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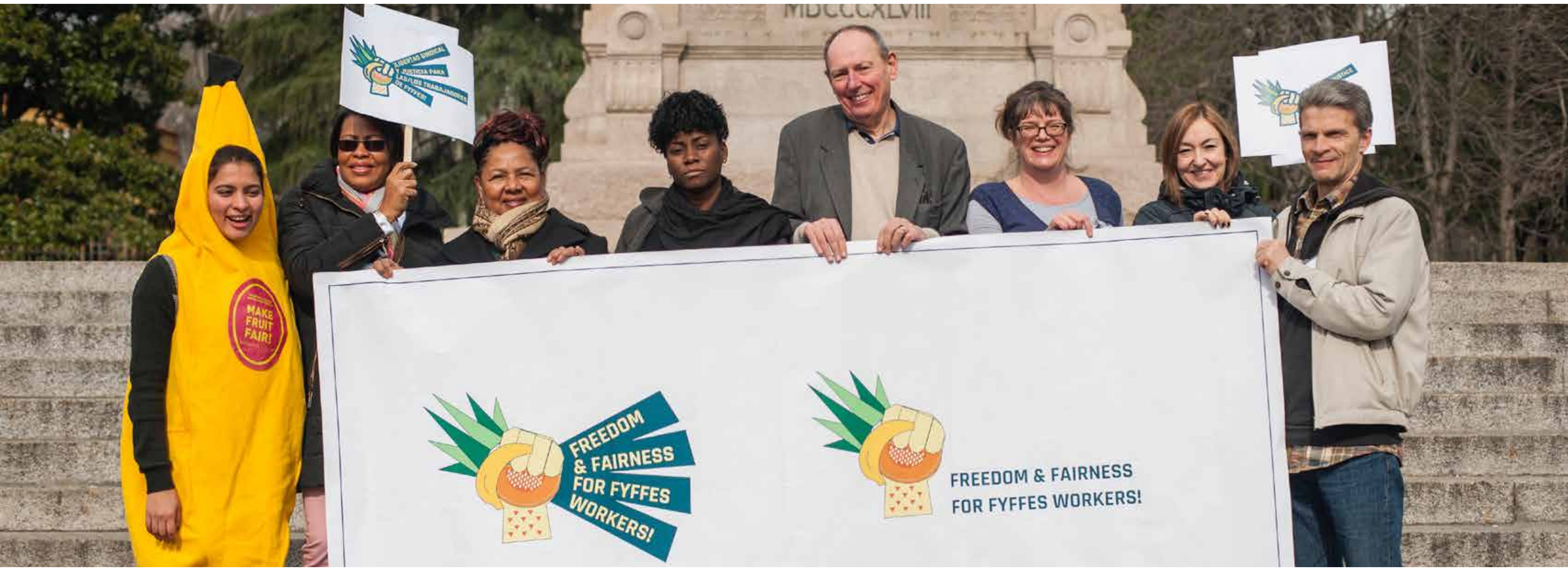
ACTION IN THE AMERICAS

The newsletter of the U.S. Labor Education in The Americas Project



The Fair Trade USA Cover Up of Exploitation in Honduras

When you see a Fair Trade USA label on a piece of fruit that you buy at the supermarket, it is supposed to inform you that the product was made under "fair" working conditions. But in April of 2018, Fair Trade USA certified Fyffes' melon plantations in Honduras, despite many years of serious human and labor rights violations.

Fyffes is one of the largest multinational fruit companies in the world and the top supplier of winter-season honeydew melons to U.S. supermarkets, sold under the label. They employ 8,000 workers on their Honduran melon plantations. For over a decade, workers have reported that Fyffes systematically fails to pay them the minimum wage or provide them with their legally mandated benefits including healthcare, social security, maternity leave, sick leave, and vacation.

In 2016, after years of toiling in abusive conditions and receiving poverty wages, workers decided to organize the first-ever union in the Honduran melon sector, an industry that employs 25,000 people. They affiliated to STAS – *El Sindicato de Trabajadores de la Agroindustria y Similares*, or The Honduran Agricultural Workers Union – to address their longstanding grievances and bargain for better working conditions.

