non-profit organization with its own 10-member Board of Directors and funding dedicated to ensuring legal, ethical and humane production of sewn products. We believe 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.

WRAP is completely separate from the AAFA. However, we do enjoy the support of the AAFA and 20 other trade associations around the world that encourage their members to have the factories in their supply chains certified to the WRAP standard. Last week, Caribbean-Central America Action, a trade promotion group based in Washington, D.C., issued the report of its recent annual meeting in which it encouraged *all* apparel and textile factories in the region to become certified by WRAP.

WRAP has no members and therefore no dues. We do not rely on government grants to sustain our operations. We are funded by registration fees from applicant factories, training fees and monitor accreditation fees.

The WRAP certification process involves a lengthy application that must be submitted by the factory seeking to be certified. The application requires the factory to answer detailed questions regarding its practices in areas such as minimum age of workers, working hours, regular and overtime wages, and health and safety, and more. When the application is complete, an independent monitoring firm then performs a rigorous inspection of the factory to determine if the written information previously submitted is accurate. Frequently, factories do not pass on the first inspection. Since our goal is to help them achieve certification, we advise them of the non-compliances so they can correct them and receive a certification recommendation during a subsequent audit.

However, there are some areas of non-compliance that will not be tolerated such as prison labor, child labor and physical abuse. A certification is generally valid for 1 year and gives companies considering using the factory reasonable assurance that the factory is in compliance with accepted standards. Since 2000, over 5,000 factories have registered with WRAP and in 2006 we certified factories in 71 countries.

WRAP has created an audit methodology that in most parts of the world is effective in gaining a true understanding of what goes on inside factories. We certify factories that are in compliance with the WRAP standards. We also refuse to certify and decertify factories that aren't. We regularly conduct unannounced follow-up audits of certified factories to ensure they maintain on-going compliance. If they don't,

and if those non-compliances are sufficiently egregious, I have no hesitation to decertify a factory and advise that factory's customers of our actions. Accordingly, there are strong economic incentives for factories to maintain compliance with the WRAP standards.

There are other initiatives similar to WRAP. Their codes of conduct and audit methodologies might be a little different than WRAP but we are all trying to do essentially the same thing: eliminate abusive working conditions, and protect the health, safety and rights of the workers through the positive force of economic incentives.

WRAP is also working with other certification programs, trade associations, technical training schools and universities to help develop courses and seminars for factory managers and owners in the areas of management systems, health & safety, compensation and benefits, working hours, environmental protection, regulatory compliance and more. We hope that eventually these courses and will lead to certifications and degrees in the area of corporate social responsibility.

WRAP's experience with its factory certification program has demonstrated to us that positive efforts such as education and training are essential to improve working conditions. In 2002, WRAP received a grant from the U.S. Department of Labor to conduct factory training in 35 countries around the world. That grant expired long ago but our training work continues. February 2006, WRAP participated in a USAID-funded Trade Capacity Building project related to Technical Barriers to Trade (TBT) in Colombia. And, WRAP is also participating in a similar USAID-funded program in Morocco. We believe education and training, at all levels are crucial to building capacity at the local level.

For the past thirty years, I've worked in a variety of government, manufacturing and consulting environments, and for the past twelve years in the areas of codes of conduct and factory monitoring. I've visited hundreds of factories in 44 different countries on five continents and have seen first-hand the good, the bad and the ugly. I understand this industry and its complexities very well. I've seen tremendous progress in the quality of management and working conditions in factories, especially in the past 5 years. However, with all the progress that has been made, there is still much work to do.

We need to help apparel producing nations strengthen the rule of law and build expertise within labor ministries and with their inspectors. And, we need to help employees understand their rights under the laws of their sovereign states. WRAP has been helping do this, and more.

As we've learned from behavioral psychologists and economists, the best way to achieve positive and sustainable change is through market incentives and rewarding positive behavior. For us, that behavior is being in compliance with WRAP standards. We believe we're on the right track.

Thank you, Mr. Chairman for your leadership on this issue. We appreciate the opportunity to submit this testimony. I would be pleased to answer any questions you might have.

Senator DORGAN. Mr. Jesseph, thank you very much for being here.

Let me thank all three of you for your testimony today. I think—as I hear the testimony, Ms. Jesseph, I don't think you are at odds with—at least your goals are not at odds with—the testimony of the other two witnesses. You indicate that the goals of WRAP are to attempt to make certain that factories are adhering to the local standards and local laws, and that the industry is not interested in bringing into this country the product of sweatshop labor. So, the legislation that we will attempt to move through the Congress should not be at odds with your goals, in any event.

Let me talk just a little, by virtue of asking questions of the three of you, and then I'll turn to my colleague Senator DeMint.

Ms. Nazma, you are describing, in your testimony, a young woman named Halima, who is an 11-year-old worker. Your description of that particular plant—you dwelled on that particular plant. What is the timeframe of the investigation of that plant? Was that just within the past year or so?

Ms. NAZMA. From last June, they started the investigation, until now.

Senator DORGAN. And that is a plant that produces products to be shipped to this country. You're describing an 11-year-old worker named Halima, 11 to 14 hours a day, 7 days a week, and the scores of children, 11, 12, 13 years of age, working at that factory. What kind of evidence exists to corroborate that, Ms. Nazma?

Ms. NAZMA. She's saying that they have testimony from them that there was video taken at the Harvest Rich factory and that her—and her colleagues were also involved in making—getting this evidence from the factory workers.

Senator DORGAN. I think most of us would probably agree that a factory that is producing products with 11-year-old workers, working 11 to 14 hours a day, 7 days a week, 2 days off a month—I think almost everyone in this room would agree, that represents a sweatshop condition that probably is in violation of the local laws. The question is, Is this just an aberration, a very unusual circumstance, or is it the kind of thing that we see frequently in parts of the world where one can access cheap labor and access labor with no rights, so that workers really have no legal capability to complain?

Ms. Fuentes, you described workers in Colombia who, in support of trying to better their situation, formed a labor union that you indicated was a legal labor union under Colombian law. The companies then sponsored another labor union to try to undercut the ability of workers to organize. Can you describe, in slightly more detail, what happened there?

Ms. FUENTES. One of the main things that I already mentioned was that they offered money to our union affiliates so that they would join the other union instead. Also, company representatives, such as those from human resources, and supervisors, and company social workers, approached workers inside the workplace and told them that this was an unethical union, that they were trying to bankrupt the company, and that they should not join this union.

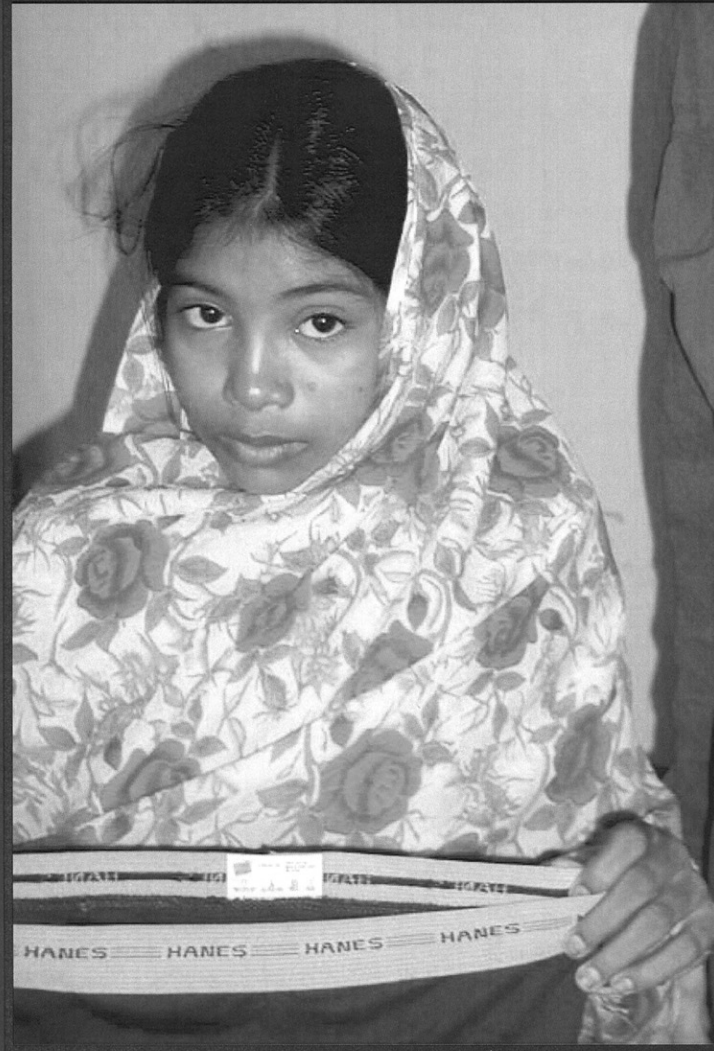
They also prohibited us from distributing any materials that explained what the union was about and what we were trying to do, and they held meetings inside the workplace, where they told workers that it was prohibited to read these things or comment on them. And many workers who belong to the board of directors of the union were isolated, moved to a different part of the factory, where they wouldn't be able to talk to other workers.

Another flower worker who works at another plantation and is also a union leader was put to peeling potatoes in an isolated part of the flower plantation, so that she wouldn't be able to talk to her co-workers.

Senator DORGAN. I'm going to call on Senator DeMint in just a moment, but I wanted to point out the *BusinessWeek* farticle, of November of last year, just 3 months ago entitled "Secrets, Lies, and Sweatshops," which describes the circumstance around the country—and in this case, in China, in which there is very substantial abuse of workers and sweatshops.

Mr. Jesseph, you know, I read your testimony, and I think it's important that you do the work you do. The question that I have is, How effective are you? For example, I described the cir-

cumstance of Wal-Mart going in, in a plant in China, on four occasions, and then, on the last occasion, a consultant explained to the company how you—how do you hide what you’re doing so that the company can’t see it? My understanding is, in your case, where you issue certifications, that you had actually issued a certification to the plant that Ms. Nazma talked about, and had certified it as meeting approval. You know, I have a picture of the 11-year-old girl, whom I think is the subject of much of the testimony. This is that young woman named Halima, working 11, 14 hours a day, 7 days a week. Clearly, that’s violative. And I assume that your organization would think that is a sweatshop condition, hiring a young child in contravention of existing laws in Bangladesh. But tell me what kind of capability do you have, as you go take a look at a factory like this, which, incidentally, has now been—I believe the contract for this company has been yanked by the Hanes company—producing Hanes underwear. And let me just quote: “We had audits that did not catch some of the excessive working hours, did not catch some of the double books. Our first clue to the double books issue was making a midnight visit to the plant and finding about 50 employees who were still working.” So, Hanes yanked their contract from this. But what kind of capability exists for them to show you enough to allow you to certify them, when, in fact, they’re probably hiring 11-year-olds?



**11-year-old Halima
worker at Harvest Rich Factory
making Hanes underwear, 2006**

Mr. JESSEPH. Senator, those are great questions, and ones we struggle with every day, We certified this factory about a year ago. And one of the challenges we have is, a lot of us have seen in re-

cent issues with—issues such as Enron and others—where companies try and purposely deceive and lie to their auditors, conceal information, create double books, coach employees, and so forth, as outlined in the *BusinessWeek* article; it becomes increasingly challenging for groups like ours to identify what the specific issues are. I personally visited the Harvest Rich factory in November—got on a plane, flew to Dacca, and went through that factory from top to bottom. I met with representatives, the Bangladesh Committee Solidarity Workers Groups, along with Robert Wong, with the U.S. State Department, who's the labor attache there, and specifically asked the question—and I was looking to meet a number of the employees who were alleged to have worked in that factory. The factory told me they could find absolutely no record of Halima ever having worked in that factory. I asked the Workers Committee if I could meet with her, because I was looking for proof and verification. As you pointed out earlier in your questions, What kind of verification do we have of these allegations? That's precisely why I went there.

What did we find? We did find there were double books. We did find there were excessive working hours. And what I found was a management team that had been specifically working to subvert the system that we've put in place to try and certify factories. We were looking for verification of information, not to make a snap judgment, and not to make an off-the-cuff judgment, but to look for verified information. And when we found that information, we decertified the factory. They're out of the system, period.

Part of that decertification is also notifying customers that do business in that factory that we no longer certify it. So, there are some economic incentives. As you saw, Hanes decided to leave the factory in December. We think some of the best incentives for factories to maintain compliance are the economic incentives of retaining business, and, if they're way out of compliance, they lose business.

Senator DORGAN. That's only to the extent that someone catches them. And I might suggest that if the managers there were subverting with respect to double bookings and various things, you would expect they would subvert on a number of things, including child labor. But I only make the point that I think organizations that are attempting to try to clean up this mess are valuable additions here. My only point is that the *BusinessWeek* article suggests that this is rampant, number one; number two, it's very hard to find and detect, and very hard to stop.

I have a couple of other questions, but I want to call on my colleague Senator DeMint, who I know has some time issues.

Senator DeMint?

Senator DEMINT. Thank you, Mr. Chairman. I really appreciate all the testimony.

Mr. Jesseph, I want to focus on you for a minute, because I do believe, as the Chairman has pointed out, that the goals of the industry sponsors of your group, as well as his goal, are basically the same. I think the question here is, What would really work to improve what's going on? And I think you know, as I think most media who reported on this, that we are making a lot of progress. I believe, as you do, that decertifying one or two plants will send

shockwaves around. These folks know not to do it because they'll lose a lot of business.

But my concern is the legal liability, which Senator Dorgan's bill would create, and we know—I know, from being in business for years, you can be set up for these kind of lawsuits, in this country, for not being handicap accessible or whatever, and be sued before you have a chance to even know you've got a problem. I'm concerned, just as a testimony today—well, I'll just take Colombia, for instance—Ms. Fuentes says there was pregnancy testing. And I'm sure it's correct, but it's against the law to do that in Colombia. Dole says they do not do it. But, under the Chairman's bill, Dole would have to prove that they didn't do it in a foreign country, and, like you said, in a situation that could have changed, and it would be very difficult for companies to defend themselves. Instead of a lawsuit, in Bangladesh, you have decertified and accomplished, I think, much of the same goals, and probably created a warning for a lot of other companies. I'm just concerned if we're going to come in with a sledgehammer here, creating a legal playground where companies throughout America may have bought something from a company that may have been a sweatshop, that they cannot possibly defend themselves against, and we've got the same legal problem that we have with our own companies, here in this country now, with plaintiffs' lawyers who are just eating them alive.

What do you think would be the effect of—and I don't know how familiar you are with the Chairman's bill, and I know, with him here, you've got to be very careful what you say, but what would be the effect of going in with this system that, I think, will create a playpen for lawyers?

Mr. JESSEPH. Senator, you did ask a loaded question, especially with Senator Dorgan here. I'm not a lawyer, and I'm not a legislator, and I am certainly not in a position to render, I think, a reasonable opinion on this bill. My great-grandfather was a representative of the State of Washington legislature, as a Democrat, and he believed less is more. I do believe that the kinds of market incentives and positive reinforcing incentives that we're trying to create, the market-based incentives, to make sure factories are doing the right thing on behalf of their customers, obeying the law, is the most effective kind of incentive there is, which is precisely why we put this into place.

If—and what we would—the question you asked earlier, How can we make this better?—I think is by having more and more retailers, brands, factories around the world participating in programs like WRAP and making a stand, as some companies do, in saying, "We're not going to tolerate working in factory—working with factories that have abusive working conditions. We are leaving, and we're leaving now." If you have multiple and repeated audits and repeated audits and repeated audits, and continually reinforce that kind of behavior, that working in substandard conditions is OK, then I think that becomes a challenge and a different message for everybody. I think the answer, for me, is, let's create positive market incentives, which is what we're trying to do with WRAP, and move everybody to the same standard. If buyers refuse to buy from factories with substandard conditions, I think it's the most effective and quickest way to handle it.

Senator DEMINT. Do you think—and I know I’m biased on this, and I do believe that trade, not aid, is the best way to improve working conditions, particularly as we have been insistent, in our country, on labor standards in our agreements. I’m afraid that if we create liability, that certain countries, because of their, perhaps, inability to enforce a lot of laws or to assist us in how we enforce, that there will be a lot of job loss or economic problems in countries where American businesses just decide not to buy from. Do you see a downside do creating a legal liability system in this country, at all, or—I know you said you weren’t a lawyer, but—

Mr. JESSEPH. Well—

Senator DEMINT.—we’re just trying to figure out the best way to move forward. It seems like your organization has made some significant strides, and we’re just trying to decide if creating this legal liability is a good way to move ahead.

Mr. JESSEPH. I don’t—again, I don’t have a firm opinion on the best way to do that. That—I read, in the papers, like everybody else, that the court systems are clogged, and it takes 2 and 3 and 4 years sometimes to get cases to court. This may be an effective measure. Again, I don’t know. We’re focusing on the market side, and, hopefully, on the positive-enforcement side.

Senator DEMINT. Good. That’s very helpful.

Thank you, Mr. Chairman.

