



GLOBAL UNIONS

ITUC, GUFs, TUAC

Washington Office

888 16th St. NW Ste. 400

Washington DC 20006

Tel: (202) 974-8120/21 Fax: (202) 974-8122



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Compliance Advisor/Ombudsman
International Finance Corporation
2121 Pennsylvania Avenue NW
Washington, DC 20433 USA
Fax: (+1) (202) 522-7400
e-mail: cao-compliance@ifc.org

To Whom It May Concern,

We are writing to file a complaint concerning sustained and recurrent violations of IFC Performance Standard 2 by Avianca in Colombia (IFC project #25899). This complaint is submitted by the International Trade Union Confederation / Global Unions Washington Office, prepared in cooperation with the International Transport Workers' Federation (ITF), the global union federation representing workers in the transportation sector. It also reflects consultation with two Colombian affiliates of ITF; the national airline workers union (Asociación Colombiana De Auxiliares De Vuelo – ACAV) and the national civil aviation union (Asociación Colombiana De Aviaadores Civiles – ACDAC). Both unions continue to represent workers at Avianca, although their membership has greatly decreased due to anti-union actions by the company.

Avianca non-compliance with Performance Standard 2

Avianca has violated IFC PS 2 with regards to workers' organizations, as well as national law and International Labour Organization conventions to which Colombia is a signatory. Avianca management has repeatedly discriminated against union members by awarding preferred flight routes to non-union members. Management has also falsely accused trade union members of drug-trafficking or carrying cash over the border (money-laundering); accusations which resulted in the suspension of flight attendants US visas, and negatively affected their work schedules.

Avianca has attacked the union in other ways. Workers at Avianca are frequently denied or discouraged from joining the union; proof of this are Mr. Frank Attara and Mr. Franklin Henry who were fired due to their participation in founding a new industrial trade union (named Sintratac) and are now demanding their jobs back. Avianca also fired Ms. Carmenza Limas, also a founder of Sintratac. The national judge ruled that Avianca had violated the right of free association and called for her to be reinstated, but Avianca has not complied.

Avianca further discourages union membership by offering non-union members access to a “voluntary benefits plan” (PBV), which gives more money than the benefits negotiated with the union. ILO recommendations, reported in 2005 and reviewed in 2008, said that Avianca must not implement the PBV in a manner that would undermine the position of trade unions and their bargaining power in accordance with Art. No. 4 of the Convention 98 and not exert pressure on workers to sign it. Today Avianca rewards non-union members with additional stipends for health & nutrition, continuing to discourage union membership and violating freedom of association. Avianca has also created new job positions outside the collective bargaining agreement to incentivize disaffiliation.

In addition, Avianca promotes the establishment of workers “cooperatives”; a tactic to circumvent direct hiring and deny workers their full rights to join unions. The ILO has recommended that all employees be permitted to obtain union membership; the Colombian government’s response was that nothing prevents this. This is not true in the case of Avianca.

Avianca’s anti-union practices violate Colombian law as well, and trade unions have raised many of these concerns in national court. The legal battle has become very complex as Avianca has appealed multiple judicial rulings in favour of the unions.

Concerns with IFC procedures

In the context of the egregious non-compliance of Avianca, we take serious issue with the weakness of IFC’s procedures to uphold its own standards. Before proceeding with any investment in this company, IFC staff should have been well aware of serious labour rights concerns. Before the project went to the IFC board, trade unions communicated these concerns and alerted IFC staff to the outstanding ILO complaints against Avianca. While we were told that this led to the development of an “Action Plan” to bring the company into compliance, Avianca was somehow able to ignore the IFC requirement to disclose the document.

Presumably in accordance with this Action Plan, a labour audit was undertaken in summer 2009. The auditor met only with company management. The President of ACAV learned of the planned audit by chance and attempted to contact the auditor. The auditor told ACAV that he could not meet with her or the unions because he was the employee of Avianca. The findings of this incomplete audit have not been made public. A second audit was conducted a year later, in fall 2010. This time the auditor did meet with all relevant unions, who were able to present evidence of PS2 violations including the persecution of individual workers and the company’s attempts to undermine benefits negotiated through the unions’ collective bargaining agreements. However, the results of this second audit have also not been disclosed.

