

## **LABOR PROTECTIONS AND THE U.S.-PANAMA TRADE PROMOTION AGREEMENT**

The Obama Administration's trade agenda is a catalyst for economic growth that will support more and better jobs for American workers. As the President has stated, our trade agreements must be consistent with our core values and interests, including effectively protecting workers' rights.

The U.S.-Panama Trade Promotion Agreement (the "Agreement") includes strong protections for workers' rights, based on the May 10, 2007 bipartisan Congressional-Executive agreement to incorporate high labor standards into America's trade agreements. In addition, President Obama made clear that several important labor concerns had to be addressed before sending the Agreement to Congress. Although Panama has labor laws that protect fundamental labor rights, the Administration had concerns with respect to provisions which limited or otherwise provided exceptions to Panama's labor code to workers in certain sectors or regions.

Beginning in 2009, Panama took a series of legislative and administrative actions to further strengthen its labor laws and their enforcement in the areas of subcontracting, temporary workers, employer interference with unions, bargaining with non-union workers, strikes in essential services, and labor rights in the maritime sector.

- Panama implemented Executive Decrees to improve inspections and labor law enforcement concerning:
  - Subcontracting: Panama clarified the criteria for legitimate subcontracting and ensured that labor inspections take place so that contracting arrangements do not undermine worker rights.
  - Temporary Work Contracts: Panama established an enforcement plan to protect the rights of temporary workers.
  - Employer Interference in Unions: Panama established a plan to increase monitoring and enforcement of labor laws that protect against employer interference with union rights.
  - Direct Negotiations: Panama clarified that an employer may not enter into collective negotiations with non-unionized workers when a union exists and that a pre-existing agreement with non-unionized workers cannot be used to refuse to negotiate with unionized workers.
  - Sector Specific Labor Rights: Panama clarified strike restrictions for workers involved in the cargo transportation sector.
  
- Panama's Ministry of Labor also issued a Ministerial Resolution to address concerns in the Maritime Sector by clarifying and reaffirming the application of the Labor Code for maritime workers, including provisions on union organizing, collective bargaining, and strikes. The resolution also increases inspections and labor law enforcement activities in the maritime sector.

More recently, the U.S. and Panamanian governments agreed to a series of actions to address the remaining concerns.

- Panama reformed its labor laws concerning:
  - Export Processing Zones: Panama protected the right to strike, eliminated restrictions on collective bargaining, and eliminated an exemption that allowed companies to use temporary workers for three years.
  - Barú Special Economic Zone: Panama eliminated restrictions on collective bargaining for companies less than six years old, and eliminated an exemption that allowed companies to use temporary workers for three years.
  - Companies Less than Two-Years Old: Panama eliminated restrictions on collective bargaining.

The Administration will continue to work with Panama to ensure that all of these important initiatives are effectively implemented. The labor obligations under the Agreement will be subject to the same level of dispute settlement accountability as commercial obligations; available remedies for violations of labor obligations will include trade sanctions and fines.

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