Senator DORGAN. It appears to me that Senator DeMint may well be opposed to the legislation, based on his questions.

[Laughter.]

Senator DORGAN. Senator DeMint and I—

Senator DEMINT. I’m very open-minded.

Senator DORGAN.—have great respect for each other, but I would disagree with the central premise of his first statement, “a lot of progress has been made.” And that’s the purpose of the hearing and the bipartisan legislation. I don’t think nearly enough progress has been made, I would say to my colleague, and I would put up the *BusinessWeek*—and *BusinessWeek*, as you know, is a conservative journal of American business—and they’ve done their own investigation. “Secrets, Lies, and Sweatshops: How Chinese Suppliers Hide the Truth From U.S. Companies”—this only applies to China, but the fact is I think we have a very serious problem. Yesterday, there was a \$832-billion trade deficit. It’s hard for anyone to argue that that is a success, but embedded deep in the recesses and the crevices of that policy represents, in my judgment, substantial failure, because the market system itself—the market system—will be a persuasive element to try to move the lowest-cost goods into this country. The lowest-cost goods will come from a company that you can employ in Bangladesh or in Northern Jordan, with Chinese textiles and Bangladeshi workers being jettied in to work in unbelievable conditions. That will be the lowest-priced products, and perhaps the best way to compete. But as *BusinessWeek* says in a document obtained last year of a Chinese fabric factory—let me just read what *BusinessWeek* obtained from a factory—and I don’t think this is unusual, “If they are going to be audited” if an auditor shows up unexplained and unscheduled, “First, notify the underage trainees, underage full-time workers, and workers without identification to leave the workshop through the back door. Order them

not to loiter near the dormitory area. Second, immediately order the receptionist to gather all relevant documents and papers.”

I guess Senator DeMint and I will have, I think, a longer conversation about these issues, and I look forward to working with him on it. But liability is exactly the point of this legislation. If you’re abusing foreign workers, if you are producing in sweatshops for the purpose of undercutting competitors in this country, you ought to be liable. At this point, you are not. You ought to be liable. That’s why Senator Lindsey Graham and I have introduced the legislation.

So, Senator DeMint, you and I will have, I assume, long and entertaining conversations about trade and related matters.

Mr. Jesseph, your conversation with this committee, saying you’re interested in trying to track down these companies and stop these practices, that’s not at odds at all with the legislation that we propose. To the extent that you’re successful, I commend you, but evidence of today indicates something different. You certified the very plant that we heard testimony on, that’s the Hanes Corporation—Hanes underwear corporation—subsequently decided to decertify; the fact is, it has become a game and a practice to try to make certain that people coming into the plants in some of these foreign countries are not able to see what’s really happening. And I think all of us in this room would agree, and I expect that my colleague Senator DeMint would agree, if we see a factory in which an 11-year-old is working 11 to 14 hours a day 7 days a week, with 2 days off a month, then, by God, there’s something wrong with that. That is not the product of which we want to make purchases in this country. That is sweatshop labor. And there ought to be someone liable and accountable for it.

And so, let me thank the three witnesses. We have another panel of witnesses. And I understand, Senator DeMint, you have a commitment, but I appreciate your participation today. And, as I indicated, Senator DeMint and I will work on a wide range of trade problems, I assure. Thank you very much for being here, Senator DeMint.

I would like to, Mr. Jesseph, perhaps submit a couple of questions to you, but in the interest of time, I want to proceed, and I hope that this has helped your scheduling circumstance. And I appreciate your being with us.

Senator DORGAN. I want you to succeed. I don’t believe your work, alone, is sufficient. That’s why I’ve introduced legislation. But I have great concern about this, and I believe that Congress needs to pass legislation. You should keep up the work that you do but understand that they will do for you what this *BusinessWeek* article describes they’ve done for others. And you’ll show up at a plant and come out of there saying, “Things look fine,” and the minute you’re gone, 11-year-olds are on the factory floor, producing, and they bring out the other book of records.

So—

Mr. JESSEPH. Well, Senator, what I can tell you, with great honesty, is that our chairman is a forensic accountant, former inspector general of the U.S. Department of Labor. Our investigation techniques and our audit methodologies are changing rather rapidly, and as we speak, to identify the kinds of issues brought out

in that article, and to make sure that we don't walk away with bad information, and we get better information all the time. This is not something static for us. We're taking some very positive steps in this regard.

Senator DORGAN. Mr. Jesseph, thank you.

Ms. Fuentes and Ms. Nazma, thank you for standing up for workers. I know you do so at risk to yourselves. It is not easy to do what you are doing, to stand up for workers' rights and to speak out publicly, but we owe you a debt of gratitude, and I appreciate your being here. Thank you very much.

For the next panel, we will call Mr. David Socolow, the commissioner of the New Jersey Department of Labor and Workforce; Mr. James English, on behalf of Mr. Leo Gerard, who is the President of the United Steelworkers; Mr. Charles Kernaghan, Executive Director of the National Labor Committee; and Mr. Daniel Griswold, the Director of the Center for Trade Policy Studies at the Cato Institute.

If you would all please come forward and take a chair, we would appreciate that.

We will ask that the record include the statement by Mr. William Jones, who is unable to be with us because of weather-related travel issues, but we will make that a part of the record, without objection.

[The prepared statement of Mr. Jones follows:]

PREPARED STATEMENT OF WILLIAM JONES, CHAIRMAN, CUMMINS-ALLISON CORP.;
MEMBER, BOARD OF DIRECTORS, U.S. BUSINESS AND INDUSTRY COUNCIL

Good afternoon, everyone. I am very grateful to be here today to provide the perspective of an American manufacturer.

Thank you, Senator Dorgan for inviting me to testify on the problem of sweatshop labor. This is a critical issue for many corporations committed to manufacturing in the United States and I applaud you for your leadership in trying to correct this problem.

My name is William Jones and I am the Chairman of Cummins-Allison Corp., a privately held Chicago corporation founded in 1887. Today, Cummins is a manufacturer of security equipment, particularly focused on the processing of coin and currency at high speeds. We employ approximately 900 individuals in the U.S. and provide work for another 10,000 Americans employed by our key U.S. suppliers. Ninety-five percent of the products Cummins sells worldwide are manufactured in Chicago, Illinois.

Perhaps some Senators are not familiar with the challenges facing our domestic manufacturers, or the benefits that we bring to the American economy. Manufacturers are so often the backbones of our communities—creating wealth, providing decent-paying jobs with good benefits. Our companies pay taxes, company management pays taxes, and our employees pay taxes. Those taxes make possible schools, roads, water treatment plants, first responders, libraries, social services, and hospitals.

Our Company headquarters and manufacturing are in Mt. Prospect, Illinois. About 2 years ago, the head of the Mount Prospect, IL school district called me up and invited me out to lunch. I said sure but why call on me. He said because you're the largest taxpayer in our town and we wouldn't have the schools, facilities, and classes we do without you.

Let me give you my views on sweatshop labor and then turn to some of the other, broader issues facing domestic American manufacturers. First and foremost, sweatshop and slave labor are one of the moral outrages of our time and must be abolished. Something is very, very wrong when wealthy people and corporations get even wealthier on the backs of the working poor.

In addition, sweatshop and slave labor can end in economic catastrophe for us all. This abuse does not create a healthy middle class of consumers in the sweatshop countries, who in turn embrace democratic political values to protect what they have gained by the fruits of their hard labor. It does not advance these countries' econo-

mies more than marginally—with a robust middle class of consumers driving the economy.

Why not? Because unlike the sweatshops of America's past, today's sweatshops are found in very low-income countries with towering rates of un- and underemployment. Whereas the chronic scarcity of labor throughout American economic history eventually helped our wages rise, the mammoth glut of labor throughout the developing world is bound to keep wages at rock bottom for, at least, many decades.

At the same time, sweatshops have sucked much of the life out of the remaining labor-intensive sectors of American manufacturing—which remain far and away the best hopes for middle-class lives for our own poor. If unchecked, these trends will threaten much of our remaining domestic manufacturing base—a manufacturing base which underpins our national defense and prosperity. Ultimately, the demise of so much manufacturing will undermine the entire American economy, which is *the engine of world growth*.

The owners of the sweatshops may get rich; the owners of the brand names may get rich; and the retailers who trade in these goods in the American market may get rich—but at the expense of American workers and factory owners. There are those who mistakenly suggest that sweatshops bolster U.S. living standards by providing cheap goods for consumers. A first world country raises its living standards on a sustainable basis by helping workers become employed, genuinely more productive and earn higher wages, not by helping consumers get cheaper socks or toasters. I am not aware of any country in history that become a great power by consuming, rather than by producing.

So I commend you for introducing S. 367, your bipartisan measure to prohibit the import, export and sale of goods made with sweatshop labor. My company, Cummins Allison, and the U.S. Business and Industry Council, of which I am a member, both heartily endorse this bill. A \$10,000 fine for violations combined with the right to sue for damages for those who produce the goods under fair working conditions is a fair and balanced approach to solving the scourge of slave and forced labor.

Across the developing world from large countries like China to smaller competitors like Jordan, slave and forced labor is epidemic. These nations need to do a better job enforcing their own laws and commitments on the issue. S. 367 gives them and some of the shady players that are manufacturing illegitimately, the right incentives to clean up their acts and improve working conditions for millions of individuals. Again, I am most appreciative of the spotlight that you have shone on these horrible practices and look forward to the enactment of this vital legislation.

Now I want to discuss some of the broader American trade and international economic policies that are contributing to the demise of domestic manufacturing.

In the last few years the Governors of four States have contacted me asking me to move from Illinois to their states. I've politely declined because no matter what tax breaks they offer me, they can't change the U.S. trade policies that are killing companies like mine. Only you in Washington can do that. But in fact over the last three decades, Washington has taken my tax dollars and used them to try to put me out of business.

Some corporate leaders would say I should move to Europe, where the governments would protect me because my creating jobs would mean that they don't have to carry people on welfare rolls. Most governments there, of course, provide health care and pension coverage that would reduce the competitive pressures on my company. Others might say that I should go to China so my business could survive by paying low wages and minimal benefits. Some who move their manufacturing to China subcontract with firms that use forced or penny-wage labor in order to gain a competitive advantage. That, too, is an available option.

So, I could take the high road and move my manufacturing to Europe where they have industrial policies to keep their nations competitive, or I could take the low road and go to a low wage area that would reduce my production costs. Those are the choices that U.S. trade and international economic policy force on companies like mine.

But don't worry, I'm not going anywhere. I intend to stay right here in the USA providing great machines and great jobs, and fighting to preserve the domestic manufacturing base.

It is clear to me that the Federal Government's trade policies of the past three decades—through Republican and Democratic administrations alike—have vastly eroded our domestic manufacturing base. Three million manufacturing jobs have been lost since 1997—and believe me, it's not just because American manufacturing has become so much more efficient and productive, as you often hear from the globalization cheerleader crowd. No, tens of thousands of companies have closed their doors for good—not because they got more productive but because they were

put out of business by unfair foreign competition, whether subsidies, non-tariff barriers, currency manipulation, dumping, or other anti-competitive practices.

So I hope I'm starting to convince you that we have a lot in common and we share a certain vision for the American people: work with dignity, with good wages, and good benefits, healthy families, and healthy cities and rural areas.

The inequalities brought about by the decline in domestic manufacturing are profound and far reaching. They affect every segment and institution in our society, and yet Washington has been asleep at the switch while our trade deficits soar and the East Asians hold so much of our public debt. How much longer can the current situation continue before the dollar collapses and we enter a serious worldwide economic adjustment?

We must approach trade policy as more than just winning legislative battles in Washington—Our chief concern must be about helping to put America's living standards and economic power back on a rising path by strengthening our economy's ability to produce. We need to restore our country's ability to earn its way in the world. That's the only way to create lasting, broadly shared prosperity for the American people, and ensure our national security.

That's also the only way that we'll be able to preserve a functioning global economy that can provide expanding opportunity around the world—because an economically healthy American import market is central to growth prospects everywhere. Don't ever let anyone call you a protectionist because you are challenging current trade policy—what you are doing is to try to restore balance to a world trading system that is completely out of whack essentially because foreigners are gaming the system to grab more than their fair share of the wealth.

Achieving this goal means enacting into law measures that strengthen in major, concrete ways companies like mine and the tens of thousands of others like it that create middle-class jobs and anchor communities. And it means enacting into law concrete measures to help new companies realize the advantages of starting up and creating jobs in America.

If our legislative strategies don't seek these results, they will not save a single existing job or create a single new one. Indeed, domestic manufacturing and all the employment benefits it creates will start shrinking faster than ever.

How can Congress help? By strongly supporting new trade policies that will make much bigger changes than most critics have been talking about so far.

By all means, let's keep pressing for better labor and environmental provisions in new trade agreements. Let's use trade with our market, by far the largest in the world to abolish slave and forced labor. But let's also realize that actually helping boost production and employment and wages in the United States will require much more.

The United States Business and Industry Council we will be working hard for prompt passage of the Ryan-Hunter bill, which would enable domestic manufacturers to win import relief against Chinese currency manipulation. It attracted some 170 co-sponsors in the last Congress. This bill deserves to be a very high priority of yours this session as well. Let's get it passed in the House quickly—and introduced and passed in the Senate in short order as well.

In addition, we need to do something about inequalities created for our domestic producers by the widespread use of Value-Added Taxes by 136 of our trading partners. All of our major trading competitors rebate all Value-Added taxes on their exports and levy the full VAT on American imports coming into their markets. This creates, on average, a 30 percent competitive disadvantage with our major trading partners.

Today, the VAT disparity is a huge factor for U.S. producers. The total yearly VAT penalty paid by American producers of goods and services is roughly \$380 billion. We need to put in a border equalization tax, so that goods imported into America face the same hurdle that American goods do going into foreign companies. I know it is a very technical issue, but \$380 billion is real money and the resulting distortions of trade flows have destroyed hundreds of thousands of American jobs.

We will be working hard to help attract more co-sponsors for the Trade Balancing Act that Rep. Mike Michaud from Maine introduced in the House at the end of the last session—and to find Senate co-sponsors to introduce a companion bill. The Trade Balancing Act makes use of Article XII of the WTO and puts into place an emergency import surcharge until major trade imbalances are corrected.

The president has announced that he will seek renewal of Fast Track authority, which expires in July. We desperately need to block traditional Fast Track authority, under which all these bad trade deals have been passed for the last thirty years. Fast Track is an abdication of the authority that the Constitution gives the Congress. It has allowed the Executive Branch to mostly ignore the Congress all these years and the results have been devastating. We need for Congress to reclaim its

trade authority. We need to develop an entirely new way of negotiating trade agreements.

In fact, we need to announce a moratorium on all further trade agreements until we figure out what we are doing wrong and how to get our trade deficit under control—which specifically includes enforcing the trade agreements we have. Those who support the failed trade policies of the past maintain that just one more trade agreement will help us export our way out of the mess we are in. That's nonsense. We need a set of comprehensive solutions to solve our trade problems—and piecemeal new trade agreements are not among them.

Finally, anyone genuinely concerned about preserving American jobs and living standards must help us find ways of protecting American intellectual property better and preventing dumping of foreign products in the American market below their cost of manufacture. I know that there's some resentment surrounding the use of IP trade laws by American multinational companies. But the very survival of countless smaller domestic companies like mine heavily depends on strengthened intellectual property protection. If there have been abuses, let's correct them. But let's make sure not to do anything that could set precedents that wind up throwing the baby out with the bath water. Otherwise, you'll deal a fatal blow to many of our country's best companies and best employers.

Make no mistake about it. Domestic companies like mine, who are passionately devoted to keeping their production and their work force in the United States, are under attack in the world economy. We and our workers are under attack from high-income countries like Germany and Japan. We are under attack from low-income countries like China and India. Foreign governments do what they can, whatever it takes, to advance their national interests and those of their companies—despite the negative consequences for other countries and other peoples.

American domestic companies and their workers also deserve policies from their government that further their interests—not abandon them. Unfortunately, Washington's priorities have long been elsewhere, but we live in a democratic system where the ineffective trade policies of the past can be changed. With enough help from this committee and other Members of Congress, that's exactly what we can do.

Senator DORGAN. Mr. Kernaghan, I'm going to start with you today. Mr. Kernaghan, you are the Executive Director of the National Labor Committee. I know that you have spent some years investigating these issues, and bringing to the attention of the American public—and to the Congress, for that matter—labor abuses and sweatshop conditions around the world. I personally appreciate the work of your organization. I think it has been productive and helpful, and I appreciate the fact that you have come today. And you may proceed.

**STATEMENT OF CHARLES KERNAGHAN, EXECUTIVE
DIRECTOR, NATIONAL LABOR COMMITTEE**

Mr. KERNAGHAN. Thank you very much, Mr. Chairman. And it is an honor to be here to discuss worker-rights standards in the global economy.