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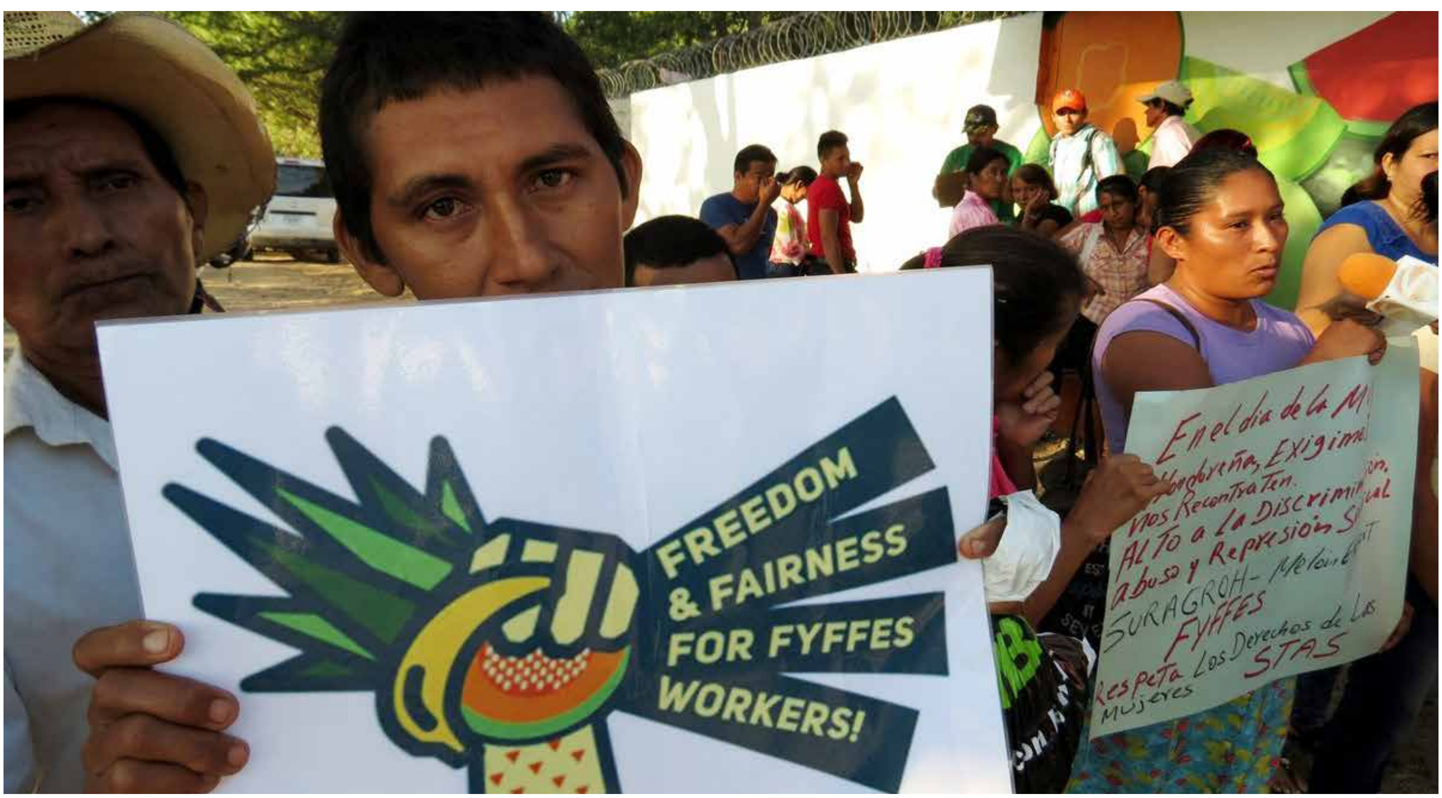
In response, Fyffes local management began firing unionized workers en masse, verbally threatening them, taking away their permanent contracts, refusing to rehire them for future harvests, and blacklisting them so they could not find other jobs. One prominent example is when Fyffes fired all 65 of its security guard personnel in February 2017, days after it found out they had affiliated to the STAS union.

ILRF, international NGOs and unions, journalists, and the U.S. Department of Labor have documented these violations extensively. The case is cited in the [ongoing Honduras Central America Free Trade Agreement (CAFTA) complaint].

