



Testimony of

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Looking Beyond 2025 for Trade with Sub-Saharan Africa, Haiti, and Others

Introductory Remarks

Chairman Smith, Ranking Member Blumenauer and members of the Committee on Ways and Means Subcommittee on Trade, thank you for the opportunity to present the Solidarity Center's perspective on *Looking Beyond 2025 for Trade with Sub-Saharan Africa, Haiti and Others*. We appreciate the continued leadership of members of this committee in ensuring the rights of workers are protected under trade regimes and your consistent work to shine a spotlight on the plight of the most vulnerable and marginalized workers.

The Solidarity Center is the largest U.S.-based international worker rights organization. Our mission is to help workers attain safe and healthy workplaces, family-supporting wages, dignity on the job, and greater equity at work and in their community. Allied with the AFL-CIO, the Solidarity Center assists workers across the globe as, together, they fight discrimination, exploitation, and the systems that entrench poverty—to achieve democracy in their countries, and shared prosperity in the global economy. The Solidarity Center acts on the fundamental principle that working people, by exercising their right to freedom of association to form or join trade unions and democratic worker rights organizations, and bargaining collectively, can improve their workplaces, communities, and societies. We call on governments to uphold laws, protect human rights, and be a force for democracy, social justice, and inclusive economic development.

The need to promote and safeguard labor rights in Africa has never been greater. Africa has the fastest growing, youngest population of any continent, and will be home to a quarter of the world's workforce by 2050.¹ Annually, between 8 million and 11 million young people enter the African labor market,² yet there is no guarantee that they will find work, let alone decent jobs. Trends such as urbanization, digitalization, population growth, and the aftermath of the COVID-19 pandemic, aggravate the employment crisis on the continent and increase existing inequality.

The 2022 U.S. Strategy Towards Sub-Saharan Africa (Africa Strategy) affirms the strategic importance of Africa. Under this strategy, the United States acknowledges that Africa will factor prominently in efforts to tackle the climate crisis, address global food insecurity, strengthen an open and stable international system, and shape the rules of the world on vital issues like trade and cyber and emerging technologies, among others.³ The 2023 Memorandum on Advancing Worker Empowerment, Rights, and High Labor Standards Globally (Global Labor Strategy) recognizes that labor rights are key to national and economic security. The Global Labor Strategy promotes the use of existing trade authorities to advance internationally recognized labor rights and to improve labor-related compliance with trade laws. As the United States looks beyond 2025, the Africa and the Global Labor strategies cover the key ingredients for the future of U.S. trade with sub-Saharan Africa, Haiti, and others, with labor rights encapsulated therein.

Advancing Labor Rights Through Trade

Advancing a worker-centered trade policy means respecting the rights of workers and eradicating forced labor in global supply chains. To achieve the promise of a worker-centered approach, the workers who drive trade must be centered in discussions about trade policy. Improving worker representation in trade policy in U.S. and multilateral institutions will result in a more inclusive trade policy that advances economic security and protects labor rights.

Labor rights-conscious trade rules can help halt a race to the bottom, where rights, wages, and safe working conditions are sacrificed to lower production costs and expand trade. When the rules respect labor rights, global and regional value chains can both produce and rely on decent jobs, and corporations and policymakers can be held to account when they break or do not uphold the rules.

All workers benefit when both sides of a trade relationship uphold strong labor standards and protections. The International Labor Organization (ILO) estimates that trade agreements with labor provisions result in labor force participation rates 1.6 points higher than trade agreements without labor provisions.⁴ Pursuing a holistic approach to trade policy is critical as we near the

¹ <https://www.economist.com/special-report/2020/03/26/africas-population-will-double-by-2050>

² <https://openknowledge.worldbank.org/server/api/core/bitstreams/f5b186fb-4a64-4b9a-a658-287c6ad73d6f/content>

³ <https://agoa.info/images/documents/16036/us-strategy-toward-sub-saharan-africa-final.pdf>

⁴ https://webapps.ilo.org/wcmsp5/groups/public/---dgreports/inst/documents/publication/wcms_564702.pdf

expiration of the Sustainable Development Goals (SDGs) in 2030. Achieving Goal 8 (*Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all*) will require mainstreaming labor rights in trade regimes, including those between the United States and sub-Saharan Africa, Haiti, and others. It will also require mainstreaming labor rights at home. In the United States, programs like Trade Adjustment Assistance (TAA) are part of a holistic worker-centered trade policy that ensures when workers in the United States are hurt by trade, they have the support they need to get back on their feet. TAA provides vital assistance to workers who have lost their jobs due to import competition, including retraining programs.