I'd like to just make a quick comment on the Harvest Rich case, because, after we released our report on the Harvest Rich factory in Bangladesh, the company sent their monitors back again, and, I believe, including WRAP. They found no violations. They told us the factory was excellent. It wasn't until we invited Hanes, Marks & Spencer, and Tesco to return to Bangladesh, and we set up a meeting with the workers, and the workers themselves said to the Hanes representative, "You must go to the factory tonight. You'll see workers working. You'll see them working at midnight, and past midnight"—It was only when Hanes did that, and paid a rare unannounced visit at night, and marched into the factory, they found dozens of workers making Faded Glory jeans for Wal-Mart. They were 16½ hours into their 19-hour shift. It was only at that

moment that Hanes said they understood that they were being misled by the factory.

So, they didn't catch it on their own. They only caught it because the workers themselves had the courage to meet with them, tell them the truth, and tell them to go to the factory. That's the only reason that that factory was decertified. It did not happen under the normal monitoring programs.

Well, I want to quickly address the Jordan issue, and China.

The U.S./Jordan Free Trade Agreement was initiated in December of 2001. And it looked miraculous, because, within the next 5 years, apparel exports from Jordan to the U.S. soared by 2,300 percent. They went from \$52.1 million to \$1.2 billion in 2006. But, unfortunately, the Jordan Free Trade Agreement quickly descended into human trafficking of guest workers from Bangladesh, China, Sri Lanka, India—36,100 guest workers were trafficked to Jordan to work in 114 factories, producing clothing for the United States. Ninety percent of those factories were foreign-owned, mostly Asian-owned. In those factories, the workers were stripped of their passports, not given their identity residency permits, so they couldn't even go out on the street. Once they were trapped in those factories, stripped of their passports, and held under conditions involuntary servitude—for example, in the Al Shahaed factory, 115 Bangladesh workers found themselves working 15 hours a day, 38 hours a day, 48 hours a day—or 48-hour shifts, and 72-hour shifts. They actually worked 3 days in a row without sleep. They would go 2 or 3 days at work without sleep. When the workers passed out at the factory, they were beaten with sticks to wake them. The workers were supposed to be paid \$250 a month with overtime. They got 2 cents an hour. They got \$2.31 for 98 hours of work. When they complained about their wages, they were imprisoned in Jordan for 3 days without food. When the workers finally demanded their wages, they were beaten and forcibly deported back to Bangladesh without any of the back wages owed them. At the Western garment factory, which made fleece jackets for Wal-Mart, there were 14- and 15-year-old kids in that factory, working 16 to 20 hours a day. They'd work from 8 o'clock in the morning until midnight or until 4 a.m. They did this 7 days a week. They didn't get paid at all. For the first 4 months of 2006, they did not receive one cent in wages. They were working as slave labor. They had not any wages. And when they passed out, they were hit with rulers. When they passed out from exhaustion, they were struck with rulers to wake them up. There were four girls in the factory who were raped by management, one of them, a 16-year-old girl. These were the conditions in these factories.

In the Al Safa factory, which made clothing for Gloria Vanderbilt, a young woman—we believe, about 20 years old—a young Bangladesh woman hung herself in the bathroom, committed suicide, after she was raped by a manager. Such terrible feelings, such humiliation, she hung herself. And they kept her body in Jordan for many months before it was even sent back to Bangladesh.

After we put out our report, in July 2006, the Trade Minister of Jordan admitted, bravely, that their inspection regime may have failed them. And he said, “may have failed them miserably,” which was, of course, the case.

Jordan had 88 labor inspectors for 98,000 businesses in the country. The labor inspectors were really just there to hand out work permits to the guest workers. There was no monitoring of the factories. There were no—there was absolutely no oversight. And the situation deteriorated into human trafficking.

I must say, under pressure, there has been a positive response on the part of the Jordanian Government. And today, because they've started to implement their own law, under pressure, we think that the major—the major direct-contract factories in Jordan, the larger factories—there's 59 of them—that those factories largely now adhere to Jordanian law. Those workers have received their passports back. They're working 11 hours, not 15 hours. They're getting at least the minimum wage. However, in the smaller sub-contract factories, of which there are 55, violations continue. At the Classic factory in Bangladesh, workers are working 14 hours a day, 7 days a week, today—and collapsing of exhaustion.

In the Hussein Jordan factory, workers have not received their passports back. If they come to work 1 minute late, they're beaten.

So, there are still problems. But the good news is that the Jordanian Government, under pressure, is moving definitely in the right direction. In fact, they've closed about a dozen factories and relocated 1,000 workers to better factories. So, they're acknowledging these very, very terrible conditions.

Regarding China, we did a recent investigation of a factory called Kaisi, which has 700 to 800 workers making furniture parts for export to the U.S. And, in fact, one company in the United States, based in Michigan, Knape & Vogt, imported \$10.4 million worth of furniture parts from this factory in a recent 3-month period. In this factory, workers are working 14 and a half to 15 hours a day, forced overtime, 8 o'clock in the morning until 10:30 or 11:30 at night. The workers are working 7 days a week. They're routinely working 80 hours a week. They're often at the factory 100 hours a week. The workers are cheated of their minimum wage. This is going on in broad daylight. They're not paid their minimum wage, they're not paid any overtime premium. Our estimate is they're cheated of half the wages that they're legally owed under China's law.

It gets even worse. The factories are a dangerous place to work, and management in the factory has set these wildly excessive production goals. All the workers are paid by a piece rate. And management has actually set production goals of 7,800 pieces a day to 11,800 pieces a day. That means workers are getting—they have to produce a piece every 4 to 6 seconds, and they pay them six-hundredths of a cent for each operation they do. So, the workers are frantically going through this pace all day long, they're doing this 14½ to 15½ a day, and they're doing it under dangerous conditions.

So, a 24-year-old, Dai Kehong, working at a stamp molding machine in the factory, 9 o'clock at night, 13 and a half hours into a shift that was going on to 10:30 at night, both of his hands were crushed in the molding machine, and his right hand was completely mangled and deformed. He lost all the fingers, except his thumb and his forefinger, which are frozen in place and just jutting out. He can't use the hand. His left hand was crushed into a claw

grip. He can't open it. He can't move the fingers. He has no use of either hand now. He needs an artificial limb. The factory is not paying for it, they're not helping him at all.

On September 29, 2006, a worker by the name of Zhao Chengquang was working on furniture parts for export to Knapp & Vogt in Michigan, and his stool slipped out from under him, and his left hand got stuck in the machine and crushed it. He lost the whole left side of his hand. His fingers, his knuckles, and a large part of his left hand is gone.

That September—September, 2006, five workers were injured at the factory, seriously. We estimate that six fingers were severed in that 1 month. You know, there's an estimate, in the Pearl River Delta area of factories, that 40,000 fingers a year are severed in China. They don't have workman's comp. They have workman's comp, as a law, but the factories just ignore it completely, so they don't have work injury insurance for the workers. So, when the workers are injured, they're basically just abandoned with nothing.

Living conditions are abysmal. Workers are housed in dormitories, six to eight workers to a room. Double-level bunkbeds line the wall. Workers hang plastic over the openings for a little bit of privacy. They're fed food that the workers describe as absolutely horrible. There's no hot water; so, when they want to bathe in the wintertime, they actually have to walk down four flights of stairs, get a little plastic bucket, get hot water, and walk it back up to their room and do a sponge bath with it. The conditions are off the charts.

This is a dangerous factory, where every single labor right in China is violated, every single labor right, and every single internationally recognized worker-rights standard is violated in broad daylight.

The U.S. companies would never tolerate a similar treatment for their products. In this very factory, the U.S. companies worked with the Kaisi management to bring their factories up to international standards for their packaging, because they demanded their products reach the United States unharmed. So, they worked for a year with management to bring them up to speed with international standards—packing standards, so that their goods would arrive in the United States safely. They never uttered one word about the young workers in the factory who are being seriously injured and maimed for life—whose lives are now destroyed. They never said a word about the low payment of the minimum wage. They never said a word about no overtime payment. They never said a word about the miserable primitive living conditions. But they protected their products.

I believe that the legislation which you and your colleagues have introduced, the Decent Working Conditions and Fair Competition Act, is the single most important action that can be taken in today's global economy to end the sweatshop abuse and to end the race to the bottom. This legislation would favor U.S. companies that try to live up to the law, that strive to live up to the law. And it would also have the impact of raising worker-rights standards in China and in Bangladesh, and in countless other countries across the world. And it would lift tens of millions of workers up to improved conditions.

It's wrong—

Senator DORGAN. I want you to summarize, if you would. I didn't want to interrupt you, until you had—

Mr. KERNAGHAN. Yes.

Senator DORGAN.—properly supported the legislation I had introduced.

[Laughter.]

Mr. KERNAGHAN. But—

Senator DORGAN. But—

Mr. KERNAGHAN. It—

Senator DORGAN. But I need to have you summarize it, if you—

Mr. KERNAGHAN. I think the legislation is the single most important thing to end sweatshop abuse in the United States and around the world.

[The prepared statement of Mr. Kernaghan follows:]

PREPARED STATEMENT OF CHARLES KERNAGHAN, EXECUTIVE DIRECTOR,
NATIONAL LABOR COMMITTEE

Mr. Chairman, members of the Committee, I appreciate the opportunity to testify at this very important hearing regarding worker rights standards in the global economy.

The U.S.-Jordan Free Trade Agreement went into effect in December, 2001. Over the next 5 years, apparel exports from Jordan to the U.S. soared by 2,300 percent, growing from \$52.1 million in 2000 to \$1.2 billion in 2006.

The U.S.-Jordan Free Trade Agreement was reported to be a model agreement, since for the first time, worker rights standards and environmental protections were included in the core of the agreement.

Yet something went terribly wrong, as the U.S.-Jordan Free Trade Agreement quickly descended into Human Trafficking and involuntary servitude. At least 36,149 foreign guest workers are employed in Jordan's 114 garment factories, at least 90 percent of which are foreign-owned, mostly by Asian investors. The guest workers come from Bangladesh, China, Sri Lanka and India.

Bangladeshi guest workers had to pay \$1,000 to \$3,000 each to unscrupulous manpower agencies in Bangladesh to purchase a two-to-three-year contract to work in Jordan. This is an enormous amount of money in Bangladesh, and as poor workers, they had to borrow the money on the informal market at exorbitant interest rates of five to 10 percent per month.

From the minute they took the loans, these workers were in a trap, and a race against time to pay off their large debts. But the workers were promised that they would be able to earn \$134.28 a month for regular hours and up to \$250 a month with overtime. All housing, food and medical care would be free. The workers were told they would live well, "like they do in the West." They would get at least 1 day off a week, sick days, vacation time and national holidays.

But there was a catch: The contract tied the guest workers to just one factory, prohibiting them from working elsewhere.

One hundred and fifteen workers from Bangladesh purchased contracts to work at the Al Shahaed Garment factory in Irbid, Jordan.

Upon their arrival at the airport, management immediately confiscated their passports. Nor were the workers provided with residency permits, without which they could not go out on the street without fear of being detained by the police for lack of the proper papers.

Once in the Al Shahaed factory, the workers found themselves forced to work shifts of 15, 38, 48 and even 72 hours straight, often going two or 3 days without sleep. They worked 7 days a week. Workers who fell asleep at their sewing machines would be slapped and punched. Instead of being paid the \$250 a month that the ad promised, the workers earned two cents an hour, or \$2.31 for a 98-hour work-week. Workers who asked for their legal wages could be imprisoned up to 3 days without food. Workers who criticized the food the company provided were beaten with sticks and belts. Twenty-eight workers had to share one small 12-by-12-foot dorm room, which had access to running water only every third day. These workers sewed clothing for Wal-Mart.

When, in desperation, the workers demanded their legal wages, they were forcibly deported and returned to Bangladesh without their back wages. Many of these workers are now hiding in Dhaka City and peddling bicycle rickshaws to survive. They cannot return to their home villages because they have no possible way to pay off the mounting debt they incurred to go to Jordan in the first place.

At the *Western* factory, also in Irbid and producing clothing for Wal-Mart, Bangladeshi guest workers who were trafficked to Jordan faced much the same fate. They too were stripped of their passports and forced to work 16 to 20 hours a day, 7 days a week. Despite working 109 hours a week, the workers routinely went for months without being paid. In the first 4 months of 2006, the Western workers were not paid a single cent in wages. There are also credible reports of sexual abuse, including the rape of a sixteen year-old girl. Workers who asked for their wages would be beaten and threatened with forcible deportation.

At the Al Safa factory in the Al Hassan Industrial Estate, a young Bangladeshi woman no more than 20 years of age hung herself after being raped by a factory manager. This happened in February 2005. She hung herself in a bathroom using her scarf. Her body was not immediately returned to Bangladesh, but rather, remained at the local morgue for several months. In this factory, they sewed clothing for the Gloria Vanderbilt label.

The National Labor Committee released our report on Jordan in May 2006. By July 2006, Jordan's Trade Minister at the time, Mr. Sharif Al Zuibi, declared: "Our inspection regime may have failed us and may have failed us miserably." Jordan's labor department had just 88 labor inspectors to oversee 98,000 business operations. The primary role of the labor department inspectors was to issue work permits to foreign guest workers. By law, Jordan's unions were not permitted to organize foreign workers.

Acting quickly, the Jordanian Government to date has closed at least ten of the worst garment factories and relocated over 1,000 workers to better factories. Across Jordan, especially in the 59 larger direct contract factories, conditions have improved. Guest workers passports have been returned and most workers now have their necessary residency permit. At most, workers are toiling 11 hours a day and not the 15-plus-hour shifts that were routine in the past. Most workers are being paid at least the legal minimum wage. Factory conditions and treatment have improved.

However, problems continue in some of the 55 smaller subcontract factories in Jordan.

In the *Concord Garment* factory in Cyber City Industrial Park near Irbid, 350 workers have not been paid for the last 3 months, despite the fact that they are forced to work 15 to 16 hours a day, from 8 a.m. to 11 p.m. or 12 midnight, 7 days a week. Women workers report being cursed at, slapped and punched by factory managers. There is no heat or hot water in the dorm, and even the toilets lack running water several days a week. Many of the workers are falling ill. If any worker asks for their legal rights, they will be immediately attacked, beaten and deported. Nor has management returned the workers' passports or issued their necessary work permits.

At the *Classic Fashion* factory in Jordan, 500 workers are required to work 7 days a week, putting in routine 14-hour shifts from 7:30 a.m. to 9:30 p.m. As a result, the workers are sick and exhausted. There are no sick days and management provides no medical care. This factory produces for Jones Apparel, the Gloria Vanderbilt label.

At the *Hussein Jordan Garment* factory in the Al Hassan Industrial City, the workers are being forced to work 10 regular hours rather than the legal 8 hours. If workers arrive 1 minute late to the factory, they are beaten. Nor have these workers received their passports and residency permits. They are being paid below the legal minimum wage and the factory is illegally charging workers for food and medical care. All overtime is obligatory and sick days and national holidays are not respected. The Hussein Jordan factory produces for Victoria's Secret.

On balance however, much has improved in Jordan's garment industry, and the government is seriously responding to reports of continued violations. But much remains still to be done. The guest workers are still denied the freedom of association and the right to organize.

We do not know of a single prosecution of factory owners for human trafficking and holding tens of thousands of workers under conditions of involuntary servitude.

Nor do we know of any case where the foreign guest workers were paid the outstanding back wages legally due them. But there is hope that the significant improvements will continue.

A second concrete example I want to raise is that of the *Kaisi Metals* factory in Guangzhou in the south of China, where 600 to 700 workers toil under dangerous

and illegal conditions producing furniture parts for export to U.S. companies. Among those companies is the *Knape & Vogt Manufacturing Company*—located in Grand Rapids, Michigan—which imported \$10.4 million-worth of goods from the Kaisi factory in a recent three-month period. Every single labor law in China is routinely violated at the Kaisi factory, along with the International Labor Organization's core worker rights standards, while the U.S. companies sourcing production there say and do nothing.

Grueling, exhausting, numbing, dangerous and poorly paid would be the only way to describe the workday at the Kaisi Metals factory. Kaisi workers are routinely forced to toil 14 ½ to 15 ½ hours a day, from 8 a.m. to 10:30 or 11:30 p.m., often 7 days a week. It is not uncommon for the workers to be at the factory 100 hours a week, while toiling 80 or more hours.

Workers are paid on a piece rate basis. It is standard for management to arbitrarily set wildly excessive production goals requiring workers to complete 7,780 to 11,830 pieces in a day, which is 640 to 980 operations an hour—or one piece every four to 6 seconds—for which they are paid an astounding six-hundredths of a cent per piece. The work pace is brutal, relentless and dangerous.

Workers are paid below the legal minimum wage and cheated of their overtime premium, earning less than half of what they are legally owed. Workers are paid just \$24.33 for a 77-hour work week, and 32 cents an hour. The workers should be earning at least \$52.56. The current minimum wage is 58 cents an hour.

