

FATHER CHRISTOPHER HARTLEY
c/o Fundación Misión de la Misericordia
Calle Pedro de Valdivia n. 8, 7o D
28006 Madrid, ESPANA
hartley.christopher@gmail.com

December 22, 2011

VIA EMAIL: Schoepfle.Gregory@dol.gov

Gregory Schoepfle
Director
Office of Trade and Labor Affairs (OTLA)
U.S. Department of Labor
200 Constitution Ave., NW
Washington, DC 20210

Re: **FORMAL PUBLIC SUBMISSION**

Dear Director Schoepfle:

At the suggestion of Deputy Undersecretary of Labor Sandra Polaski in her June 23, 2011, in response to correspondence addressed to Secretary Hilda Solis on May 27, 2011, this letter serves as a formal submission to the U.S. Department of Labor's Office of Trade and Labor Affairs (OTLA) regarding the failure of the Government of the Dominican Republic to enforce labor laws, as required under Chapter 16 of the U.S.-Dominican Republic-Central America Free Trade Agreement (CAFTA-DR), as these relate to the Dominican sugar industry.

We formally request that the Department of Labor's Office of Trade and Labor Affairs launch an immediate investigation into the egregious violations cited below by the US Department of State, by the US DOL's Office to combat Child Labor, Forced Labor, and Human Trafficking (OCFT), and by a qualified independent observer on the ground in the Dominican Republic, as these pertain to the obligations and commitments of the US and the Dominican Republic as Parties to the CAFTA-DR and as members of the ILO. Documentation of the evidence collected by the independent observer is attached herewith. Additional supporting documentation concerning the findings contained in the US Department of State's Human Rights Report can be presented to you by the State Department itself.

The annual Human Rights Reports issued by the US Department of State, in conjunction with the annual TVPRA and Executive Order 13126 lists generated by the Department of Labor have been instruments for greater change in the Dominican Republic—in spite of the sugar industry's relentless efforts to thwart the process.

While these reports provide a valuable tool, they have failed to eradicate the abuses they expose. In addition to breaching international labor law, Dominican sugar producers are

also in direct violation of articles contained in the U.S.-Dominican Republic-Central America Free Trade Agreement (CAFTA-DR).

Article 16.2 of CAFTA provides specifically for the enforcement of labor laws, while Article 16.8 supplies the definitions to be applied, as follows:

For purposes of this Chapter: labor laws means a Party's statutes or regulations, or provisions thereof, that are directly related to the following internationally recognized labor rights:

- a) the right of association;***
- b) the right to organize and bargain collectively;***
- c) a prohibition in the use of any form of forced or compulsory labor;***
- d) a minimum age for the employment of children and the prohibition and elimination of the worst forms of child labor; and***
- e) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.***

We would like to focus the attention of the Office of Trade and Labor Affairs on the laundry list of abuses which are still in practice on the sugarcane plantations owned and/or operated by the **[names redacted]** families of the Dominican Republic:

- Human trafficking and/or forced labor
- Child labor
- Deplorable and unsanitary living conditions
- Denial of medical, pension and other benefits due
- Refusal to inform and publish the current rate and terms of pay
- Hazardous working conditions
- Refusal to issue written contracts
- Manipulation in the weighing of cut sugarcane
- Retaliatory firing of workers for affiliation with or attempts to organize labor groups or unions, and/or for their participation in legal proceedings

Many of these abuses have been highlighted by the US Department of State in its 2010 Human Rights Report for the Dominican Republic, issued on 4/8/11, as per the following excerpts:

p. 35 "...there also continued to be some reports of **exploitive labor practices** that some observers maintained **could constitute forced labor** when considered together. These reports included deceptive recruiting practices, **nonpayment** or payment in vouchers which were difficult to convert into cash, and **restrictions** on some workers' ability to leave plantations--including **forcible capture and return of workers**, withholding of documents, and **threats** of deportation."

p.36 "...others continued to report that **children work in sugar plantations** alongside their parents."

p.38 "... workers in the sugarcane industry who lived in company owned bateyes had **inadequate access to schools, medical facilities, running water, and sewage systems**. Sugarcane workers often **did not receive medical services or pensions** due to the lack of documentation even though deductions were taken from their pay." "Cane cutters continued to suspect **fraud by weigh station operators** and noted that employers sometimes did not provide trucks or carts to transport the newly cut

cane at the end of the workday, causing workers to receive lower compensation because the cane dried out overnight and weighed less.”

As mentioned, supporting materials pertaining to the above findings contained in the 2010 US Department of State’s Human Rights Report can be furnished to you by the State Department itself.