Labor Rights in Sub-Saharan Africa

The labor market in Africa is characterized by a wide income disparity between a small number of formal public and private employees, and the vast informal economy. An ILO report estimates that in 2022, the majority of the employed population in sub-Saharan Africa (87.3 percent) worked in the informal economy, and more than half of the total workers (251 million people) lived below the moderate poverty line of \$3.10 a day.⁵ Jobs in the informal economy have the potential to provide productive economic activity for a growing demographic, but the sector remains highly unregulated, with insufficient legal protections for informal economy workers and notable violations of their rights. In many cases, these jobs are characterized by wages below the minimum living wage (7 of the 20 countries in the world with the lowest minimum wage are African),⁶ long hours, and lack of access to social protection.

Gaps in legal coverage of informal economy workers leave them vulnerable to worker rights violations, including wage theft, unlawful termination, denial of leave and/or health coverage, and exposure to sexual harassment and other forms of gender-based violence at the workplace. Additionally, workers in the informal economy have fewer prospects for personal development and social integration; face gender inequality in opportunity and treatment; and lack the freedom to express their concerns, organize collectively, and participate in decisions that impact their lives.

The Solidarity Center has found that actions and inactions by employers in both the formal and informal sectors and government officials create an environment that allows and even encourages the exploitation of workers, with young workers among the most vulnerable. This is exacerbated by trade and investment agreements with weak provisions on performance requirements that do not oblige investors and businesses to go beyond minimum levels of treatment for workers. For example, according to the 2023 International Trade Union Confederation (ITUC) Global Rights Index, 84 percent of countries in Africa denied workers

⁵ https://webapps.ilo.org/wcmsp5/groups/public/---dgreports/---inst/documents/publication/wcms_865332.pdf

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<https://africa.businessinsider.com/local/markets/5-african-countries-with-the-lowest-minimum-wage-at-the-start-of-2024/7e49zsl>

access to justice; 40 percent of countries in Africa arrested and detained workers; 93 percent of countries in Africa violated the right to collective bargaining; while workers experienced violence in 21 percent of countries in Africa.⁷ In Eswatini, government repression against the opposition, including trade unions, culminated with the killing of Thulani Maseko, a prominent human rights lawyer and trade unionist, while in Zimbabwe, the authorities relentlessly persecute human rights defenders, including trade union leaders.⁸ As noted in the U.S. State Department's 2023 Human Rights Report, workers in Cameroon, Guinea-Bissau, and Mauritania struggle to exercise their collective rights in the face of significant repression.⁹

As the United States competes with many other countries to secure mineral supply chains, we must consider the impacts on workers in Africa and their communities. The African continent, which holds some of the world's largest deposits of minerals like cobalt¹⁰ and platinum group metals,¹¹ has long been the site of resource extraction. The need for "critical minerals," those required for the production of batteries, solar panels, and other energy technologies, is expected to increase by 500 percent by 2050.¹² The mining sector in Africa—like in many other regions—is marked by every type of labor rights violation imaginable, including forced labor, child labor, gender-based violence and harassment, safety and health violations, and wage theft.¹³ As in other sectors, the majority of workers are employed in the informal economy, and few workers have the ability to exercise their rights to freedom of association and collective bargaining. As the mining sector grows to meet global demand, we can expect labor rights violations to balloon as well, unless strict labor standards are built into trade agreements and then enforced.

Haiti

Haiti is engulfed in a political, security, and humanitarian crisis. According to a United Nations report, the 2023 murder rate in Haiti doubled from the previous year to 4,789 deaths, and kidnappings increased by 83 percent.¹⁴ In January of this year, 1,106 people were killed, injured,

⁷ <https://www.globalrightsindex.org/en/2023/regions/africa>

⁸ www.scholarsatrisk.org/report/2021-05-17-university-of-eswatini/;

<https://www.frontlinedefenders.org/en/case/arrest-sixteen-human-rights-defenders-and-members-amalgamated-rural-teachers-union-zimbabwe>

⁹ <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/cameroon/>;

<https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/guinea-bissau/>;

<https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/mauritania/>

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<https://abcnews.go.com/International/cobalt-mining-transforms-city-democratic-republic-congo-satellite/story?id=96795773>

¹¹ <https://www.bloomberg.com/news/articles/2022-04-12/s-africa-sets-900-million-annual-mineral-exploration-target>