It is a dreary life for the 600 to 700 workers at the Kaisi factory, who are housed in primitive over-crowded company dorms located on the seventh floor of the factory. Each room measures 11 feet by 24 feet and its walls are lined with double-level metal bunk beds. There is no other furniture, not even a bureau, a table or chair. Six to eight workers share each room. For privacy, the workers drape old sheets and plastic over the openings to their bunks. There is a tiny bathroom, which the workers say is filthy. There is no hot water and any workers who want to bathe during the winter must walk down four flights of stairs to fetch hot water in a small plastic bucket and return to their dorm room for a sponge bath. The dorms are very over-crowded and the air reeks of perspiration and sweaty feet.

Married couples must live "off campus" under equally deplorable conditions, since they are able to afford only the smallest, most primitive one-room apartments. Zhu Shenghong, who lost three fingers at the Kaisi factory, lives in a single room with his wife. Their only furniture consists of a bed, which is broken, a few primitive wooden tables and three tiny chairs Zhu made himself before he was injured, using scraps of wood he picked up on the street. They cannot afford a television. The toilet is an outhouse, and the kitchen is in a hallway partitioned with some planks of wood. Zhu and his wife often cook with wood, largely subsisting on turnips. This is all that two people, both working in export factories, can afford.

Much worse still is the fact that the Kaisi factory is a dangerous place to work, where scores of young people have been seriously injured, and some maimed for life.

Dai Kehong was just 24 years old when both his hands were crushed while working on a punch press molding machine producing furniture parts for export to U.S. companies. It happened at 9 p.m. when Dai was 13 hours into his routine 15 ½ hour shift. Dai's right hand is mangled and deformed, with only the thumb and forefinger remaining, but frozen in place. His left hand was also crushed and frozen into a claw, as he is unable to bend or straighten any of his fingers. He has no ability to use either hand and will need an artificial limb.

On September 29, 2006, Zhao Chengquang's left hand was crushed while he was working on an order for the U.S. Knape & Vogt company. His stool suddenly slid out from under him leaving his left hand caught in the machine. His hand was crushed, severing two fingers with the knuckles and a large part of his left hand.

In September 2006 alone, five Kaisi factory workers were seriously injured, resulting in the loss of at least six fingers.

In direct violation of China's laws, the Kaisi factory failed to inscribe its workers in the mandatory national work injury insurance program, which is China's equivalent of Worker Compensation. Kaisi management also failed to report these serious work injuries to the local authorities. The Kaisi factory refused to pay anywhere near the full compensation these injured workers were legally owed. Management is even refusing to pay for Dai Kehong's artificial limb.

U.S. companies could never tolerate such abusive treatment of their products and have gone out of their way to work with the Kaisi factory to bring their contractor into compliance with international packing specs so that their products will not be damaged en route to the U.S. Knape & Vogt spent 1 year working with its contractors in China spelling out acceptable criteria that its packing must meet and demanding that each package pass rigorous tests before shipment.

At the same time, the U.S. companies stood by and did not say a word as scores of young workers were injured and maimed due to dangerous working conditions. Nor did the companies sourcing production at the Kaisi factory utter a single word to protest the 7-day, 80-hour work weeks, or the fact that workers were being paid below the legal minimum wage and cheated of their overtime premium while working on their goods. Nothing was done to bring the primitive dorm conditions up to a level of acceptable decency.

In fact, the companies give every indication that they care much more about their products than about the human beings in China who make them.

This is just one example—and there are hundreds—of how easily the paper-thin labor laws in China are flaunted by the multinational corporations with complete impunity. Here too, the voluntary corporate codes of conduct and private monitoring schemes have failed completely—and with such tragic results for the workers.

Senator Dorgan, I believe that the *Decent Working Conditions and Fair Competition Act*, which you and your colleagues recently introduced in the U.S. Senate, is the single most important action that can be taken to end the race to the bottom in the global economy. Once passed, this legislation will reward decent U.S. companies which are striving to adhere to the law. Worker rights standards in China, Bangladesh and other countries across the world will be raised, improving conditions for tens of millions of working people. Your legislation will for the first time also create a level playing field for American workers to compete fairly in the global economy.

Thank you for allowing me the opportunity to testify on this critical issue, of raising standards in the global economy rather than lowering them.

Senator DORGAN. We have your entire statement as a part of the record, and you've included a great deal of the information, some of which you've noted today, Mr. Kernaghan. And thank you. Thank you very much for your work and your testimony.

Mr. English is the person who's here on behalf of the United Steelworkers, representing the president, Leo Gerard, who was not able to be with us today.

Mr. English, thank you for being with us. You may proceed.

**STATEMENT OF JAMES D. ENGLISH, INTERNATIONAL
SECRETARY-TREASURER, UNITED STEELWORKERS**

Mr. ENGLISH. Thank you, Senator Dorgan.

My name is Jim English, and I'm the Secretary-Treasurer of the United Steelworkers of America, and I'm here in support, today, of Senate bill 367.

Senator I would thank you for introducing the bill, thank you for having this hearing. And I'd also thank you for "Take This Job and Ship It." It's a book that we've distributed widely among our union members. I would note that there's a special piece in there on George Becker, the former president of the United Steelworkers. Mr. Becker was buried, this past Friday. He died after a long bout with cancer. He had served on the China Commission. He had really been a spokesman on behalf of fair trade in this country, and I appreciate the fact that you recognized that fact in your book.

With me today—well, in your book, you also make reference to the shutdown of the Pennsylvania House furniture plant in Pennsylvania—with me today—and I'd ask them to stand briefly to be recognized—are Tom Riegler and Leroy Reagle. Their last names are spelled—are pronounced the same, but they're spelled differently. They're both men that have family—had family supportive jobs at making high-end quality wood furniture at a factory owned by Pennsylvania House, in Lewisburg, Pennsylvania. Both Tom and Leroy were long-time woodcraftsmen who permanently lost their jobs on December the 28th of 2004, along with 425 other USWA-

represented employees at Pennsylvania House. The corporate owner of Pennsylvania House decided to close the Lewisburg factory and move production to China, where labor costs and working conditions are easily exploited. Today, Pennsylvania House furniture products are largely made in China.

It is not unusual for elected officials, when dealing with the question of trade, to say that American workers are the most productive in the world, and that they can—given a level playing field, they can compete with anyone. The problem is that we don't have a level playing field in the global economy today. You can't have a level playing field when American workers are being asked to compete against forced labor. You can't have a level playing field when American workers are being asked to compete against persons who are required to work long hours without getting paid. You can't have a level playing field when workers are jailed for trying to form an independent union. You can't have a level playing field when workers in the United States are forced to compete against workers in other countries who are required to work at subsurvival wages.

This legislation would be a good step in the direction of trying to create that level playing field. And I applaud you, Senator, for introducing it, because I think it is a—its a good, strong step in that direction. But, more important than that, it is a statement to the world that this country stands strong in favor of a moral principle that people who work for a living should get a decent wage, should be able to work in conditions that are tolerable, that they should be able to have the right to organize, have the right to bargain collectively.

On behalf of the Steelworkers, I've had the privilege of visiting Mexico on a number of occasions with George Becker, people who work for the Steelworkers have visited China, have visited Jordan. And it is a appalling to look at the conditions in which people are forced to live because of the poverty wages that they are paid. And I think that this bill is a good first step in trying to correct that condition. Until we correct that condition, we cannot truly say that we have a global economy that works for all people.

So, I thank you for the legislation, and indicate to you our strong support for it.

[The prepared statement of Mr. English follows:]

PREPARED STATEMENT OF JAMES D. ENGLISH, INTERNATIONAL SECRETARY-
TREASURER, UNITED STEELWORKERS

Mr. Chairman, members of the Committee, on behalf of the 1.2 million working and retired Steelworkers in the United States and Canada, I appreciate this opportunity to testify in support of Senate Bill 367, The Decent Working Conditions and Fair Competition Act. I applaud you for your leadership in authoring this important legislation. And I applaud as well Senator Graham from South Carolina who is a primary co-sponsor on the bill. All too frequently, policymakers have ignored the dark side of increased globalization and its impact on workers both domestically and around the globe. Your actions suggest a growing bi-partisan awareness that new measures are needed to establish effective standards to defend the most vulnerable among us if the promise of expanded international trade is to be realized.

For far too long, the United States Government's trade agenda has focused on corporate protections while ignoring the lives of human beings toiling within the global economy. One result is that products reaching American soil often come with the taint of being produced in inhumane conditions. Many workers making products destined for the United States do not have the option of rejecting forced labor, un-

safe conditions, indecent pay, discrimination, or other violations of their rights. Instead, because of their poverty and desperation, they are the victims of a global trading system that allows, if not encourages, horrendous working conditions to swell corporate bottom lines.

The recent period of trade liberalization has not been kind to working Americans. Despite the negotiation of a series of so-called free trade agreements over the last dozen years, real income and wages in the U.S. are stagnating or falling, inequality is growing, more people are in poverty, debt is growing faster than income, and millions of decent, good paying manufacturing jobs have disappeared. Unfair trade policies, and the massive and ultimately unsustainable trade deficits that have resulted, are a key contributing factor to the job loss, destroyed communities, and falling wages and benefits that American workers are facing today.

These problems are not limited to U.S. workers. Indeed, for workers in the countries of many of our trading partners, the situation is considerably worse. In export processing zones alone, hundreds of thousands, if not millions of workers are trafficked to work in sweatshops, making products for export to the U.S. Many of these workers have their passports confiscated and are forced to work inhumane hours for pittance wages, sometimes going months without a paycheck. These workers are often denied their basic human rights at the workplace, especially the right to organize and bargain collectively, even while they make products for some of the largest and richest corporations in the world. If corporations can demand and win strong, enforceable laws, backed by sanctions to protect their products and intellectual property, certainly workers should demand and achieve laws to protect the rights of workers who make those products. The enactment of S. 367 would be a significant step forward in bringing some balance to the global economy.

The Decent Working Conditions and Fair Competition Act simply states that if products are made in sweatshop conditions, they are not welcome in our markets. A product is considered a sweatshop good if it is produced under conditions that do not meet core labor standards. Those standards include the right to associate, organize and bargain collectively, a prohibition on forced or child labor, and basic conditions of work including wages, safety and health protections, and hours of work.

The idea of linking conditions of work to trade is not new. It has been present in our national dialogue on international economic affairs for more than 100 years. The McKinley Tariff of 1890 included a provision banning the import of prison made goods. In 1912, the U.S. banned the import of white phosphorous matches because of health hazards associated, not with their use, but with their production. The Administrations of President Eisenhower, President Nixon, President Reagan, the first President Bush, and President Clinton all sought to include worker rights and standards in multilateral trade agreements. Their collective reasoning was perhaps best expressed 20 years ago in a 1987 letter to the House Ways and Means Committee from President Reagan's Labor Secretary Bill Brock who wrote:

“Those countries which are flooding world markets with goods made by children, or by workers who can't form free trade unions or bargain collectively, or who are denied even the most minimum standards of safety and health are doing more harm to the principle of free and fair trade than any protectionist group I can think of.”

While sadly little progress has been made at the multilateral level, Congress has over the last 20 years introduced the concept of linking worker rights to trade in a variety of U.S. laws. The Caribbean Basin Initiative, the Generalized System of Preferences, the Andean Trade Preference Act, the Overseas Private Investment Corporation, and Section 301 of the 1988 Trade Act, to name just a few, all contain some form of worker rights conditionality. While all well intentioned, enforcement of their worker rights provisions has been lacking.

It is in this context that The Decent Working Conditions and Fair Competition Act holds the most promise. In assigning enforcement responsibilities to both the Customs Service and the Federal Trade Commission, the bill sends a clear message that abusive labor conditions in trade will no longer be tolerated. Perhaps more importantly, by creating a private right of action, the indifference or passivity on the part of the Executive Branch will no longer be able to block needed action. I would suggest however, that the section of the bill that deals with who has the standing to sue, be amended to include workers and their unions. Workers are on the front lines of unfair and abusive trade and need to have the ability to seek redress in the same manner as companies or investors.

The Decent Working Conditions and Fair Competition Act seeks to address one of the questions that need to be answered as our Nation confronts an expanding global economy. This is not about free trade or protectionism, but rather what are the rules that should be in place to insure just and fair competition. For workers,

the overriding issue in discussions on international trade is not free trade or protection, open markets or closed markets, or more investment or less. Rather, the debate for us is over how the gains of economic activity are to be distributed and who has a say in making that determination. If the growing internationalization of the U.S. economy results in economic growth, we are concerned with who will benefit—the tiny number of people on the top rungs of the economic ladder—or the vast numbers on the bottom and middle rungs. And we certainly do not believe that the only choice is between autarky and an unrestrained free market.

History teaches that there is no reason to expect that an unregulated free market will bring sustained equitable economic growth and progress. For trade unionists, most of the historic achievements of our movement, the establishment of a minimum wage, the abolition of child labor, the development of workplace health and safety laws, as well as the establishment of collective bargaining were intended to temper and restrain some of the most brutal effects of the free market.

We now have to extend our domestic experience into the international arena. By setting a floor on labor rights and standards, The Decent Working Conditions and Fair Competition Act does exactly that. Consumers have a right to know the products they purchase are not produced in sweatshop conditions. Businesses have the right to compete fairly, and not with companies that engage in worker abuses. Shareholders have the right to invest with the knowledge that they are not supporting sweatshop practices. And, most importantly, workers around the globe have the right to earn a living without the degradation of toiling in inhumane conditions.

Senator DORGAN. Mr. English, thank you very much.

Let me make a note about Pennsylvania House furniture. One of the things that struck me about that is that it was a high-end furniture company. The furniture, made by craftsmen and women, who cared a lot about their jobs. Those jobs went to China. And the Pennsylvania wood is actually shipped to China and then put together in China, sent back to our country, still as Pennsylvania House furniture. Apparently the skilled workers, the craftsmen at Pennsylvania House furniture, turned over the last piece of furniture coming off the line at Pennsylvania House furniture, as it came off the line, and decided they would all sign their names on the bottom of the last piece of American domestic-made Pennsylvania House furniture. Some customer somewhere purchased something that has the proud signature of craftsmen who cared about their work, and did good work, who signed the bottom of that piece of furniture. But they can't compete with 20- and 30-cent-an-hour labor. And that labor is sufficient to even allow the shipment of the wood to China to be produced and to then be shipped back to American consumers.

I think it is a compelling story, and one that deserves the attention of Congress as we consider this issue of globalization and its impact on this country.

Mr. Socolow is the Commissioner of the New Jersey Department of Labor and Workforce.

Mr. Socolow, we appreciate your being here today, and you may proceed.

**STATEMENT OF HON. DAVID J. SOCOLOW, COMMISSIONER,
NEW JERSEY DEPARTMENT OF LABOR AND WORKFORCE
DEVELOPMENT**

Mr. SOCOLOW. Senator Dorgan, thank you very much for holding this important hearing, and thank you for the invitation to testify about what States like New Jersey are doing to help stop workers from being abused in sweatshop conditions.

We are using the purchasing power of State government to counteract sweatshop labor practices. And we've recognized that, rather

than buying goods based solely on the lowest possible price, we ought to include, in our procurement policies, a recognition of the true cost of the apparel and other goods that we buy.

Over the past 2 years, New Jersey State government agencies purchased nearly \$7 million worth of apparel for uniformed staff, employees, and individuals for whom the State provides clothing and linens in our State correctional and developmental institutions. And it's estimated that all State governments purchase something on the order of \$400 million a year worth of those types of apparel items.

In 2002, our State government took a historic step forward to address sweatshop abuses by implementing Executive Order 20, which requires that all apparel purchased by the State of New Jersey be manufactured in the United States under fair labor conditions. And this procurement policy is making a real impact, Mr. Chairman, in protecting workers. We have avoided buying goods that were not manufactured in accordance with our required labor practices. And there are specific examples of that in my written testimony, which I've submitted for the record. What all of those examples show is that we're often alerted to these potential abuses by competitors of the contractors and bidders during the procurement process. And that is, of course, a market-based mechanism whereby one bidder would notify us that another bidder might be attempting to supply us with goods produced under abhorrent labor conditions. And that way, we can keep sweatshops out of our State supply chain while minimizing the cost to State government.

It is worth paying a small premium—typically around 20 percent—to avoid supporting sweatshops with our residents' tax dollars in order to uphold the values of the people of New Jersey.

And now, Governor Corzine of New Jersey has acted to take the next step toward ending worldwide sweatshop conditions. Last September, New Jersey joined a State and local consortium of governments, which was proposed originally by Governor Baldacci of Maine, with the goal of ending the use of State taxpayer funds to purchase apparel manufactured in sweatshops. The inaugural meeting of this consortium is planned for next month with representatives from the States of Maine, New Jersey, and Pennsylvania. And what we're going to do is establish standards for production of apparel, we're going to implement monitoring to investigate factories around the world, to root out sweatshop conditions and abuses. But, most of all, we're going to combine our purchasing power to try to create a market niche for fairly produced products.

Working together, State and local governments can strike with even greater force against sweatshop conditions. With the buying power of these many entities joined in a national consortium, we hope that global manufacturers will recognize the value of producing goods for our market while meeting basic workplace requirements, paying living wages, offering fixed working hours, putting an end to the use of child labor, ensuring the right to collective bargaining, and protecting worker health and safety.