Additional documentation and evidentiary materials are included herewith, as follows:

➤ ***Informe* dated 12/19/11:** This comprehensive overview of abuses by the **[names redacted]** was prepared by **[name redacted]**, who is “on the ground” in the Dominican Republic. The report references corroborating materials – Attachments (*Anexos*) 1 through 11, as follows:

- **Anexo 1-Listado de Solicitud de Pensiones**
- **Anexo 2-Solicitud de pensión [name redacted]**
- **Anexo 3-Solicitud de pensión [name redacted]**
- **Anexo 4-Solicitud de pensión [name redacted]**
- **Anexo 5-Acta de Defunción [name redacted]**
- **Anexo 6-Carta de desahucio de [name redacted]**
- **Anexo 7-Sentencias No. 249-2009 [name redacted]**
- **Anexo 8-Recibo pago Seguridad Social (SS)**
- **Anexo 9-Recibo sin pago Seguridad Social (SS)**
- **Anexo 10-Sentencia Laboral Apelacion [redacted]**
- **Anexo 11- [name redacted]**

Further material relating to the actions of the Dominican sugar industry with regard to membership in and audit by the Better Sugar Cane Initiative (BSI) is supplied herewith, as follows:

Please note: BSI is currently known as Bonsucro.

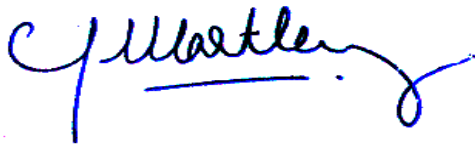
- **Letter of Formal Complaint dated April 8, 2010.** A formal complaint was registered with BSI against four Dominican member companies, resulting in the engagement by BSI of an independent facilitator; examination of issues by a BSI Complaints and Grievance Committee; and approval of plans to conduct an audit of the member firms named in the Formal Complaint.
- ***Better Sugar Cane Initiative: Audit Guidance for Production Standard (220710).*** Final draft of the Better Sugar Cane Initiative’s (BSI) audit guidance document. See pp 11-27, 4.2: Principle 2: “Respect Human Rights and Labour Standards.”
- ***Documento de observaciones al Audit Guidance for BSI Production Standard - Final Draft Version 0.4 (220710).*** Also prepared by **[name redacted]**, this document references the Dominican Constitution and applicable laws relating to BSI’s Principle 2: “Respect Human Rights and Labour Standards.” It was produced as a response to a final draft of the Better Sugar Cane Initiative’s (BSI) Audit Guidance for Production Standard (220710).
- ***Bonsucro CEO Letter dated May 16, 2011 (template), sent to Board Members and/or key Executives of Bonsucro member firms.*** This document includes an informative overview of the complaint process and ensuing events.

We request that the OTLA ensure the safety and security of sugarcane cutters (workers) and their families throughout investigatory and resolution processes. It is imperative that

workers' testimony and opinions be elicited, in accordance with OTLA and CAFTA-DR guidelines, as to: working and living conditions; wages and benefits; and labor rights. It is also requested that the duration of time worked on particular plantations or lived in particular *bateyes* be elicited so as to establish the incidence of non-migratory vs. migratory status (older "retired" workers should be interviewed, as well as current laborers, and their family members), since the sugar industry habitually uses "migratory status" as a means to deny workers the rights and benefits that are their due. Additionally, we request that workers be represented and participate in all Labor Cooperation and Capacity Building activities and that the proper means to assure that the "Cooperation and Capacity Building Priorities," as outlined in Annex 16.5, Item 3 (a) through (m), are established and monitored. Lastly, it is crucial that in any investigatory and resolution procedures be conducted during the harvest season, since this is the period during which the majority of workers are in the fields and when abuses are most prevalent.

We await your prompt response. Should any additional information be required, please do not hesitate to contact me.

Most sincerely yours,

A handwritten signature in blue ink, appearing to read "C. Hartley". The signature is fluid and cursive, with a long horizontal stroke at the end.

Father Christopher Hartley
hartley.christopher@gmail.com

cc: Secretary of Labor Hilda Solis, U.S. Department of Labor: talktosolis@dol.gov

Encls:

Informe, 12/19/11 and *Anexos* 1-11
Letter of Formal Complaint dated April 8, 2010
Better Sugar Cane Initiative: Audit Guidance for Production Standard (220710)
Documento de observaciones al Audit Guidance for BSI Production Standard - Final
Draft Version 0.4 (220710)
Bonsucro CEO Letter dated May 16, 2011 (template)