So why did Fair Trade USA certify Suragroh, Fyffes’ melon subsidiary, despite its long and public history of violating workers’ rights? We wrote to Fair Trade USA on June 22, 2018, to inform them of the violations. In response, Fair Trade USA said:

> “We are aware of the labor issues in the region--and the related history surrounding this grower in particular--and are currently working with the farm and its worker population to help address many of these challenges through Fair Trade certification. After over a year of engagement and rigorous work implementing the Fair Trade standards, the farm was certified in Spring of 2018...
>
> ...Going into certification we kept the alleged issues on our radar, and worked hard to ensure they were highlighted in the pre-audit, audit, and corrective action process. Over this time several significant improvements were made to the practices and processes on the farm in order to comply.”

Fair Trade USA’s certification of Fyffes’ melon plantations in Honduras is dangerously irresponsible. To this day, Fyffes continues to violate national laws and



international standards. STAS has not experienced the "significant improvements" that Fair Trade USA claims. By certifying Fyffes, Fair Trade USA is telling the world that the melon plantations are *already* in compliance with their standards, not making "improvements" or "in the process" of compliance. By displaying the Fair Trade USA label on products coming from Suragroh – while workers are being intimidated and union-busting is occurring – Fyffes is knowingly misleading consumers.

By allowing this to happen, Fair Trade USA is complicit and enabling further human rights and labor violations. The bottom line is that Fyffes workers are still fighting for recognition of their democratically-elected union, STAS. When they have exercised their universal right to freely associate and organize, they have faced violent retaliation from Fyffes local management. Fair Trade USA is allowing Fyffes to continue bulldozing workers' rights with impunity and giving the global brand a shiny, profitable stamp of approval.

In November, ILRF filed a formal complaint to Fair Trade USA. We are demanding that they suspend Suragroh from the Fair Trade USA certification due to the ongoing labor rights abuses. Dozens of unions and organizations in the U.S. and Europe joined together with an open letter to support this complaint. Given the severity of the situation on the ground, we call on Fair Trade USA to move quickly and transparently throughout this process.

Guatemala: "Wrong Turn" for Workers' Rights in CAFTA Decision

A new ILRF report reviews the decision of an arbitration panel, which stated that Guatemala's failure to enforce its labor laws did not violate the Central American Free Trade Agreement (CAFTA) because the U.S. did not prove the violations directly impacted trade between the two countries. The panel's decision was the disappointing result of a nine-year struggle by Guatemalan trade unions and the AFL-CIO to hold the Government of Guatemala accountable for failing to enforce laws meant to protect workers from widespread anti-union discrimination by employers.

The report boils down the 300-page panel decision, showing how the panel's narrow, technical reading of certain CAFTA provisions led to such a perverse outcome. Despite finding that the Government of Guatemala had repeatedly failed to enforce its labor laws, the panel let Guatemala off on a technicality, finding that the U.S. did not prove that the violations occurred "in a manner affecting trade." Despite evidence which suggested a more straightforward reading, the panel interpreted the clause to mean that the U.S. had to show that the cases of non-enforcement cited in the complaint had an actual impact on trade flows between the two nations. This is an absurdly high bar to meet in practice.

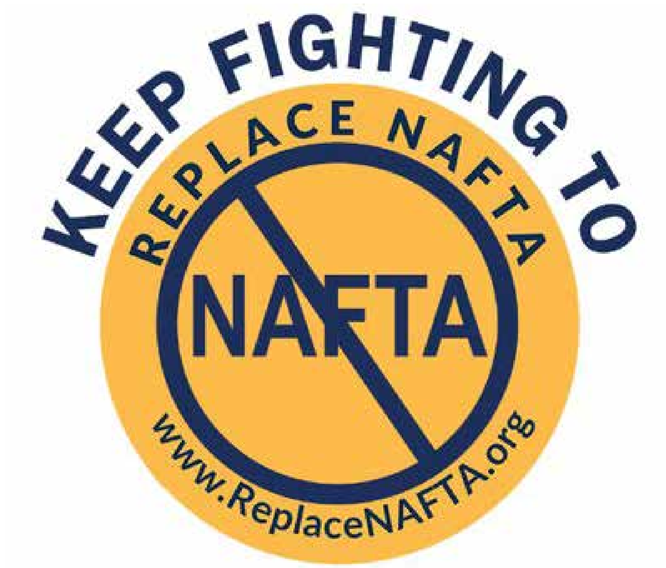
ILRF's report specifically criticizes the arbitration panel for refusing to consider reports from the International Labour Organization, United Nations, and NGOs that all document the Government of Guatemala's general failure to enforce its labor laws.