Mr. Chairman, a single State, town, or university cannot, on its own, end the global exploitation of sweatshop workers, but each of us can take steps to combat the economic incentives that give rise to sweatshop abuses.

So, thank you for the opportunity to testify. I appreciate the opportunity to answer your questions.

[The prepared statement of Mr. Socolow follows:]

PREPARED STATEMENT OF HON. DAVID J. SOCOLOW, COMMISSIONER, NEW JERSEY
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

State Initiatives to Prevent Abusive Sweatshop Labor Conditions

Chairman Dorgan, members of the Subcommittee, thank you for this opportunity to come before you to discuss what states like New Jersey are doing to help stop workers from being abused in sweatshops. I am David Socolow, and I serve as the Commissioner of the New Jersey Department of Labor and Workforce Development.

As this committee has heard from the compelling personal stories of witnesses at today's hearing, workers continue to be exposed to sweatshop conditions around the world, leading to horrendous child labor abuses, dangerous working conditions and unconscionably low wage levels, as global manufacturers produce low-cost apparel for the world's most affluent nations.

Here in the United States, governments at both the State and Federal levels have worked for almost a century to eliminate these terrible working conditions from our economic landscape. As state labor commissioner, I lead an agency whose daily mission is to ensure that the workers of New Jersey are paid fair wages and are provided safe workplaces. However, now that much of the apparel in the global marketplace is manufactured overseas, we must not turn a blind eye to sweatshop abuses elsewhere that we would not tolerate in our own backyard.

We can do our part by using the State's purchasing power to counteract sweatshop labor practices. Rather than buying goods based solely on the lowest possible price, we should include in our procurement policies a recognition of the real cost of the apparel we buy. Such enlightened procurement policies take into account the harm that sweatshop conditions cause, not only to those workers exploited in overseas factories, but also to American workers and manufacturers who cannot compete against unscrupulous contractors paying poverty wages while ignoring workplace health and safety.

New Jersey's Apparel Procurement Executive Order

In my home state of New Jersey, over the past 2 years, State governmental agencies purchased more than \$7 million worth of apparel for uniformed staff, employees and individuals for whom the State provides clothing, and linens in our State correctional and developmental institutions.

In 2002, our State government took an historic step toward addressing sweatshop abuses by implementing Executive Order 20, which requires that all apparel purchased by the State of New Jersey be manufactured in the United States under fair labor conditions. Moreover, this Order requires contractors providing apparel to the state to provide the names and locations of all subcontractors involved in the manufacture of that apparel and to sign Affidavits certifying that: their workers are paid a "non-poverty wage"; workers are afforded a mechanism to resolve employer-employee disputes; the employer is committed to neutrality in regard to union organizing efforts; and that workers are afforded a safe and healthy work environment free from discrimination.

This policy is making a real impact in protecting workers. In one recent example, a winning bidder swore in an affidavit to supply the State with domestically manufactured apparel at a cost lower than three other bidders who offered non-domestic product. When we found in an audit that the company had supplied a mix of both domestic and imported products, we gave them a choice: give up the contract, or provide only linens manufactured according to the State's anti-sweatshop standards. The company agreed to provide sweat-free products and this was confirmed in subsequent audits.

In another case, a losing bidder challenged the recommended award of an apparel contract to another vendor. In responding to the protest, the winning bidder withdrew their affidavit, stating that they could not supply the domestically made apparel at the prices they bid. After a re-bid, the original winning bidder made a new offer to supply domestically produced apparel at a price 20 percent higher than the lowest bid for imported product. New Jersey has found that this is the typical price differential required to avoid purchasing products made in sweatshops. It is worth paying this small premium with our residents' tax dollars to uphold the values of the people of our state.

In implementing the State's Apparel Procurement Executive Order, we have been alerted to potential abuses by competitors of contractors or bidders during the pro-

curement process. This market-based mechanism is vital to enforcing New Jersey's apparel procurement standards while minimizing the cost to State government. In this way, the State can work for the best interests of the people we represent.

National Initiative: State and Local Government "Sweat-Free" Consortium

While our Apparel Procurement Executive Order has provided New Jersey with a useful tool to avoid purchasing sweatshop-produced apparel, Governor Corzine has acted to take the next step toward ending worldwide sweatshop conditions. Last September, Governor Corzine announced that New Jersey would join a State and Local government consortium proposed by Governor Baldacci of Maine, with the goal of ending the use of State taxpayer funds to purchase apparel manufactured in sweatshops. The inaugural meeting of this consortium is planned for next month with representatives from the states of Maine, New Jersey and Pennsylvania, and we are currently recruiting other state and local governments to join this effort.

This consortium initiative will be modeled on the efforts of more than 160 colleges and universities that have banded together to end sweatshop production for collegiate apparel under the Workers Rights Consortium (WRC). The WRC sets high standards for the production of collegiate apparel and investigates factories around the world to root out sweatshop conditions and abuses.

As with colleges and universities, state and local governments are a group of buyers with the common interest of avoiding sweatshop-produced goods. To date, more than 170 state and local jurisdictions across America have adopted procurement policies aimed at eliminating sweatshops from their supply chain. Now, working together, State and local governments can strike with even greater force against sweatshop conditions.

With the buying power of all of these entities joined in a national consortium, global manufacturers will recognize the value of producing goods for this market while meeting basic workplace requirements, including paying living wages, offering fixed working hours, putting an end to the use of child labor, ensuring the right to collective bargaining and protecting worker health and safety.

A single state, town or university cannot end the global exploitation of sweatshop workers. But each of us can take steps to combat the economic incentives that give rise to sweatshop abuses.

Thank you again for the opportunity to testify today. I look forward to responding to your questions.

Senator DORGAN. Mr. Socolow, thank you very much. That is an interesting approach, and one that gives me comfort, to see that there is activity at the State level on these issues.

Mr. Griswold is the director of the Center for Trade Policy Studies at the Cato Institute. We've had occasion at previous times, to discuss trade.

Mr. Griswold, welcome, and you may proceed.

STATEMENT OF DANIEL T. GRISWOLD, DIRECTOR, CENTER FOR TRADE POLICY STUDIES, THE CATO INSTITUTE

Mr. GRISWOLD. Chairman Dorgan and members of the Subcommittee, thank you for inviting the Cato Institute to testify today on global working conditions.

First, we should reject any notion that American workers are pitted in zero-sum competition with workers in poor countries. There is no race to the bottom in labor standards. Global incomes and working conditions can rise for workers in all countries that participate in the global economy. As America has become more globalized in the last 25 years, American workers and their families have enjoyed significant increases in real compensation, disposable incomes, and wealth.

Nor has trade with developed countries undermined America's manufacturing base. Output of America's factories last year was more than 50 percent higher than it was in the early 1990s, before we joined NAFTA and the World Trade Organization. American

factories are producing more aircraft and pharmaceuticals, more sophisticated machinery and semiconductors, more chemicals, and even passenger vehicles and parts, than 15 years ago. We can produce more with fewer workers, because manufacturing productivity has been growing so rapidly.

When U.S. multinational companies invest abroad, their primary motivation is not a search for low wages and low standards. More than low costs, they seek wealthy consumers, skilled workers, an infrastructure that works, the rule of law, political stability, and the freedom to trade and repatriate profits. That is why more than 80 percent of U.S. outward manufacturing direct investment flows to other high-income, high-standard economies, such as the European Union, Canada, and Australia. Trade and globalization are lifting wages and working conditions for hundreds of millions of people in developing countries. The pay and working conditions in foreign-owned factories and export industries are usually much better than in the local domestic economy. Those jobs offer poor workers, especially young women, their best opportunity at financial independence and the simple pleasures and dignities of life that we take for granted.

According to the World Bank, the share of the world's population living in absolute poverty has been cut in half since 1981, from 40 percent to 19 percent, and poverty has fallen most rapidly in those areas of the world that have embraced globalization the most aggressively, including China. By raising incomes in poor countries, free trade and globalization have helped pull millions of kids out of the work force and helped them enroll in school, where they belong.

The International Labor Organization recently reported that the number of children in the world, ages 10 to 14, who are working rather than attending school, has dropped by 11 percent since their previous report in 2002. There are 20 million fewer Halimas today than there were just 4 or 5 years ago. And it's not because of a legislative billy club, it's because of trade and growth in developing countries. The number working in the most hazardous jobs has dropped even more steeply, 26 percent. Parents in poor countries love their children just as much as we love our own. When they rise above a subsistence income, the first thing they do is remove their children from the work force and put them in school. Studies confirm that labor-force participation rates by children decline sharply with rising per capita GNP.

The overwhelming majority of child laborers toiling in poor countries work in sectors far removed from the global economy. More than 80 percent work without pay, usually for their family, and typically on subsistence farming. I notice we don't have any representative from a rural farming area, where most poor people live in the world, and most child laborers toil. Most others work for small-scale domestic enterprises, typically nontraded services, such as shoe-shining, newspaper delivery, and domestic service.

So-called sweatshop conditions persist in poor countries today, not because of globalization, which is a relatively new phenomenon, but because of poverty, poverty perpetuated by their own governments' failed policies of protectionism, inflation, corruption, hostility to foreign investment, and lack of legally defined property

rights. Globalization is not the cause of bad working conditions, but the best hope for improving them.

Withholding trade benefits because of alleged sweatshops would, in effect, punish poor countries for being poor. Trade sanctions would eliminate the very export-oriented jobs that are pulling standards upwards, forcing workers into informal domestic sectors, where wages and working conditions and labor-rights protections are worse. Lower wages paid to parents would make it more difficult for families on marginal incomes to keep their children in school and out of factories or fields.

If Members of Congress want to encourage higher labor standards abroad, they should support free trade and investment flows so that less-developed countries can grow more rapidly and make more progress against poverty. Congress should seek a more robust International Labor Organization that could systematically monitor and report on enforcement of labor rights in member countries. Civil-society organizations can wage campaigns of education and put a spotlights on abusive situations, while importers can cater to consumer preferences for higher standards through labeling and other promotions.

If members of this committee want to see fewer sweatshops and child workers in the world—and I believe you do—then I recommend you support more open trade and investment ties with workers in developing countries.

Thank you very much, and I look forward to your questions.

[The prepared statement of Mr. Griswold follows:]

PREPARED STATEMENT OF DANIEL T. GRISWOLD, DIRECTOR, CENTER FOR TRADE
POLICY STUDIES, THE CATO INSTITUTE

Mr. Chairman and members of the Subcommittee, thank you for inviting the Cato Institute to testify today at this hearing on U.S. trade policy and global labor standards. My name is Dan Griswold, and I am Director of the Institute's Center for Trade Policy Studies.

The Cato Institute is a non-profit, non-partisan, voluntarily funded education institution. Through research and public events, we have worked for three decades now to broaden the parameters of public policy debate to allow consideration of the traditional American principles of limited government, individual liberty, free markets and peace among nations.

The constituents you represent have no reason to fear America's growing trade with people around the world, including trade with workers in developing countries. Expanding trade with developing countries not only promotes more U.S. exports, but just as importantly it provides a wider array of affordable products for American consumers—such as shoes, clothing, toys, and sporting goods. Tens of millions of American families benefit from more vigorous price competition in goods that make our lives better everyday at home and the office. Lower prices and more choice translate directly into higher real compensation and living standards for American workers.

There Is No “Race to the Bottom”

American workers are not pitted in zero-sum competition with workers in poor countries. There is no global “race to the bottom” on labor standards. Through specialization, global incomes and working conditions can rise for workers in all countries that participate in the global economy. American workers can compete profitably in world markets because we are so much more productive. Because of our education, infrastructure, efficient domestic markets, the rule of law, political stability, and a generally open economy, American workers compete and prosper in a broad range of sectors. As our country has become more globalized in the past 25 years, American workers and their families have enjoyed significant increases in real incomes, compensation, and wealth.

Nor has trade with developing countries undermined America's manufacturing base. According to the latest figures from the Federal Reserve Board, the output of America's factories in 2006 was more than 50 percent higher than in the early 1990s before NAFTA and the World Trade Organization came into being. American factories are producing more aircraft and pharmaceuticals, more sophisticated machinery and semiconductors, more chemicals and even more passenger vehicles and parts than 15 years ago. It is true that output of clothing, shoes and other low-tech goods has been declining, but those are not the industries of the future for the world's most sophisticated economy. U.S. factories can produce more with fewer workers because manufacturing productivity has been growing so rapidly.

If there were a "race to the bottom," then the lower wages and labor standards in less developed countries should be attracting large shares of global investment. Of course, developing countries attract foreign investment in those sectors in which they enjoy a comparative advantage, such as light manufacturing, but in fact, the large majority of manufacturing foreign direct investment (FDI) flows between rich countries.¹

When U.S. multinational companies look to invest abroad, their primary motivation is not a search for low wages and low standards. Far more important than lower costs are access to wealthy consumers, a skilled work force, modern infrastructure, rule of law, political stability, and freedom to trade and repatriate profits. That is why most outward U.S. FDI flows to other high-income, high standard countries. Between 2003 and 2005, more than 80 percent of U.S. direct manufacturing abroad flowed to the European Union, Canada, Japan, South Korea, Taiwan, and Singapore.²

Openness to trade and investment leads to faster growth, which leads to higher wages and labor standards, including so-called core worker rights. That is why the world's most developed economies, which account for most of the world's trade and attract most of its foreign direct investment, also pay the highest wages, and maintain the highest labor standards related to freedom of association, discrimination, forced labor, and child labor.

Trade and Globalization Are Raising Labor Standards in Developing Countries

Trade and globalization are lifting wages and working conditions for hundreds of millions of people in developing countries. The pay and conditions offered in foreign-owned factories are almost always far higher than those offered in the domestic economy. In fact, working for multinational companies that export are almost invariably the best jobs available in poor countries. Those jobs offer poor workers, especially young women, their best opportunity at financial independence and the simple pleasures and dignities of life we take for granted.

For example, apparel jobs are among the lowest paying manufacturing jobs in our country, but they are among the best paying in poor countries. A recent study from San Jose University found that the apparel industry actually pays its foreign workers well enough for them to rise above the poverty line in the countries where they invest. In Honduras, for example, where college protestors have targeted its alleged "sweatshops," the average apparel worker earns \$13 per day, compared to the \$2 a day or less earned by 44 percent of the country's population.³

Rising levels of global trade have lifted hundreds of millions of people out of the worst kind of poverty and working conditions. According to the World Bank, the share of the world's population living in absolute poverty, defined as an income equivalent to one U.S. dollar per day or less, has been cut in half since 1981, from 40.4 percent to 19.4 percent.⁴ Poverty has fallen the most rapidly in those areas of the world that have globalized the most rapidly, especially China. It has fallen the least or actually increased in those regions that are the least touched by globalization, in particular sub-Saharan Africa.

Openness to trade and the growth it brings exert a positive impact on the welfare of children in less developed countries by reducing rates of child labor. The International Labor Organization recently reported that the number of children in the work force rather than in school worldwide has dropped by 11 percent since its last

¹For a more detailed critique of the "race to the bottom" thesis, see Daniel Griswold, "Trade, Labor, and the Environment: How Blue and Green Sanctions Threaten Higher Standards," *Cato Trade Policy Analysis* no. 15, August 2, 2001.

²U.S. Department of Commerce, *Survey of Current Business*, Bureau of Economic Analysis, September 2006.

³Benjamin Powell and David Skarbek, "Sweatshops and Third World Living Standards: Are the Jobs Worth the Sweat?" *Journal of Labor Research*, 2006, Volume 27, Issue 2, pp. 263-274.

⁴World Bank, *World Development Indicators*, 2006, available at devdata.worldbank.org/wdi2006/contents/Section2.htm.

report in 2002, to about 200 million. The number working in the most hazardous jobs has dropped even more steeply, by 26 percent.⁵

Globalization is a major reason for the positive trend in child labor. As household incomes rise in developing countries, especially wages paid to adult females, fewer families face the economic necessity of sending their children to work. Studies confirm that labor force participation rates by children aged 10 to 14 decline significantly with rising GNP per capita.⁶

The overwhelming majority of child laborers toiling in poor countries work in sectors far removed from the global economy. More than 80 percent work without pay, usually for their parents or other family members and typically in subsistence farming.⁷ Most other child laborers work for small-scale domestic enterprises, typically non-traded services such as shoe shining, newspaper delivery, and domestic service.⁸ A report by the U.S. Department of Labor found, "Only a very small percentage of all child workers, probably less than 5 percent, are employed in export industries in manufacturing and mining. And they are not commonly found in large enterprises; but rather in small and medium-sized firms and in neighborhood and home settings."⁹

Parents in poor countries do not love their children any less than we love our own. When they succeed in rising above a subsistence income, the first thing they typically do is remove their children from working on the farm, domestic service, or factory and enroll them in school. By raising incomes in poor countries, free trade and globalization have helped to pull millions of kids out of the work force and put them in school where they belong.