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<https://www.worldbank.org/en/news/press-release/2020/05/11/mineral-production-to-soar-as-demand-for-clean-energy-increases>

¹³ <https://www.hrw.org/news/2023/06/09/germanys-rush-critical-minerals-human-rights-challenge>

¹⁴ <https://www.reuters.com/world/americas/haitis-gang-wars-death-toll-doubles-nearly-5000-year-un-2024-01-23/>

or kidnapped, three times the number in January 2023.¹⁵ And by March of this year, gang violence had reached an all-time high as gangsters looted homes, government agencies, international organizations' offices, consulates, banks, businesses, and other institutions; damaged major infrastructure, including the main airport and seaport; and killed and injured citizens. Gang violence not only intensified in previously affected areas, but it also spread to areas that previously had not been under gang control.

The Association of Industries of Haiti (ADIH) estimates that approximately 26,000 jobs have been lost in the garment sector, the main source of private-sector employment in the country, because of the multifaceted effects of Haiti's compounding crises and mass layoffs in the garment industry in the region, including 50,000 jobs in Central America.¹⁶ Border closures hinder the procurement of the inputs needed for production, contributing to further factory suspensions or closures. And protests since the beginning of 2024 have led to major roadblocks that disrupted workers' ability to reach their worksites, interrupting business and leading to further economic decline and precarity for workers. As a response to the decreased number of workers, factories temporarily halted their operations or permanently closed.

Haiti's fragile economic climate has left garment workers unemployed and living in extreme precarity. Existing institutions, including the Ministry of Social Affairs and Labor (MAST), have limited capacity to prevent and manage labor rights violations in the garment sector and to hold employers accountable for noncompliance with labor law, including for non-payment of severance or social security contributions, and illegal dismissals of workers during suspensions or closures.

The minimum wage in the garment sector is 685 gourdes (about \$5), which is insufficient for workers and their families to cover their basic needs. The government had repeatedly delayed the nomination of the representatives to the Superior Council on Wages (CSS), the tripartite body responsible for introducing a new minimum wage in the sector, and the Social Security Administration Council (CAOSS), the entity responsible for social security institutions. Some unions have voiced criticism that CSS and CAOSS lack genuine worker representation because labor delegates are appointed by the government.

In January 2024, the government finally announced the nomination of CSS and CAOSS members; however, it is unclear when negotiations for the minimum wage will begin and materialize in the current context as Haiti prepares its transition of presidential power and awaits a response regarding the multinational Kenyan-led security force intended to restore the rule of

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<https://www.thenewhumanitarian.org/news/2024/02/14/escalating-gang-violence-haiti-sees-victims-treble-january#:~:text=The%20number%20of%20victims%20of,office%20said%20on%209%20February.>

¹⁶

<https://observatoriocentroamericanodeviolencialaboral.org/wp-content/uploads/2024/02/Alrededor-de-18-mil-personas-se-quedaron-sin-empleo-al-finalizar-el-2023.pdf>; <https://app.box.com/s/swipkmhm4dlgytpdspwjf5qzxbnzbqno> (p. 7)

law. Even after Haiti stabilizes and the threat of violence abates, there is a high risk of labor rights violations and ongoing noncompliance with national labor laws and internationally recognized worker rights, a criteria of eligibility for beneficiary countries under the Caribbean Basin Trade Partnership Act (CBTPA). According to the U.S. State Department's 2023 Human Rights Report on Haiti, MAST did not effectively enforce wage and hour requirements, standards for occupational safety and health were rarely enforced, and labor inspectors received little support from law enforcement authorities.¹⁷

Bright Spots and Best Practices for Strengthening Labor Rights in Africa

Agreements to Eliminate Gender-Based Violence and Harassment in Lesotho

Despite the poor track record of worker rights protection across the African continent, we have witnessed some progress. An excellent example is in Lesotho, where binding agreements signed in 2019 by three leading apparel brands, a major supplier of denim, and a coalition of labor unions and women's rights organizations¹⁸ are addressing and preventing gender-based violence and harassment (GBVH) in garment factories in the country. The Lesotho Agreements represent the first instance in which brands and their suppliers have entered into enforceable agreements with worker representatives to stop GBVH and protect workers.