The report was covered in an article by Inside U.S. Trade and may have had an impact on important changes to the recently released United States–Mexico-Canada Agreement (USMCA), the successor to NAFTA. The text of the USMCA contains a footnote which clarifies that "in a manner affecting trade" means only that the alleged labor violations occur in a sector where bilateral trade exists between the two countries. collective bargaining as required by national and international laws.

The Fight for a Fair NAFTA 2.0 Heats Up

On October 1st, the Trump Administration released the highly anticipated text of the United States-Mexico-Canada Agreement (USMCA), the successor to the North American Free Trade Agreement (NAFTA). The deal will now be debated in Congress, which will not vote on the agreement until February 2019 at the earliest.

Ever since President Trump announced his intent to renegotiate NAFTA, ILRF has worked with a [broad coalition of progressive organizations] to demand a new NAFTA that is fair to workers and the environment.



In a welcome surprise, the USMCA contains some critical upgrades to NAFTA's labor standards, including requiring all parties' labor laws to meet international standards and be subject to the same enforcement mechanisms provided for the commercial rights. In another a step forward, the agreement seeks to tackle the systemic problem of "protection contracts" – fake collective bargaining agreements negotiated between Mexican employers and employer-controlled unions that have kept wages low across the country. In an annex to the USMCA, Mexico has committed to pass specific legislation to eliminate protection contracts and ensure workers have the right to real collective bargaining before the deal can take effect.

The agreement also seeks to address low wages in Mexico's automobile sector by requiring that 40 to 45 percent of automobile content be made by workers in North America who earn at least $16 an hour by 2023.

The USMCA introduces new provisions that seek to address long-standing gaps in labor protections in U.S. trade deals. Specifically, the USMCA contains new language that seeks to:

- Protect migrant workers by ensuring that labor laws protect workers regardless of their immigration status;
- Protect trade union organizers and leaders by requiring parties to investigate and prosecute cases of violence against trade unionists;
- Address gender discrimination in the workplace by adopting policies to address sexual harassment and other forms of discrimination.

In addition, the trade deal greatly reduces corporate access to Investor State Dispute Settlement (ISDS), private arbitration tribunals which multinationals have used to attack labor, environmental, and public health laws in all three nations.

However, despite all these improvements, there is ample concern whether the new labor standards will be enforced in practice.

As the President's own [Labor Advisory Committee noted], the Administration's focus on trade law enforcement has not yet translated into meaningful action on open labor cases against Bahrain, Colombia, the Dominican Republic, Honduras, and Peru.

Unfortunately, the USMCA contains the same flawed enforcement mechanism as recent trade deals, which depends entirely on the political will of states to hold each other to account for implementing the labor commitments they've made under the agreement. In addition, the deal lacks an independent monitoring mechanism to ensure that parties follow through on their commitment to enforce their labor laws.

With the results of the recent midterm elections, President Trump will need bipartisan support in Congress to win passage of the USMCA. In the fight to come, ILRF will continue to work with progressive allies to ensure that Congress passes a trade deal that is worthy of support from workers across North America.

Modern-Day Servitude in the U.S. Port Trucking Industry

If you've shopped at Amazon, Walmart, or Target, there's a good chance your product entered the United States through the ports of Los Angeles or Long Beach, California, the entry point of over 43% of the goods coming into the country. Every year, 25,000 warehouse workers and port truck drivers in California move and deliver $450 billion dollars' worth of goods to America's favorite stores.