In Central America, trade liberalization and other reforms of the past two decades have spurred not only growth in incomes but also measurable social progress. According to the World Bank, literacy rates for men and women 15 and older have risen significantly in every one of the six DR-CAFTA countries since 1980. In fact, between 1980 and 2001, the average literacy rate in the region has increased from 67 percent to above 80 percent. At the same time, the percentage of children aged 10 to 14 who are in the work force has been steadily declining in all six countries. The average share of children in the labor force across the six countries has dropped from 17.4 percent in 1980 to 10.0 percent in 2002.¹⁰ Expanding trade with the United States will likely accelerate those positive trends.

It is certainly true that working conditions in less developed countries can strike Western observers as unacceptable if not appalling. But two points need to be considered. First, wages and working conditions are likely to be even worse in non-trade-oriented sectors, such as services and subsistence agriculture, sectors that have been largely untouched by globalization. Second, poor working conditions in those countries are not a new development but have always been a chronic fact of life. "Sweatshop" conditions persist today not because of globalization, a relatively new phenomenon, but because of previous decades of protectionism, inflation, economic mismanagement, hostility to foreign investment, and a lack of legally defined property rights. Globalization is not the cause of bad working conditions but the best hope for improving them.

Punitive Tariffs Aimed At Sweatshops Will Only Hurt the People We Are Trying to Help

Perversely, withholding trade benefits because of allegedly low standards would in effect punish those countries for being poor. It would deprive them of the expanded market access that offers the best hope to raise incomes and standards. The use of trade sanctions would target the very export industries that typically pay the highest wages and maintain highest standards in those countries.

The effect of sanctions would be to shrink the more globally integrated sectors that are pulling standards upwards, forcing workers into informal, domestic sectors where wages, working conditions, and labor-rights protections are much lower. Lower wages paid to parents would make it more difficult for families on marginal incomes to keep children in school and out of fields or factories. "Tough" sanctions to allegedly enforce higher standards would be tough only on the poorest people in the world.

⁵International Labor Organization, "The End of Child Labor: Within Reach," Geneva, 2006.

⁶Keith E. Maskus, "Should Core Labor Standards Be Imposed Through International Trade Policy?" Policy Research Working paper no. 1817, The World Bank, August 1997, p. 14.

⁷ILO, p. 8

⁸"Breaking the Labor-Trade Deadlock," Carnegie Endowment for International Peace, Inter-American Dialogue, Working Papers 17, February 2001, p. 17.

⁹U.S. Department of Labor, "By the Sweat & Toil of Children (Volume I): The Use of Child Labor in U.S. Manufactured and Mined Imports," 1994, p. 2.

¹⁰The World Bank, World Development Indicators.

Demanding that poor countries eliminate child labor under threat of trade sanctions can easily backfire. In 1993, Congress seemed poised to pass the U.S. Child Labor Deterrence Act, which would have banned imports of textiles made by child workers. Anticipating its passage, the Bangladeshi textile industry dismissed 50,000 children from factories. Most of those children did not end up in school but instead fell into prostitution and other “occupations” far more degrading than weaving cloth in a factory.¹¹

America’s trade policy is already biased against workers in poor countries without making it more so through “anti-sweatshop” legislation. The United States and other rich countries currently impose their highest trade barriers against products of most importance to poor countries: clothing, textiles, and agricultural products. In fact, our average tariff imposed on imports from poor countries is about four times higher than those imposed on imports from other rich countries.

Our regressive tariff system imposes punitive tariffs on workers in some of the poorest countries in the world. According to the Progressive Policy Institute, the U.S. Government collects more tariff revenue on the \$2 billion in mostly hats and t-shirts we import from Bangladesh in a year than on the \$30 billion in planes, computers, medicines and wine we import from France. Imports from Cambodia face an average tariff of 16, ten times higher than the average 1.6 percent we impose on all imports.¹²

Our trade policies also hurt the world’s poorest farmers and their children. A 2002 study for the National Bureau of Economic Research found that higher rice prices in Vietnam were associated with significant declines in child labor rates. Specifically, a 30 percent increase in rice prices accounted for a decrease of children in the work force of 1 million, or 9 percent. The drop was most pronounced among girls aged 14 and 15. As the incomes of rice-growing families rose, they chose to use their additional resources to remove their children from work in the field and send them to school.¹³ If U.S. rice subsidies are indeed depressing global rice prices, as evidence confirms, then those same programs are plausibly responsible for keeping tens of thousands of young girls in Vietnam and other poor countries in the labor force rather than school.

Attempts to “enforce” labor and environmental standards through trade sanctions are not only unnecessary but also counterproductive. Sanctions deprive poor countries of the international trade and investment opportunities they need to raise overall living standards. Sanctions tend to strike at the very export industries in less developed countries that typically pay the highest wages and follow the highest standards, forcing production and employment into less-globalized sectors where wages and standards are almost always lower. The end result of sanctions is the very opposite of what their advocates claim to seek.

If Members of Congress want to encourage higher labor standards abroad, they should support policies that encourage free trade and investment flows so that less developed nations can grow more rapidly. 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. Meanwhile, civil society organizations are free to raise public awareness through campaigns and boycotts, while importers can cater to consumer preferences for higher standards through labeling and other promotions.

The demand for trade sanctions as a tool to enforce labor standards confronts Americans with a false choice. In reality, 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.

Senator DORGAN. Mr. Griswold, thank you very much.

First, let me ask you, Mr. Griswold—you have a couple of people sitting behind you that lost their jobs because businesses now ship Pennsylvania furniture to China. You indicated that that, generally, is not a search for cheaper labor. Do you really believe that La-Z-Boy didn’t close down a Pennsylvania plant and ship those jobs to China in order to create a piece of furniture and ship the

¹¹Jagdish Bhagwati, *In Defense of Globalization* (New York: Oxford University Press, 2004), p. 71.

¹²Edward Gresser, Testimony before the Senate Subcommittee on International Trade, October 27, 2005.

¹³Eric Edmonds and Nina Pavcnik, “Does Globalization Increase Child Labor? Evidence from Vietnam,” NBER Working Paper no. 8760, July 2002.)

furniture back here for sale. Do you really believe that they did that for reasons other than cheap labor?

Mr. GRISWOLD. No, I think labor costs were an important driver there. My point is, that isn't the primary driver for most investment decisions made by U.S. companies. Eighty percent or more of our investment goes to Europe, Japan and Australia and countries like that where, if anything, the labor standards are higher. I'm just saying it's one factor of many. There are some industries where labor is particularly important, labor-intensive industries—the apparel industry, the footwear industry. Obviously, those are going to go to less-developed countries. It's all about comparative advantage. Their comparative advantage is lower labor cost, and that is important in labor-intensive industries.

Senator DORGAN. I—you know, I wonder if Ricardo wouldn't be rolling in his grave at your definition of "comparative advantage." The doctrine of comparative advantage had nothing to do with all of this. That was country to country, before corporations existed, and the doctrine of comparative advantage has nothing to do with what I call a—an advantage created by the Chinese, for example, for their workers. I'll give you the names of Chinese workers who are in prison because they wanted to organize workers. I can give you examples of the plants in China where they're having kids work. That's not a comparative advantage, some sort of natural comparative advantage, that is a political advantage that is created by a Chinese Government that doesn't enforce labor laws and environmental laws and so on.

But let me try to understand where we are on this. I think you're saying—and I'll give you a chance to respond to this—I think you're saying, and some others have said, "Look, things are going pretty well, dramatic improvement, fewer kids working, fewer sweatshops, and so on. The market system will deal with this."

Mr. Kernaghan, you're saying, "That's not true at all. There are substantial sweatshop abuses. In fact, the market system probably won't even detect them. And, to the extent the market system is at work here, the companies try to get the cheapest goods into this marketplace and have a competitive advantage by employing people in sweatshops."

So, reconcile that. Mr. Kernaghan, you first.

Mr. KERNAGHAN. Mr. Chairman, this speaks a thousand words, that the U.S. corporations would never allow voluntary codes of conduct and private monitoring schemes to defend their intellectual property rights or their labels or their trademarks. In other words, they want laws, enforceable laws, backed up by sanctions. It's only when you say to the companies, "Excuse me, but can we have similar laws to protect the rights of the 14-year-old girls in Bangladesh who made this garment?" And the companies frequently say, "No, that would be an impediment to free trade." So, there are laws to protect the label and the trademark, but no laws to protect the human being. This is something companies themselves would never accept.

We did reach a 232-and-a-half-billion dollar trade deficit with China, just this year. The figures just came out. Foreign investment's pouring into China, and the companies themselves are say-

ing, “U.S. wages and benefits are no longer competitive in the global economy.” And this is Wall Street talking.

We see what’s happening. We see the conditions in China. The workers at the Kaisi factory making that furniture were getting 32 cents an hour, and being maimed and cheated of their wages. And, by the way, after we put out our report, the factory agreed that they were violating the law. I don’t know why they did it, but they came out and told Associated Press that, “Yes, we have been violating the laws, but we’re going to do our best to clean up the factory.”

Right now, it’s a race to the bottom, where workers are pitted against each other over who will take the lowest wages, the least benefits, and the most miserable living and working conditions. This is what workers are experiencing. They need the right to organize. They don’t need patronizing. They need the right to organize to fight for their legal rights.

Senator DORGAN. All right. Now, Mr. Griswold, I think what you have said, generally, is, “Third World workers are better off—even with sweatshops, because they have a job—than not having a job.” And I guess I’d ask you to answer the question that might be a reflection of the impact on Third World workers: What about the impact on American workers? Because we’re talking, here, about policy in one of the most advanced countries in the world. Alan Blinder, Former Vice Chairman of the Federal Reserve Board, has written that there are about 42 to 56 million American jobs that are so-called tradable or outsourceable. Not all of them will be outsourced, he says, but even those that remain will have downward pressure on their income, because of the global economy.

So, what about that group of Americans? What about American policy, when you talk about Third World workers being advantaged by at least having a job, even if it’s in a sweatshop?

Mr. GRISWOLD. Well, first, I think there’s a huge amount of evidence that American workers are better off today than we were 10, 20, 30 years ago, by virtually every measure. We are living better. We are living longer. Our wealth is greater. Our disposable income is greater. And globalization has played a role in that.

Yes, some workers are put out of work because of trade. And there are some in this room. Three-hundred thousand Americans line up every week for unemployment insurance. The churn in the job market is a natural, healthy feature of a dynamic market economy like ours. Far more Americans are put out of work each year because of technology. You know, Kodak has laid off 30,000 workers because of digital cameras that you and I own. Are we going to tax digital cameras to save those jobs? No. We’re going to let the marketplace sort it out. There’s things we can do to help people retrain, to offer unemployment insurance, to soften the transition. But to throw up walls and say, “We’re going to stop change from happening,” is not the right policy. It’s going to leave America a poorer, more isolated country.

Senator DORGAN. I’m wondering, though: My impression of this economy is that it has produced about 5 and a half million people, added to the poverty rolls in the last 6 or 7 years. Wages and salaries are the method by which most workers get their income; they are the lowest percent of GDP since they started keeping score in

1947. And so, I always hear these things about averages. And you would, perhaps, say “on average,” are the numbers. I think of the story about nine guys sitting in a bar, nine working guys sitting in a bar, and Bill Gates walks in. Now, on average, all ten are wealthy. Nothing has changed in the lives of the other nine; it’s just, on average, all ten are wealthy.

We’ll have a longer discussion, perhaps, about the plight of the American worker trying to face competition from low-wage workers elsewhere and from companies that want to access low-wage workers, to produce a product to ship back to this country. For the purpose of providing a less-expensive product for consumers? Maybe. But, more importantly, for the purpose of expanding profits. And that’s the kind of economy we have. The question that I have is—having built, over a century, basic standards that don’t exist in many other parts of the world—fair labor standards, minimum wage, safe workplace, child labor, and so on—are we seeing those standards diminished by virtue of the so-called global economy and the presence of sweatshops? I think the compelling evidence is yes.

I’ll give you a chance to answer that in just a moment, if you’ll hold that thought.

Mr. Socolow, how extensive are the States involved in this? You’ve mentioned your Governor and others. It gives me some good feelings to understand that you are developing policies that really care about conditions under which these products are produced. So, how extensive is it?

Mr. SOCOLOW. Well, right now, we’ll be starting our first meeting with just three States, although we are—we appreciate this opportunity to expand our outreach to all of the Governors. And we are actively seeking other State governments, as well as local governments. You know, cities, by virtue of having police forces and other needs, buy a lot of apparel, as well as State governments, by virtue of, you know, all of our corrections institutions and others. So, there’s a lot—there’s a big market, that could be as big as a billion dollars annually, of apparel procurement, just by government.

Senator DORGAN. And your three States are New Jersey, Maine—

Mr. SOCOLOW. New Jersey, Maine, and Pennsylvania. The—Governor Baldacci, of Maine, Governor Rendell, of Pennsylvania, and, of course, my own Governor, Governor Corzine, your former colleague here in the Senate, who are leading the way on this. And so, we’re hopeful that we can really create a consortium that includes a number of different governments, so we get as many of them as possible, all agreeing to create a market niche for buying fairly produced domestic apparel and linens.

Senator DORGAN. Mr. English, Mr. Griswold calls the legislation a “billy club,” I think. Respond to that. You apparently support the legislation that I and Lindsey Graham have introduced. He says it’s a “billy club.” You respond to that, if you would, and then I’ll ask Mr. Griswold to respond.

Mr. ENGLISH. Well, I think, if you look back at the development of labor laws in this country, we created labor laws to help allow workers to organize and bargain collectively. We didn’t go to corporations and say, “Be nice, and treat people nice.” We created a “billy club,” if you will. We created a measure of compulsion, be-

cause we felt that—the people that passed the Wagner Act felt that compulsion was necessary. And I think any fair evaluation of the global trading system and of the tremendous incentive of companies to exploit the poverty around the world, would lead one to the conclusion that we need a measure of compulsion here, as well. And I think that's what this piece of legislation does.

Senator DORGAN. Mr. Griswold, in the 1930s, FDR pushed the Fair Labor Standards Act. We have since passed child labor laws, safe workplaces, and so on. My guess is—I shouldn't ascribe this to it—my guess is that you might have come to testify against all of those. Certainly, American business, in most cases, took positions against all of those kinds of initiatives that raised standards in this country. I think, looking back, in most cases, they're pretty generally accepted to have done something important for America. But would you—looking back at these things that we have done to raise American standards, would you think you would have supported them as they were proposed over the period of time, or would you have come in to say, "You know what? Let the market system decide that. This is the 'billy club' of the Federal Government trying to tell a factory, 'Here are the records you have to keep, here is where you have to pay overtime,'" and so on? Give me where that extension of your philosophy might lead.

Mr. GRISWOLD. I don't know how I would have testified back then. It was a different time, a different era. I do know that our overall living standards have risen, not because of legislation Congress has passed, but because of rising productivity in our economy, because we have the resources. You can legislate all you want. India has labor laws that are comparable to ours, in terms of controlling the ability of employers to fire workers, and setting minimum wages, and all that; and yet, they're still a very poor country. And so, laws themselves do not lift people out of poverty; they're lifted out of poverty by increasing production and wealth.

The other difference is, we didn't have some foreign power waving that billy club over us. It was a decision we made about our own laws. Here, you are trying to dictate and legislate conditions in other countries. And I think that creates resentment at a time when American policies are creating enough resentment around the world the way it is.

Senator DORGAN. The legislation is not an attempt to do anything to other countries; it is an attempt to say to companies that want to produce in foreign sweatshops, "You can't sell that product in America, because it doesn't meet the basic standards of fairness and decency and humanity that we have spent a century building." So, we're not in the business of enforcing something in foreign countries. We are talking about the conditions under which those products could be sold to the United States.

I might mention one other issue. Recently, I guess it's been about a year or 2 now, the President of the Philippines announced that she thought there should be an increase in the minimum wage in the Philippines. And a well-known American corporation that is doing business in the Philippines by hiring people in the Philippines immediately, the very next day, said, "You increase the minimum wage in the Philippines, we are gone." My point is, the same naysayers in this country, over a century, when we built the

standards—and, by most accounts, have dramatically improved standards of work in this country—the same naysayers who opposed that every step of the way do the same with respect to conditions in China, conditions in the Philippines and elsewhere. By and large, I think that they are there to access cheap labor. And anything that would in any way dramatically increase, or incrementally increase, labor costs abroad, they will resist. Do you disagree with that?

Mr. GRISWOLD. I guess we disagree on how humans progress. I think it's through—largely through market and rising creation of wealth, and that allows these standards to rise. But let's just look at the example of China. There are 400 million fewer people living in absolute poverty in China today than 25 years ago. Is it because of legislation that this committee, or Congress, passed? Is it because of legislative labor laws passed by the Chinese Government? No. It's because of rising trade, globalization, and markets being allowed to work. Yes, you need a framework of the rule of law. Yes, there needs to be laws against abusive child labor and slave labor and that sort of thing. I'm all for those. But I'm afraid that some of the ideas being talked about in Congress would interfere with those forces that are bringing about these advantages that I talked about in declining global poverty and child labor.

