

US Department of Labor Accepts Petition to Investigate Peru's Alleged Noncompliance with US-Peru FTA Labor Commitments

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On September 25, 2015, the US Department of Labor (DOL) announced its acceptance of a petition filed by the International Labor Rights Forum and seven Peruvian labor organizations concerning the alleged failure of the Government of Peru to comply with its obligations under the labor chapter of the US-Peru Trade Promotion Agreement (PTPA). DOL has 180 days to investigate the allegations contained in the petition before it must issue a recommendation to the US Secretary of Labor as to whether the United States should initiate formal consultations with Peru under the labor chapter of the PTPA.

Petitioners allege that, by permitting the “unlimited consecutive renewal” of short-term labor contracts in the garment and textile sectors under Peru’s *Non-Traditional Export Promotion Law* (Law No. 22342) and its *Law of Productivity and Labor Competitiveness* (Law No. 728), the Government of Peru has violated Article 17.2(a) and (b) of the PTPA. Article 17.2 requires each Party to adopt and maintain, in its statutes, regulations, and practices thereunder: (a) the right to freedom of association; and (b) the effective recognition of the right to collective bargaining, as set forth in the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up* (1998). Petitioners allege that the Government of Peru is not in compliance with these provisions because, *inter alia*: (i) the aforementioned Peruvian laws allegedly permit employers in Peru’s garment and textile sectors to hire workers for an unlimited duration on a series of renewable, temporary contracts; and (ii) such employers have allegedly taken advantage of these laws by “systematically declining to renew the contracts of thousands of workers who joined unions in an effort to improve wages and working conditions.”

In addition, petitioners allege that the Government of Peru has failed to effectively enforce its existing labor laws, and is therefore in violation of Article 17.3 of the PTPA. In particular, petitioners allege that employers in Peru’s garment and textile sectors “violate Peruvian labor law with virtual impunity, dismissing workers for union activity, employing workers on fraudulent contracts, and failing to pay legally mandated bonuses.” Petitioners further allege that employers in Peru’s export-intensive agricultural sector are engaged in similar practices, and claim that Peru’s regional labor ministries have failed to enforce the applicable labor laws governing this sector.

DOL’s decision to accept the petition for review does not indicate any determination as to the validity of the allegations contained therein. Nonetheless, should DOL decide that the Peruvian Government’s actions were inconsistent with its labor commitments under the PTPA, Article 17.7 of the same states that DOL may request cooperative labor consultations with Peru in order to reach a mutually satisfactory resolution of the

matter. If DOL were to make such a request, it would be the first time that the United States has done so under the PTPA. Only one other petition, filed in 2010 by a Peruvian labor union, has been submitted to DOL under the labor chapter of the PTPA. DOL accepted that petition for review, but opted not to recommend formal consultations under Article 17.7 because actions were taken by the Government of Peru to modify the measures at issue.

Click [here](#) for DOL's *Federal Register* notice concerning the petition.

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