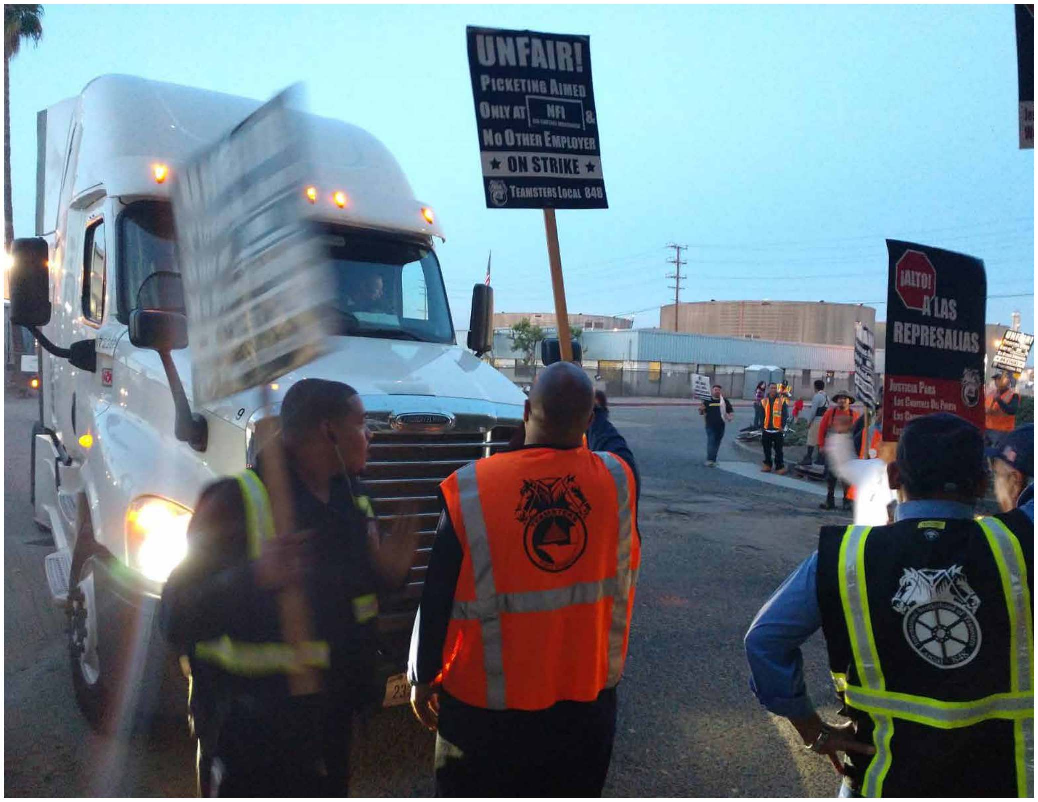


photo via International Brotherhood of Teamsters

While well-known retailers and brands like Lowe's, Sony, and JCPenney depend on this essential service, these port truckers find themselves trapped in unethical leasing agreements that leave them earning as little as $3 an hour.

A groundbreaking 2017 investigative report from *USA Today* exposed a series of stories about the port trucking industry in southern California, comparing the working conditions to "modern-day indentured servitude." It found that port trucking companies have spent the past decade forcing drivers to work against their will – up to 20 hours a day – by requiring them to finance their own trucks and take on debts that trap them in destitute jobs. Under these unethical contracts, drivers are misclassified as "independent contractors" instead of employees and must pay for all the diesel fuel, insurance, parking fees and truck maintenance.

One driver told The Nation that his expenses add up to $2,600 a month, leaving him with little or nothing in his paycheck**.** Other drivers report that there are months where they owe more for work-related expenses than they earn.

If the truck breaks down or the driver gets sick and can't keep up with the payments, their truck can be seized and they can lose all the money they have invested in it. Workers have also reported that managers at a few companies have even physically barred drivers from going home to keep drivers working.

For years, a lack of effective legislation has allowed port trucking companies to get away with rampant wage theft. *USA Today* even reported that retailers like "Walmart, Target and dozens of other Fortune 500 companies have paid lobbyists up to $12.6 million to fight bills that would have held companies liable or given drivers a minimum wage and other protections that most U.S. workers already enjoy."

However the tide may be turning. In September 2018, California Governor Jerry Brown signed Senate Bill 1402 into law, which creates joint liability for retailers when port trucking companies are fined for wage theft in California.

Then in October, Southern California's port truck drivers and warehouse workers – many of whom are Black and Latinx workers and TPS recipients – launched a three-day strike to send a clear message to their port trucking employers (XPO Logistics and NFI Industries) and the country's most powerful brands and retailers: put an end to rampant wage theft and the misclassification of port truckers.

ILRF organized a solidarity sign-on letter with 53 other organizations to major retailers such as Target, Lowe's, Office Depot, and Walmart, urging them to develop a Responsible Contractor Policy in partnership with the Teamsters to address the systemic forced labor problem in their logistics supply chains.

For regular campaign updates, please follow Justice for Port Drivers on Facebook or @PortDriverUnion on Twitter.