Senator DORGAN. At least a part of the experience you describe in China, with about—is it 1.3 billion people?—so 400 million would leave another 900 million in a different situation—at least part of their progress, I suppose, is jobs that are producing Huffy bicycles, Radio Flyer little red wagons, Pennsylvania House furniture, Levis, Fruit of the Loom, among many others. And I could go on for about 20 minutes. It might well be nice that the Chinese have those jobs. It would be much nicer, in my judgment, if those jobs were in Trenton, New Jersey, and Philadelphia, and places in this country.

However, having said all that, that's a different discussion—whether the global economy, which produced, last year, an \$832 billion trade deficit with this country, is beneficial to this country. I think free trade is not much more than a chant. I think fair trade is an essential ingredient for the way we should view trade agreements. Trade agreements should be mutually beneficial between us and those with whom we have agreements. And, in my judgment, that has not been the case.

Let me ask a couple of additional questions, getting back to the basic issue of sweatshops.

Mr. Kernaghan, you support the legislation that we have introduced. Mr. Griswold—and I think some others, and my colleague Senator DeMint—have concern about it. Senator DeMint talks about the liability side of it. Mr. Griswold talks about the “billy club” side. You describe it differently. You describe it as giving rights to American business that are being injured by this practice. Go through that again for me, if you would.

Mr. KERNAGHAN. Companies in the United States that are trying to do the right thing and live up to the law are being undercut by companies which are blatantly violating the law. So, for example, we have workman's compensation in New York State. The workers at the Kaisi factory in China had no workman's compensation, even

though they were supposed to have it by law. We have a minimum wage. They have a minimum wage in China, but the minimum wage is violated. They have overtime laws. Overtime laws are violated. They have right-to-organize laws. They're violated. Companies that want to do the right thing in the global economy are having their legs cut out from under them by unscrupulous companies and—and countries, for that matter—that want to abuse worker rights.

Having gone—probably have spoken to more workers in the world than anybody I've met—workers don't want to work in a sweatshop. No worker has ever said to me, "Oh, we need more sweatshops in our country. This is exactly what we need." Every single worker wants a job. Every person wants a job. But there's an—even if they don't know the laws of the land, they know that their legal rights—they know that there's basic human rights that should be respected. And that's what they want. They want their legal rights respected. And yes, they want the right to organize so that they can stand up and collectively bargain and have some sort of a democratic voice on the shop floor.

I think that workers—frankly, the hundreds of millions of workers around the world, when they hear of this legislation, will endorse it, because this is a ticket for them to raise worker-rights standards in their country, and legal standards in their country, which will then lift tens and tens of millions of workers out of misery, and at least into poverty. And I think it would be the single most important act that could be taken to end this race to the bottom and put a floor on it, that there are certain standards beneath which you cannot go in the global economy.

Senator DORGAN. Mr. William Jones, who is the Chairman of Cummins-Allison Corporation in Chicago, was to be a witness here today. He was not able to be here, because of travel problems. But I want to read three sentences from his testimony.

This is a CEO of a significant corporation: "Sweatshops have sucked much of the life out of remaining labor-intensive sectors of American manufacturing, which remain, far and away, the best hope for the middle class and for our own poor. If unchecked, these trends will threaten much of our remaining domestic manufacturing base, a manufacturing base which underpins our national defense and prosperity. Ultimately, the demise of so much manufacturing will undermine the entire American economy, which is the engine of world growth."

Let me thank all four of the witnesses today for being here. I'd be happy to entertain any additional thoughts you have before we close this hearing.

This is the first hearing on legislation of this type. I recognize that the legislation will be resisted by some, supported by others, including support from people in the business community who believe they are disadvantaged by being told they have to compete with others that are willing to hire children in conditions of—sweatshop conditions abroad in order to drive down the price of their product here at home. I recognize that this can be controversial.

I don't think there's a disagreement among us that trade can be beneficial. I believe in trade. I believe in plenty of trade. But I also

believe in rules of trade that are fair to us, and I think that has been sadly lacking in our trade policy.

Mr. Griswold, you and I have previously discussed all of these issues, and we have a disagreement about them. I think we want the same thing for our country. We just have different views of how to achieve those things.

Mr. Socolow, you have described to me something I wasn't aware of, and that is an effort by several States, which I both commend and think makes a great deal of sense.

Mr. English, your discussion of the steelworkers who lost their jobs and the Pennsylvania House furniture is another example of what is happening with the inevitable pull of good-paying jobs, which has expanded the middle class in this country, to get those jobs moving to parts of the world where you can pay a fraction of the price that you now pay in this country.

And, Mr. Kernaghan, your organization has done a lot of work over a long period of time, and I know that, without your work, much of the disclosure that has existed would still be undisclosed, and we would still have abuses in those areas where you have described them and where you have been successful in trying to shut them down.

So, I want to thank all of you. Anybody have any final comments you wish to make today?

Mr. Griswold?

Mr. GRISWOLD. Just two quick points, Senator.

Senator DORGAN. Yes.

Mr. GRISWOLD. First, this isn't a choice of whether we have a manufacturing base in this country or not, it's about what we manufacture. And I will be the first to point out that we're producing less furniture and fewer shoes and T-shirts than we were, and that they're producing more in China. But our overall manufacturing output is up 50 percent. Our manufacturing capacity has continued to increase because of rising productivity. We are producing more semiconductors, chemicals, sophisticated machinery, pharmaceuticals, even passenger vehicles and parts. This is trade in action. We're specializing in the higher-end parts.

Let me make one other point. This is also a consumer issue. You know, my friend to the right here, he pointed out that the State of New Jersey is happy to pay a 20-percent premium. And that's fine. The State of New Jersey can just pass the costs on to the taxpayers, and they may not even know. But if you're a middle-class or poor family in North Dakota, a 20-percent-higher bill for your expenses is real money, and that translates into lower real wages and a lower standard of living.

Senator DORGAN. Since you raised it, Mr. Griswold, let me ask you, as a consumer: if you knew that a product that was coming from the work of an 11-year-old working 11 to 14 hours a day, 7 days a week, in a sweatshop—if you knew that, would you prefer to pay a premium for a product—identical product that was produced in circumstances that were not coming from a sweatshop from an 11-year-old child?

Mr. GRISWOLD. Well—

Senator DORGAN. Would you make that choice, as a consumer?

Mr. GRISWOLD. I would ask myself, Would that child—would her family be better off if I did not buy that product? And I'm not sure. You know, we had an experience in the early 1990s when Congress was considering quite stringent legislation aimed at child labor abroad. In Bangladesh, they laid off 50,000 child workers, rapidly, to avoid coming under that law. It never became law, but just the threat of it displaced 50,000 workers. The ILO, UNICEF, and Bangladeshi labor activists went and investigated, and they found that most of those 50,000 kids did not go to school, they either were unemployed and their families were worse off, or many of them ended up in occupations that were even less acceptable than a garment factory—stone crushing, street hustling, some of them even ended up in prostitution. So, I buy products from poor workers in poor countries, and I make no apologies.

Senator DORGAN. There's been a separate study since that time that debunks the study you described, so we can put both studies in the record.*

Senator DORGAN. But I think—your answer, kind of, stuns me, because your answer suggests that an 11-year-old, and the family of an 11-year-old, would be better off having that 11-year-old in a sweatshop, working 11 to 14 hours a day, 7 days a week, and, therefore, you would not have any moral objections to either buying the product or suggesting that the presence of that sweatshop is not in any way objectionable to you. I—

Mr. GRISWOLD. It is.

Senator DORGAN.—I find it personally and morally objectionable that anyone would put children in these circumstances. Are their parents better off having them earn an income? Well, I don't know. But I—but is this about money to parents while we abuse children? In my judgment, there's a pretty clear moral demarcation here where you and I differ.

Mr. GRISWOLD. It's about survival, for many of these families, unfortunately,. That's the moral objection. Why are so many people living in poverty? It's because of the failed policies of their governments—protectionism, corruption—

Senator DORGAN. But—

Mr. GRISWOLD.—the long list.

Senator DORGAN. But abusing children for the purpose of survival is—I mean, that's the very purpose of this hearing, I guess, and I think we've penetrated to the roots of some of the disagreement.

Mr. Kernaghan?

Mr. KERNAGHAN. Senator, if I may, when the children were removed from the garment factories in Bangladesh, the industry, since that time, has grown from 800,000 workers to 2.2 million workers, because the factories had to hire their older brothers and sisters and the parents, and couldn't hire children anymore. So, it was a victory. They didn't need children. They wanted them because you could pay them less and you can exploit them more. The industry has boomed. But it's boomed now with older children and—their older brothers and sisters.

*The information referred to has been retained in Committee files and can be found at <http://www.unicef.org/sowc97/download/sow1of2.pdf>. and http://www.ilo.org/public/english/standards/ipecc/publ/download/2001_syn_bgmea_en.pdf.

I'd also like to point out that we run a \$37-billion trade deficit with China on advanced technology goods, that five out of six ships that come from China to the United States return to China empty, and that one ship that goes back off and carries trash and garbage to be recycled. We have a big problem. It's not just in manufacturing. It's also in advanced technology and engineering and so on.

Senator DORGAN. Mr. English?

Mr. ENGLISH. I would point one other evil out about child labor. When that child is in the factory, working to try to help his family make a living, that child is not in school. And that means that we continue the cycle of poverty that exists as a result of that. We've got to break the cycle. And I think this piece of legislation is a good start in trying to break that cycle, because it says to the world, "We are not going to allow sweatshop-made goods into this country, and we're not going to allow it to be made here in this country, either. We're going to stand up for the rights of workers around the world."

Senator DORGAN. Let me, just as a final point, say we don't have to look abroad to find sweatshops. You can find them in the history—the dark history of this country, and a century and a half ago, you could find them in children going into coal mines. And we've changed that. I mean, we, I think, have made great progress. But when I hear, as I have, stories of very young children working on the looms in carpet factories having their fingers scarred by putting sulfur on the top of their fingertips, setting them on fire to create burns to create scars so that, as they use the needles with these rugs, they're not going to stick themselves and hurt themselves and bleed on the rugs—when I hear those kinds of stories, I ask myself, Isn't that the sort of thing that we decided, as a country, long, long ago, that we were not going to tolerate? Why should we, as a global economy, tolerate it? We should not. The global economy is simply a definition that has been created and branded by some to suggest that we should accept that which we long ago decided we would not tolerate.

The issue of sweatshops and the conditions under which products are imported into this country is a very important issue for this country. We've already decided that the product of prison labor is unfair and should not come to this country. You cannot go to a big-box retailer and buy a pair of tube socks made in a foreign prison. It's illegal. The question is, Should you be able to go to a big-box retailer, or to some other store, and purchase those same products if they are made under conditions of sweatshop labor in which children are abused? The answer, in my judgment, should be no. And I believe those companies in America who are having to compete with companies that are importing the product from that circumstance ought to have a remedy. And that would be a market remedy, rather than a billy club, Mr. Griswold—a market remedy by which other companies would begin to work to enforce this by disclosing and exposing the unfair shipment of products from sweatshop labor into our market.

This has been an interesting discussion. Mr. Griswold, I assume we'll have you back, given the disagreement Senator DeMint and I have about trade. We will have other trade hearings because this is a very important issue. Yesterday's \$832-billion trade deficit

demonstrates dramatic failure, in my judgment, of our trade policy. So, we're going to have trade hearings in this subcommittee, and my colleague and I will make certain that, Mr. Griswold, you and others who take your position will be invited. We think debate is good and important in order to hear different viewpoints.

So, I want to thank all of the witnesses who have come today and who have given us their evaluation of a very important piece of legislation.

This hearing is adjourned.

[Whereupon, at 12 p.m., the hearing was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. OLYMPIA J. SNOWE, U.S. SENATOR FROM MAINE

Mr. Chairman, thank you for calling this meeting. Although I have just joined the Subcommittee on Interstate Commerce, Trade and Tourism this year, the issue we discuss here today is by no means new to me. The scourge of foreign sweatshops and its impact on U.S. workers is, indeed, distressingly familiar to me as a Mainer and a long-time member of the Senate Committee on Finance, which oversees trade policy.

Early in the twentieth century, the mills flanking the falls of the Androscoggin River in my hometown of Lewiston-Auburn produced one quarter of the Nation's textiles. Today, those mills—which supported my family and thousands like it—are silent. A bellwether of what was to befall other American manufacturing sectors, the U.S. textile industry is nearly extinct—the domestic jobs it once supplied now almost all overseas.

It would be one thing if so total a shift in production could be attributed to honest means of securing a comparative advantage—if, for example, foreign factories were more efficient or its workers more skilled, both of which are demonstrably untrue. It is quite another, however, where advantage is gained by market-distorting, immoral means of reducing costs long outlawed and vigorously policed in the United States.

That is why I was particularly troubled by reports that emerged last May of labor abuses in Jordanian factories that made goods destined for the U.S. market. These claims of forced labor and human trafficking would be horrifying no matter where they took place—but in this case, such inhumane practices were taking place in a country with which the United States already had a Free Trade Agreement!

During its subsequent consideration of the Oman Free Trade Agreement this past May, I was heartened to see the Senate Committee on Finance fulfill its duty under the procedures set forth in the Trade Promotion Authority to carefully consider each negotiated agreement, by unanimously passing an amendment to the agreement that would deny its benefits to goods made with the use of forced labor. Therefore, like the other members of that committee, I was extremely disappointed to find that the Administration has refused to reflect the Finance Committee's amendment in the implementing legislation it later officially submitted to Congress in June.

The unanimous will of that committee to improve the labor provisions of the Oman FTA in light of nearly identical agreements' obvious failure to adequately protect workers should not have been dismissed so lightly. Lacking the necessary labor protections, such agreements will put U.S. workers and businesses— which must adhere to our robust labor laws—at risk from unfair competition by overseas producers who willfully exploit workers in their facilities. It is vital that we continue to seek such protections not only in all our present and future trade agreements, but in our domestic laws as well.

That is why Senator Rockefeller and I introduced the Trade Complaint and Litigation Accountability Improvement Measures Act—also called the Trade CLAIM Act—in January of this year. That act would give U.S. businesses and workers a greater say in whether, when, and how U.S. trade rights are enforced by amending Section 301 of the Trade Act of 1974—the statute setting forth general procedures for the enforcement of U.S. trade rights—to limit the U.S. Trade Representative's ability to decline an interested party's petition to take formal action against unfair foreign trade practices, and make those determinations reviewable by the U.S. Court of International Trade.

With U.S. exporters supporting over 12 million jobs and paying an average of 18 percent higher wages, the U.S. Government has an obligation to create and consistently use enforcement mechanisms to protect them from the unfair or underhanded trade practices of foreign governments and businesses, especially those as vile as labor exploitation.

Thank you.

JOINT PREPARED STATEMENT OF BAMA ATHREYA AND NORA FERM,
INTERNATIONAL LABOR RIGHTS FUND (ILRF)

Introduction

The International Labor Rights Fund (ILRF) has since its inception fought to end the scourge of sweatshops around the world. Over the past two decades, we have witnessed the limitations of current legislative and voluntary strategies. During this period, while we have observed some gains for workers in some industries, we have also seen the much more widescale flight of domestic production in virtually all sectors to low-wage countries with unsafe and exploitative working conditions. We are not an organization that opposes global trade, per se, but we cannot ignore the fact that the flight of these industries is driven by the “race to the bottom.” Multinational corporations seek out production destinations where there is little or no regulation of labor or environmental conditions; they find such destinations in the developing world.

In this statement we seek to provide an assessment of anti-sweatshop initiatives to date, to highlight the cut flower sector as an example of the sweatshop problem in today’s global economy, and to make the case for why new and binding legislative efforts are needed to regulate workers’ rights in global supply chains.

History of “CSR” Initiatives

There have been numerous exposés of child labor, forced overtime, and inhumane wages and working conditions in factories overseas producing garments, shoes, and toys for the U.S. market. The typical response of companies or industries exposed by the media is to adopt and publicize voluntary codes of conduct as a non-binding promise to consumers that the problems will be corrected. This is a device we see used, for example, by Wal-Mart today to explain why binding regulations are not needed to correct human rights abuses. Collectively the various codes and monitoring initiatives that have emerged over the past two decades are referred to under the broader rubric of “Corporate Social Responsibility,” or CSR.

Interestingly enough, if we look back to the early history of the codes of conduct trend, we find an excellent case for the need for U.S. regulation to bind the behavior of US-based multinational corporations overseas. In the 1970s, revelations of the involvement of International Telephone and Telegraph and other U.S. corporations in the bloody coup against the Allende government in Chile in 1973, and of huge bribes paid by the Lockheed Corporation to Japanese political figures to gain military contracts in 1975, led to a movement by non-governmental organizations (NGO’s) and governments of developing countries to demand greater corporate accountability. In 1975, the United Nations created a Commission on Transnational Corporations which set out to negotiate a U.N. Code of Conduct on Transnational Corporations. However, during the 1980s, the U.N. Commission found it impossible to develop any mechanisms to make this code relevant, or even to research the level of compliance by companies or countries with the terms of the codes. By the end of the decade, the Commission itself was virtually without funds and unable to carry out even a fraction of its original mandate.

