

DEPARTMENT OF LABOR AND SOCIAL WELFARE

OFFICE OF THE GENERAL COORDINATOR FOR INTERNATIONAL AFFAIRS

NATIONAL ADMINISTRATIVE OFFICE

FOR THE NORTH AMERICAN AGREEMENT ON LABOR COOPERATION

REPORT OF REVIEW

MEX PUBLIC COMMUNICATION 9803

Mexico City, December 1999

MEX PUBLIC COMMUNICATION 9803
REPORT OF REVIEW BY THE MEXICAN NAO

1. *Executive Summary*

The NAALC's objective is to improve labor conditions and living standards in each Party's territory; to promote to the maximum extent the principles set out in Annex 1; to promote compliance with, and effective enforcement by each Party of, its labor law; and to foster transparency in the administration of labor law. In order to achieve these objectives, the NAALC provides for Public Communications, among other mechanisms. Through Public Communications, each Party's National Administrative Office (NAO) reviews labor issues which have arisen in the territory of another Party, within a framework of cooperative consultations and evaluations under Part Four of the NAALC.

On August 4, 1998, the Mexican NAO received a Public Communication "*regarding alleged labor law violations in the territory of the United States of America (USA)*" filed by Mr. Netzahualc6yolt de la Vega, Social Communication Secretary of the Confederation of Mexican Workers' (CTM) National Committee.

This Public Communication refers to the alleged ineffective enforcement of labor law at the DeCoster Egg Farm in Turner, Maine, USA.¹

The petitioners allege that Mexican workers who work at the farm do not receive the same legal protections as U.S. workers, in terms of general working conditions.

They argue that "*Mexican migrant workers in U.S. territory state that U.S. authorities have not provided them and are not providing them with any guarantee of enforcement of the*

¹ DeCoster is known as the chicken farm with the greatest egg production in the United States. It has come under question on several occasions for alleged violations of safety and health, minimum wage, and overtime rules, and for unjustified firings. In 1996 and 1997 it was fined by the U.S. Government.

*U.S. laws designed to protect them. This has resulted in serious violations of their rights with respect to minimum employment standards, elimination of employment discrimination, prevention of occupational injuries and illnesses, and compensation in cases of occupational injuries and illnesses."*²

They point out that "*Mexican workers have never received the legal protection they need to ensure that they are not hired by deceitful means. The U.S. Government has not implemented any action to protect Mexican workers and to prevent practices such as providing working conditions different from those promised. In the case at hand, for example, the workers were required to pay for transportation and housing when they had originally been told that such costs would be covered.*"³

With respect to prevention of occupational injuries and illnesses and compensation for these instances, the workers allege that no standards have been applied to reduce the workplace hazards and that "*the law is being violated in this respect because when Mexican workers have an accident on the job, they have not been notified of their rights, or given the benefits stipulated in the laws that provide for compensation in cases of job-related accidents. Furthermore, no records are kept of the appropriate accident reports and documents, as required by workmen's compensation laws.*"⁴

The violations of labor law claimed by the petitioners in Mexican Public Communication 9803 refer to five of the principles included in Annex I of the NAALC: (Principle 6) right to minimum employment standards, where they allege that laws related to housing and work contracts for Mexican workers are not respected; (Principle 7) elimination of employment discrimination, because workers are subject to harassment, differential treatment, and abuse on the basis of their race and nationality; (Principle 9) prevention of occupational injuries and illnesses, given that violations of safe housing persist and that health/sanitation authorities have not conducted an inspection; (Principle 10) compensation in the case of job-related injuries and illnesses, as violations of compensation for work-related injuries because the workers are not

² Page 2 of the Public Communication.

³ Page 3 of the Public Communication.

⁴ Page 6 of the Public Communication.

notified of their rights nor provided the benefits in conformity with the law; and (Principle 11) protection of migrant workers.

It is the public policy of the state of Maine that employees in all occupations should be protected from safety and health hazards, and that workplace conditions should be maintained reasonably free of danger. U.S. law, both federal and local, protects the rights of workers against the practices mentioned in the Public Communication, and it is the duty of the corresponding authorities to monitor proper compliance with the law and, as the case may be, to apply the corresponding penalties.