To address widespread GBVH identified through an investigation conducted by the Worker Rights Consortium (WRC), the agreements mandated education and awareness trainings for all employees and managers, and created an independent reporting and monitoring system with remedies, including termination, for abusive behavior. Apparel brands are obligated to use their economic power to ensure compliance. The Solidarity Center is proud to have helped negotiate the agreements and to implement ongoing training for thousands of workers and managers.

Codification of Key ILO Conventions

There have been commendable improvements by African countries to safeguard the protection of labor rights through codification of key ILO Conventions. For example, in the East African Community (EAC), Kenya, Rwanda, and Tanzania have undertaken steps to ratify key ILO Conventions including C100, the Equal Remuneration Convention, and C111, the Discrimination (Employment and Occupation) Convention, among others. For Kenya, key ILO conventions have been codified into the Kenyan constitution's Bill of Rights and laws, such as the Employment and Labor Relations Act of 2007 and the Occupational Safety and Health Acts of 2007. Kenya and Tanzania have committed to eliminating the worst forms of child labor and continue working with the United States on child labor issues. In West Africa, Ghana has ratified eight of ten ILO core labor standards,¹⁹ while Nigeria has ratified all ten core conventions.²⁰

¹⁷ <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/haiti/>

¹⁸ Ten thousand (10,000) garment workers were producing denim clothing in five factories owned by Nien Hsing Textile Co., Ltd., (Nien Hsing) supplying international brands Levi Strauss & Co., Kontoor Brands (Lee and Wrangler Jeans), and The Children's Place.

¹⁹ https://normlex.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103231

²⁰ https://normlex.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103259

Incorporation of Labor Rights in Regional Integration Treaties and the African Continental Free Trade Area (AfCFTA) Investment Protocol

In Africa, labor rights have been incorporated in the treaties establishing the Common Market for Eastern and Southern Africa (COMESA),²¹ East African Community (EAC),²² Economic Community of West African States (ECOWAS),²³ and Southern African Development Community (SADC).²⁴ And while the main AfCFTA Agreement is void of labor rights, the AfCFTA Investment Protocol provides a pragmatic example of progressive labor provisions in a trade and investment agreement. Although this is a partial approach (as the provisions only apply to investors and investments), it showcases a positive step that labor unions can leverage to advocate for a comprehensive review of the AfCFTA to provide a comprehensive labor protocol or incorporate labor provisions in existing protocols.

National Action Plans (NAPs) on Business and Human Rights

As a mechanism to implement the United Nations Guiding Principles on Business and Human Rights, several African countries have adopted or have committed to developing national actions plans. For example, Kenya and Uganda launched their individual NAPs in 2019 and 2021, respectively, while Liberia, Mauritius, Morocco, Mozambique, and Zambia are developing their respective NAPs.²⁵ There is also increasing civil society advocacy efforts in Ghana, Nigeria, South Africa, and Tanzania for the countries to develop their NAPs.²⁶ The NAP prioritizes areas that advance labor rights, e.g., environment, social service delivery by private actors, consumer protection, access to remedy, and women and vulnerable and marginalized groups.

Strategic Litigation to Advance Fundamental Labor Rights

Strategic litigation is a critical approach to defending worker rights in the informal economy. Rather than a single legal action, strategic litigation is a process that encompasses a series of phased actions, research,²⁷ media engagement, case development, hearings, and ruling to post judgment implementation and enforcement. Importantly, the mobilization of workers is a critical element in the process of strategic litigation, resulting in building workers' optimism, self-confidence, and capacity on legal issues.

²¹ Under Article 4 (6) (Special Undertakings); Article 15 (Technical Committees); and Article 143 (Co-operation in Social and Cultural Affairs).

²² Article 7 (Operational Principles); Article 80 (Strategy and Priority Areas); and Article 104 (Scope of Cooperation).

²³ Article 3 (Aims and Objectives); and Article 61 (Social Affairs).

²⁴ Article 5 (Objectives).

²⁵ <https://www.ohchr.org/en/special-procedures/wg-business/national-action-plans-business-and-humanrights>

²⁶ Ibid

²⁷ ILAW Network, The Informal Economy and the Law in Uganda, <https://www.ilawnetwork.com/wp-content/uploads/2022/08/The-Informal-Economy-and-the-Law-in-Uganda-Updated-12082022.pdf>