Thankfully at that time U.S. Congress did not leave the matter in the hands of voluntary initiatives, but enacted strong Federal legislation, the Foreign Corrupt Practices Act (FCPA). We will return to a discussion of the FCPA later in this testimony.

We would like to mention two additional multilateral voluntary initiatives and their weaknesses, in order to put to rest the notion that human rights and labor standards can be safely trusted to multilateral organizations or to voluntary changes in corporate behavior. We have now had thirty years to witness the progress of such initiatives and it should be clear that they have failed. In 1976, the Organization of Economic Cooperation and Development (OECD) passed guidelines on multinational corporations that, on paper, uphold the basic core rights of workers. To date, while a number of complaints have been brought, there has not been a single instance of actual enforcement of the OECD code. In 1977, the International Labour Organization (ILO) adopted a Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, a code which encompasses a broad range of rights and principles, and which includes a detailed complaint procedure which allows for an ILO Standing Committee on Multinational Enterprises to investigate a company’s practices. However, this code has no sanctions or other enforcement mechanisms, and the Standing Committee has been unable even to launch investigations. For example, in 1993 the committee received a request to review labor practices at a PepsiCo bottling facility in Guatemala following severe

harassment and intimidation of trade union members there.¹ The employer representatives on the ILO Standing Committee blocked the request and the case ended at that. These examples are, arguably, the strongest and most developed of the CSR initiatives; their limitations provide a compelling argument for the need for legally binding and enforceable alternatives.

Case Study: The Cut Flower Sector

What, exactly, is the problem? We will use a description of the cut flower sector to illustrate conditions in industry after industry producing goods for U.S. consumers today. The cut flower sector is far from the most egregious of sectors in terms of labor rights violations; it is precisely the fact that the violations we are about to describe are so routine, so mundane, in so many sectors that make this an appropriate illustrative case.

Consumers of cut flowers associate roses, daisies and other flowers with beauty and romance. Unfortunately the reality for the workers who produce those flowers is not so lovely. A mere 10 years ago, most of the cut flowers retailed by U.S. florists were produced in the United States. In a decade, thanks to the expansion of global trade agreements and preferential access to the U.S. market, the flower industry has changed entirely, consolidating distribution in the hands of a few very powerful corporations and relocating most flower production onto plantations in South America.

It is particularly appropriate that we focus on this industry today, as Valentine's Day is the most important retail day in the United States for cut flowers. Most of the flowers we will buy for loved ones today are imported from greenhouses in Colombia and Ecuador. The U.S. buys a third of Ecuador's yearly production just for one holiday: Valentine's Day.²

We mentioned the consolidation of the cut flower industry. No longer are small cultivators selling to "mom and pop" florists. Today cut flowers are a concentrated and lucrative business for a small handful of multinational corporations. Colombia exports 85 percent of its cut flowers (approximately \$600 million) to the United States.³ In 2005, the Colombian flower industry provided 111,000 jobs directly, and an additional 94,000 indirectly. US-based Dole Fresh Flowers, a subsidiary of the Dole Food Company, is the largest flower plantation owner and exporter in Colombia, and the biggest exporter of flowers from Latin America.

Ecuador exports 70 percent of its cut flowers to the U.S. market. Flowers are Ecuador's 5th largest export. The flower industry employs nearly 40,000 workers directly and another 15,000 jobs are created indirectly.⁴

Poverty-level Wages

The majority of Colombian flower workers receive no more than the minimum wage, \$180 per month, which covers less than half of what a family needs to meet basic human needs.⁵ A similar situation exists in Ecuador, where the minimum wage is \$160 a month.

Obligatory and unpaid overtime is common. The Colombian non-governmental organization CACTUS produced a report covering the period of January 2000 through June 2004, which found that the most common reason for Colombian flower workers to seek legal advice was failure to pay salaries, including unpaid overtime. The second most common reason was unfair dismissal, which leads to a high turnover rate within the industry.

Child Labor

Child labor is common in the cut flower plantations of Ecuador. The International Labor Organization's 2000 Rapid Assessment estimated that there were at least 12,000 15- to 18-year olds hired by Ecuadorian flower plantations. This work is considered one of the worst forms of child labor, because of the risks posed by intensive and repetitive work, injuries from thorns, use of sharp tools, prolonged exposure to heat, cold, and sun, and exposure to toxic pesticides.⁶ The IPEC project found that 45.8 percent of surveyed children working in the flower industry had suffered some

¹ Correspondence from the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations to the International Labor Rights Fund, on file at ILRF.

² "Ecuador Fears Valentine's Flower War," BBC News, January 29, 2003.

³ Asocolflores 2006.

⁴ FUNDESS.

⁵ DANE. "Encuesta Nacional de Hogares," 2001.

⁶ IPEC Aug 2003 Project Document.

kind of occupational accident or illness, including respiratory problems, wounds, lesions, and digestive tract problems (2003).

Discrimination and Sexual Harassment

In a poll of almost 1400 Colombian flower workers, CACTUS found that 84.8 percent of female workers had been required to undergo a pregnancy test as a prerequisite for employment. CACTUS also reports that an average of two flower workers arrive at their office daily after being fired as a result of pregnancy, in violation of national labor laws.

Obligatory pregnancy testing is also routine in Ecuador. An Ecuadorian woman interviewed by ILRF in late 2006 recounted: "I have been working in flowers for a total of 7 years. I was working in a small plantation for almost a year when I got pregnant. They saw that my pregnancy became quite advanced. I was 8 months pregnant. The new supervisor wanted me to do the same work, and I told him no, because in my condition I couldn't do the same things. One has to work bending over and it is dangerous. The supervisor told me: "If you want to keep working here, you have to do all of the work, and if not, you can just leave . . . the truth is I don't want to have problems, the truth is I don't want pregnant women here," he told me. They fired me. In July they didn't pay me, or compensate me for the months I worked before they fired me."⁷

A 2005 study by the International Labor Rights Fund and Ecuadorian researchers found that over 55 percent of Ecuadorian flower workers have been the victims of some kind of sexual harassment.⁷ It was higher for 20–24 year old workers (71 percent). Many women also said that they had been asked out by their bosses or supervisors, who offered to improve their jobs in exchange. Alarming, we also found that 19 percent of flower workers have been forced to have sex with a coworker or superior and 10 percent have been sexually assaulted on the job. Workers on flower plantations have no recourse to any sort of grievance or complaints process to address this serious problem.

Violation of the Right to Associate

The Latin American flower industry is characterized by a lack of respect for core worker rights, reflected primarily in the industry's failure to address freedom of association, the right to organize and the right to bargain. This industry has a long history of vigorous and effective opposition to the formation of independent democratic unions, using a variety of tactics to block union organizing, including illegal firings, threats to close plantations where workers are organizing, anti-union discrimination, and bringing in company-favored unions.

In Ecuador, only two plantations, out of a total of about 380, have unions. In Colombia, to date, independent flower unions have been unable to win a single collective bargaining agreement despite nearly two decades of organizing efforts.⁸

In late 2004, workers founded a new independent union, Sintrasplendor. This was the first independent union that had been successfully established in a Dole-owned flower company in Colombia. When Sintrasplendor received its registration from the Ministry of Social Protection, the company presented a list of objections, asking the Ministry to revoke the registration. Splendor Flowers used various forms of persecution against Sintrasplendor, including threats that union affiliates will be fired; assigning extra work on days when the union has planned assemblies and other activities; hostility, including via the presence of members of the Armed Forces and police at union activities held off company property.

The company successfully convinced the Ministry to revoke the union's registration, but after a lengthy appeal the workers reinstated the union.

Dole has also used a variety of ploys to deny Sintrasplendor its right to a collective bargaining agreement, such as signing a different collective bargaining agreement with the company-backed union, and refusing to support a fair process to determine union representation at the company.

On October 12, 2006 Dole announced that it is closing the Corzo farm at Splendor Flowers.

Health Impacts

Consumers of bouquets from Latin America may be interested to note the range of chemicals applied to the flowers before they bring a bouquet to their noses. A study of 8,000 Colombian flower workers found that they were exposed to 127 different pesticides, three of which are considered extremely toxic by the World Health Organization. In addition, 20 percent of these pesticides are either banned or unreg-

⁷ Study by ILRF, Norma Mena (IEDECA), and Silvia Proaño (INNFA), 2005.

⁸ US/LEAP, February 2007.

istered for use in the U.S. because they are extremely toxic and carcinogenic. To make matters worse, greenhouses are not always completely cleared of people before fumigation begins. Doctors in the floricultural regions of Colombia report up to five cases of acute poisoning each day. A survey by the International Labor Organization (ILO) found that only 22 percent of Ecuadorian flower companies trained their workers in the proper use of chemicals. Two-thirds of Colombian and Ecuadorian flower workers suffer from work-related health problems, according to the Victoria International Development Education Association (VIDEA).

According to CACTUS, when entirely unprotected workers are exposed to the toxic pesticides regularly used on flower plantations, reactions including headaches, vomiting, and fainting can be felt immediately. Other short term effects include rashes, impaired vision, and skin discoloration. Repeated exposure to these chemicals can lead to asthma and neurological problems.

Women workers suffer particular health problems as a result of pesticide exposure, including miscarriages and stillbirths. Furthermore, a 1990 study by the Colombian National Institute of Health found that 17 percent of children born to former flower workers had congenital malformations. Almost 80 percent of Ecuadorian flower workers and 70 percent of Colombian flower workers are women.

Other health problems often result from the intensive, repetitive work, and long working hours. In 2006, a Colombian woman told ILRF about her problems with carpal tunnel syndrome: "I had been working at this plantation for 4 years when my hands started to fall asleep. I would work from 6 am until 5 or 6 pm, using clippers all day long. The pain went all the way up to my shoulder. I have had surgery on my right hand three times. I feel like I am going to lose this finger. It is really hard to bend it or move it. I get to work at 6 am, and by 8:30 am my hands hurt so much I can't stand it. They didn't give me enough time to recover from the surgery before sending me back to work. I haven't recovered, and every day my hand hurts more."

Voluntary CSR Initiatives in the Cut Flower Sector

All of the abuses described above exist despite the industry's participation in two voluntary CSR initiatives, Florverde and Social Accountability International.

In 1996, the Colombian cut flower industry, in the form of the Association of Colombian Flower Exporters (ASOCOLFLORES), developed its own voluntary response to forestall consumer pressure to end labor rights abuses. This program, Florverde, was essentially a better business practices association that evolved into a certification system. The Florverde program is "based on the principle of self-management . . . aiming at gradual but continuous progress".⁹ It requires signed work contracts with employees, trainings on first aid and pesticide use, adequate and clean toilets and other facilities. It also monitors issues regarding salary, bonuses, overtime, disciplinary measures, and health care. Florverde has remained resistant, however, to adopting the right to free association and collective bargaining as part of its certification standards, even though this is one of the ILO's fundamental labor conventions.

As for Dole Fresh Flowers, which has a lion's share of distribution of South American cut flowers for the U.S. market, its parent company Dole also responds to all criticism of its abuse of workers by pointing to its membership in a weak and unenforceable voluntary CSR initiative, the Social Accountability International program. However, its membership in SAI has not prevented it from violating key labor rights, including freedom of association, and even ignoring SAI's direct encouragement to comply with these standards. The NGO US/LEAP worked with SAI in 2005 to pressure Dole to recognize and negotiate a collective bargaining agreement with the legally established union Sintrasplendor at its plantations Splendor Flowers in Colombia. On September 15, 2005, Dole agreed to sit down and negotiate with Sintrasplendor in good faith. SAI assisted in negotiating the agreement with Dole and promised to help ensure that the agreement was fully and promptly implemented. US/LEAP, Dole, SAI, and a Sintrasplendor member met on September 20, 2005 to begin discussing next steps toward carrying out the agreement. By October 2005 it was clear that Dole was not honoring these new agreements with SAI and with US/LEAP. A year later, Dole still had not sat down at the negotiating table with Sintrasplendor, and in October 2006, Dole announced it would close Splendor Flowers in 2007. As a voluntary initiative, SAI did not have the power to help Sintrasplendor workers get any response from Dole except to cut and run.

⁹ Asocolflores 1999, cited in "On Export Rivalry and the Greening of Agriculture—The Role of Eco-Labels."

New Strategies to End Sweatshops

Surely we can do better than to leave these horrific abuses to the market to address through such weak and voluntary efforts. None of the systems noted above contain any truly meaningful sanction for bad behavior. The need for voluntary CSR initiatives to continue a business relationship with participating corporations has compromised their real ability to expose problems. Consumers need and deserve an independent watchdog rather than the current “fox guarding the henhouse” programs.

Nor can we simply rely on the enforcement of domestic laws in most developing countries. Just as employers’ interests are the determining factor in the voluntary CSR systems, so too do employers exercise much greater influence than workers in the political landscape of countries such as Colombia and Ecuador. As we have seen first-hand in our current case against Wal-Mart, retailers who have played such a strong role in the development of voluntary systems are usually loath to see such systems assist in holding the companies themselves legally liable for non-compliance with local labor laws. This alone is evidence enough that local law enforcement is not the answer.

Corporate behavior generally is hardly on the upswing, despite many years of exposes by human rights advocates; ILRF’s recent investigative work has uncovered cases of brutal exploitation of child workers, continued instances of forced labor, and torture and murder of trade unionists. Multinational corporations continue to be heavily implicated in such practices, despite the supposed world consensus that these acts constitute fundamental human rights violations. Apparently corporations can only be convinced to respond to such abuses when there is a real threat of sanctions.

That is why we are so grateful for the initiative of Senator Byron Dorgan and Senator Lindsey Graham to promote a new legislative remedy for worker rights abuses in the global supply chains that bring consumer goods to the United States. It is truly a pleasure to find ourselves in a political moment where the debate is no longer, is binding legislation necessary? but rather, what shape should such legislation take. There are sufficient precedents in U.S. legislation already to begin to move toward the long-term goal of ending the trade in sweatshop-made goods. We will summarize some important precedents below, and look forward to a lively, substantive exchange on the contribution the S. 367 Bill to amend the Tariff Act of 1930 to prohibit the import, export, and sale of goods made with sweatshop labor will add to the efforts that have gone before.

There is ample precedent in U.S. law to support the new steps now proposed in S. 367. The U.S. Government has long defined the repression of the right to organize as an unfair trade practice, through Section 301 of the Trade Act of 1974. However, this section of the Trade Act has never been effectively enforced. Current ILRF work includes representation of workers who have been severely harassed, detained, ‘disappeared’ and tortured by paramilitaries in Central America for attempting to organize unions. It is high time the sweatshop movement take on such cases and argue publicly that U.S. tradeofficials treat the torture and murder of workers as at least as serious a problem as dumping. We believe the public arguments can be effectively made, and that companies benefiting from extreme repression of trade unionists can and should be penalized both under current trade rules and through new legislation.

The Tariff Act of 1930 itself has long contained a prohibition against the importation of prison-made goods; in the late 1990s, that language was amended by then-Representative (now Senator) Bernie Sanders and Senator Tom Harkin to include prohibitions against the importation of goods made by forced child labor. Again, the language of this act provides for a potential mechanism to sanction offending corporations directly, by designating their imports as “hot” goods; however, to date enforcement of this act has been weak. Sweatshop advocates working specifically on cases of child labor or forced labor should, however, continue to push the process created under this act as it raises at least the possibility of real sanctions against offenders.

In recent years, additional legislation with a broader scope than these acts has been proposed, though never passed. As early as 1991, the U.S. Congress attempted to legislate a code of conduct for U.S. corporations doing business in China. The code would have required an annual review of the practices of all corporations in China, and would have provided for some sanction to those companies that failed to implement the code. The initiative has been revived a number of times over the past decade, and at different moments was passed by both the House of Representatives and the U.S. Senate. During the debate over whether to grant Permanent Normal Trade Relations status for China in 1999, a new version was circulated, allowing for public review of corporate behavior, and sanctioning non-compliant corporations by prohib-

iting them from access to any commercial support from the U.S. Government. The legislation was not adopted. A parallel initiative was taken by the European Parliament, which passed a resolution calling for EU-based corporations to abide by a set of human rights principles in their operations worldwide. However, while the European Parliament may be empowered to review corporate behavior, it is unable to impose sanctions on violators.

Finally, we note again the tremendous example set by the U.S. Foreign Corrupt Practices Act (FCPA) and request that Congress look to the moral example set by Senator Frank Church and that bill's supporters in the 1970s as a model for the way forward today. The FCPA empowers Federal authorities to launch investigations and to sanction offending corporations. This power exists in U.S. law today and therefore provides an important, and workable, precedent for the proposed S. 367 bill. The FCPA demonstrates that laws governing corporate accountability globally can be enforced. Countries around the world have seen the FCPA as a model and it has been a shining example of moral leadership by the United States on the critical global issue of corruption.

We need more such examples of moral leadership by the United States today. We extend once again our gratitude to Senators Dorgan and Graham, and the co-sponsors of S. 367, for blazing a path forward for workers' rights around the world.