In addition, it does not appear that IFC has conducted a rigorous assessment of PS2 compliance at Taca Airlines (El Salvador) which merged with Avianca in 2009, and Ocean Air (Brazil), another airline of parent company Synergy Group, of which Avianca is a wholly-owned subsidiary. IFC has not addressed the social risks in supporting this network of airlines, which share financing as well as labour practices.

While IFC Social & Environmental Review staff have been responsive to trade union requests for meetings, these discussions have not translated into any improvements for affected workers at Avianca.

Previous Communications with IFC (see also attached supporting documents)

All of the above information has been communicated and documented to IFC in a dialogue that has continued since the original trade union complaint to the IFC Social & Environmental Review team in July 2008.

In November 2009 trade unions presented IFC with a list of 29 Avianca employees (all union members except one) who were denied US visas due to false accusations of criminal activity. No existing evidence supports these claims, which are believed to have been made by Avianca management.

ITF and ITUC/Global Unions had periodic discussions with IFC Environment & Social Review staff through 2010 and early 2011.

ITUC/Global Unions addressed a letter to IFC Vice President Lars Thunnell on 23 June 2011. The response was to set up a meeting with the investment team for the project.

ACAV's President traveled to Washington to discuss PS 2 violations at Avianca at an event on "Labour Standards in World Bank Lending", organized by ITUC/Global Unions and hosted at the World Bank on 19 July 2011. Her presentation was attended by the director of the Social & Environmental Review team, the Vice President of the CAO and the World Bank Executive Director from the Netherlands.

ACAV's President met with IFC's Infrastructure Manager for Latin America and the Caribbean on 21 July 2011 and presented current documentation of PS2 violations at Avianca.

Recommendations for resolving the complaint:

Over three years after the original trade union complaint was registered through the IFC Social & Environmental Review team, Avianca has demonstrated no shift in its hostile position towards the unions representing its employees. This demonstrates both the company unwillingness to engage in constructive dialogue, and a serious problem with the IFC's ability to hold its client accountable to the terms of its loan agreement. We submit this complaint only after exhausting various means of communication with the company through IFC, as outlined above. In light of Avianca's continued flouting of its requirements under its loan agreement, we request that the Ombudsman assessment be waived and the CAO Compliance function be triggered.

In addition, we request that the CAO Compliance investigation disclose the results of the 2010 labour audit and the agreed Action Plan between IFC and Avianca. The investigation should also assess IFC's responsibilities with respect to Taca Airlines and Ocean Air.

Lastly, we ask that CAO advise IFC to demand immediate repayment from its client, who has breached the terms of its loan. According to IFC's Sustainability Policy, PS2 is a requirement that all client companies must follow, and a condition of the IFC loan. So far IFC has demonstrated no influence over Avianca's practices, and it seems clear that Avianca does not feel at risk of losing its financial support from the institution. This is a serious challenge to the credibility of the IFC Performance Standards and should be addressed.

We look forward to your response and to cooperating in your investigation of this complaint. For all correspondence please contact:

Antonio Rodriguez Fritz
Regional Secretary, ITF-Americas
Av. Rio Branco 26, 11 Andar
CEP 20090-001 - Centro
Rio de Janeiro, Brasil

Fritz_Antonio@itf.org.uk
Tel: +55 21 22230410
Fax: +55 21 22830314

Maria Cristina Cadavid Barbera
President, ACAV
Carrera 31a No.25b-25,
Barrio Gran America
Bogota - Colombia

acav07@gmail.com
Tel: +57 1 3698000

With copies to:
Francesca Ricciardone, ITUC/Global Unions
Peter Bakvis, ITUC/Global Unions
Molly McCoy, AFL-CIO Solidarity Center

fricciardone@globalunions-us.org
pbakvis@globalunions-us.org
mmcroy@solidaritycenter.org

Best Regards



Peter Bakvis
Director, ITUC/Global Unions Washington Office