The Dangerous Power of Honduran Palm Oil

"The precarious and inhumane working conditions at Grupo Jaremar are an emblematic example of why people are fleeing the country due to poverty and violence."

What is palm oil? It is a commodity that is likely present in every room of your home. In your shampoo, laundry detergent, instant noodles, chocolate, pizza dough, and even lipstick. It is found in roughly 50% of all packaged products sold in U.S. grocery stores and it is increasingly used to create biodiesel.

The global palm oil industry is based primarily in Indonesia and Malaysia, but has massively expanded to Latin America in the past 30 years, particularly in Colombia, Ecuador, and Honduras. According to Rainforest Action Network, palm oil production is now one of the world's leading causes of rainforest destruction. It is responsible for an array of human rights violations, as corporations often forcibly remove indigenous peoples and rural communities from their land to clear forests for the palm plantations.

In October 2017, workers on the second largest palm oil company in Honduras decided to build collective power by organizing the first-ever palm oil union in the country. They affiliated to STAS, *El Sindicato de Trabajadores de la Agroindustria y Similares*, one of ILRF's closest partners in Latin America, whom we also work with on the Fyffes' melon campaign in Southern Honduras.

Palm oil workers reported to STAS that, for over 20 years, their employer – Grupo Jaremar – had been failing to pay the minimum wage of 1,800 lempiras (US$74) per week. They reported being coerced to work overtime, totaling up to 14-hour days without overtime pay. Workplace accidents have also been a major problem throughout the years, as many current and former workers told STAS and ILRF that they or their peers have suffered from electrocution accidents, been subject to venomous snakebites, and regularly been exposed to toxic agrochemicals – all due to their employer's refusal to ensure workplace safety.

Given these longstanding abusive conditions, workers decided to organize and, as a result, the company initiated a violent anti-union campaign – intimidating, bribing, threatening, and firing workers. For five months, between October 2017 and March 2018, operations on two of Grupo Jaremar's plantations were stalled due to a workers' strike sparked by the illegal firing of 18 union leaders.

During the company's refusal to dialogue with workers over the course of the five-month strike, over 300 workers suffered from acute financial stress due to a lack of income. The health and safety of hundreds of families were put at serious risk as they went without income and hundreds of children could not attend school in the spring semester of 2018 due to their parents' inability to cover the school fees.

International pressure from ILRF, the AFL-CIO, the Trade Union Confederation of the Americas, and U.S. Congresswoman Jan Schakowsky (D-IL) helped to prevent STAS's legal status from being revoked when the company pursued an aggressive legal strategy to squash the efforts of the workers. The international pressure also helped to get the Honduran government to convene a mediation meeting between Grupo Jaremar and STAS, which resulted in the re-hiring of over 140 illegally-fired workers.

The strike forced Grupo Jaremar to make concessions: Workers now report they are receiving the minimum wage, and more have been hired on with permanent contracts and receive paid overtime, Sunday pay, and holiday pay. But the management has not addressed the workers' health and safety concerns and is still harassing union members, while coercing other workers to join a fake, management-controlled union.

It is crucial to recognize the exorbitant amount of power that corporations have over the lives of Honduran workers. The precarious and inhumane working conditions at Grupo Jaremar are an emblematic example of why people are fleeing the country due to poverty and violence. These brave palm oil workers, many of whom are in their 20s and 30s, are standing up to one of the most powerful companies in Honduras so that they can create a better life for themselves and their families – even in the face of threats and violence.

In early 2019, ILRF will launch an international campaign targeting Grupo Jaremar and demanding they recognize and bargain with STAS in order to address workers' concerns and respect their fundamental labor rights. Stay tuned in the coming months for actions to hold Grupo Jaremar accountable.

Gabby, ILRF Campaigner (kneeling in front, green shirt), with Grupo Jaremar palm oil workers

Support workers' rights and an end to violence against trade unionists in Latin America!

Please support USLEAP@ILRF by making a donation at
www.laborrights.org/givetoUSLEAP
or mailing a check to ILRF, with "USLEAP" in memo line, to:
ILRF, 1634 I St. NW, Suite 1000, Washington, DC 20006

From left to right: Tomas Membreño (STAS), Laura Vera (3F), Gabby Rosazza (ILRF), Belkis Castro (STAS), Alexi Castro (STAS-FESTAGRO), and Ahrax Mayorga (STAS-FESTAGRO)