The International Lawyers Assisting Workers (ILAW) Network, a project of the Solidarity Center, has supported strategic litigation in Uganda, where workers in the informal economy—87 percent of the workforce—are excluded from legal protection. In collaboration with trade unions and WIEGO, Voices for Labour, FES, Cities Alliance, StreetNet International, Platform for Vendors in Uganda (PLAVU), Uganda Market and Allied Employees Union, and Uganda Artisans and General Workers Union, two constitutional petitions have been filed to secure livelihoods and protection under labor law by challenging the constitutionality of the exclusion of workers in the informal economy, particularly street vendors, from legal protections enjoyed by employees under the Labour Unions Act, the Employment Act, the Labour Disputes (Arbitration and Settlement Act), and the Workers Compensation Act of 2000.²⁸ The submission followed the eviction and arrest of over 170 street vendors in Kitlyya, where they faced violence, harassment, arrest, detention, and limited access to justice. The evictions left street vendors with no viable alternatives and amounted to the unilateral criminalization of street vending by the licensing authority, which has been imbued with excessive discretion in exercising its licensing and oversight authority.

The litigation has spurred progress, including rigorous training for the Kampala Capital City Authority (KCCA) on using a human rights based approach to enforcement, the introduction of body cameras to monitor law enforcement’s actions, and the reconsideration of the Employment Amendment Bill of 2019. Additionally, the ILAW Network, together with the Institute for Human Rights and Development in Africa, the International Commission of Jurists Africa Regional Office, the Strategic Initiative for Women in the Horn of Africa, StreetNet International, WIEGO, and informal economy scholars, have filed an amicus brief to support the case by highlighting comparative jurisprudence and international law on the inclusion and protection of workers in the informal economy. These cases are still pending before the Ugandan Constitutional Court, with hearing dates to be set later this year.

Looking Beyond 2025: Recommendations on a Way Forward

- Trade unions must be fully included in all phases of negotiation throughout the design and implementation of all trade policies and initiatives, including national implementation and utilization strategies.
- The U.S. government must prioritize worker-centered trade policies, leveraging trade agreements and trade preference programs to achieve enforcement of labor laws and to compel the establishment of binding mechanisms that meaningfully address rights violations. Voluntary measures that merely encourage—but do not mandate—governments and companies to uphold labor rights in supply chains have proven to be inadequate. To

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<https://www.ilawnetwork.com/ilaw-files-applications-to-appear-as-amicus-curiae-before-ugandan-constitutional-court/>

date, the United States-Mexico-Canada Agreement has the strongest and most far-reaching labor provisions of any trade agreement by making labor obligations enforceable through the rapid response mechanism.²⁹

- U.S development assistance policy should support the role of unions in advocating for labor rights in the context of trade, including with USAID missions
- Support implementation of worker-centered trade policies and initiatives in sub-Saharan Africa, Haiti, and other countries. Commendable initiatives like the AfCFTA Investment Protocol and NAPs, both of which have fronted labor rights in their legal texts, ensure the realization of the labor rights protections set therein, and the U.S. government should support efforts at implementation. For sub-Saharan Africa, the MoU on Cooperation for Trade and Investment between the AfCFTA and the United States signed in December 2022³⁰ can serve as a starting point, as it provides mechanisms to cooperate in the promotion of labor rights in supply chains of products and services traded under AfCFTA.
- The future trade relationship between the United States and sub-Saharan Africa, as well as with Haiti and others, should include mechanisms to strengthen social dialogue structures and labor inspection in the region and at the national level. In this regard, there is a need to enhance the capacity of labor administration institutions in the region by increasing both financial and human resources. Furthermore, commitments to upholding workers' rights should be enforceable, and not static or aimed solely at creating a minimal baseline of acceptable conditions.
- The future of U.S. Trade with Haiti should consider measures to promote long-term stability in Haiti as a means to ensure economic recovery, which is essential to promote and safeguard labor rights. Capacity building to strengthen supply chains in Haiti's apparel and textile sector should be considered given the strategic importance of the sector to the country's economy.

Closing Remarks

Thank you for the opportunity to share Solidarity Center's perspective on *Looking Beyond 2025 for Trade with Sub-Saharan Africa, Haiti and Others*. The Solidarity Center remains committed to supporting efforts that center workers in trade policy and that leverage trade to advance labor rights. We urge the U.S. government to continue to use tools, including trade agreements and trade preference programs, to pressure governments and companies to uphold labor rights in supply chains.

²⁹ <https://www.dol.gov/sites/dolgov/files/ILAB/Worker-Voice-Report-Final-3-6-24.pdf>

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<https://ustr.gov/sites/default/files/202212/United%20States%20AfCFTA%20Secretariat%20MOU%20December%2014%202022.pdf>