On August 10, 1998, the Mexican NAO accepted this Public Communication for review and on August 11, 1998 pursuant to Article 21 of the NAALC, the Mexican NAO requested cooperative consultations with the U.S. NAO on the referenced Public Communication.

During the review, labor-related issues were considered that had arisen on U.S. territory, as presented by the petitioners, as well as the relationship between such issues and the obligations established in the NAALC. Based on this, pursuant to Article 22 of the NAALC, the Mexican NAO recommends that the Secretary of Labor and Social Welfare request Ministerial Consultations with the U.S. Secretary of Labor. The objective of these consultations will be to obtain further information about the steps that government is taking to guarantee that Mexican migrant agricultural workers enjoy the same labor protection as nationals with respect to labor rights and minimum employment standards, elimination of discrimination in the workplace, prevention and compensation in cases of occupational injuries and illnesses, and protection of migrant workers.

II. Introduction

The review by the Mexico National Administrative Office (NAO) took place within the framework of the North American Agreement on Labor Cooperation (NAALC) signed by the governments of Mexico, the United States, and Canada. The NAALC, in effect since 1994, commits the governments to encourage their labor authorities to effectively enforce national labor laws. The commitments assumed under the NAALC do not call for establishment of common standards on labor matters, changes in the domestic laws, or supranational mechanisms.

This report addresses matters relating to the effective enforcement of U.S. labor law, based on Mex Public Communication 9803 presented to the Mexican NAO. The petitioners report that labor officials in that country have not effectively enforced labor laws on the subjects of:

- protection of migrant workers (11);
- minimum employment standards (6);
- elimination of employment discrimination (7)
- prevention of occupational injuries and illnesses (9); and
- compensation in cases of job-related injuries and occupational illnesses (10).

This report refers to the pertinent provisions of U.S. labor law, the resources available to the affected parties, and the results obtained.

Framework

Among the objectives of the NAALC are to "improve working conditions and living standards in each Party's territory"; "promote, to the maximum extent possible, the labor

principles set out in Annex 1";⁵ "promote compliance with, and effective enforcement by each Party of, its labor law" and "foster transparency in the administration of labor law."⁶

In order to achieve those objectives, the Parties are obligated to:

- establish government measures aimed at effective enforcement of labor laws;
- ensure access by private persons to the procedures;
- ensure that proceedings in their administrative, quasi-judicial, judicial or labor tribunals are fair, equitable and transparent;
- publish their laws, regulations, and procedures; and
- promote public awareness of their labor laws.⁷

In performing this review, the Mexican NAO considered the fact that the NAALC recognizes that effective enforcement of labor laws must be accomplished by the corresponding authorities, since the NAALC neither creates nor recognizes supranational mechanisms. The Parties have agreed to fully respect each other's Constitution and to recognize each Party's right to establish its own labor standards and to adopt or modify accordingly its labor laws and regulations (Article 2). In that regard, the Mexican NAO also observed that the NAALC provides that "decisions by each Party's administrative, quasi-judicial, judicial or labor tribunals, or pending decisions, as well as related proceedings shall not be subject to revision or reopened under the provisions of this Agreement" (Article 5.8).

⁵ The labor principles that the Parties agree to promote under the conditions set out in their domestic law (Annex 1, NAALC) are: 1) freedom of association and protection of the right to organize, 2) the right to bargain collectively, 3) the right to strike, 4) prohibition of forced labor, 5) restrictions on child labor, 6) minimum employment standards, 7) elimination of employment discrimination, 8) equal pay for women and men, 9) prevention of occupational injuries and illnesses, 10) compensation in cases of occupational injuries and illnesses; 11) protection of migrant workers.

⁶ Article 1 of the NAALC.

⁷ Articles 3-7 of the NAALC.

The NAALC provides that the NAOs may establish rules for the submission and receipt of Public Communications on labor law matters arising in the territory of another Party. Each NAO shall review such matters in accordance with domestic procedures.⁸

Mexico published the "Regulations of the National Administrative Office (NAO) of Mexico on the Public Communications to which Article 16.3 of the North American Agreement on Labor Cooperation (NAALC) Refers" on April 28, 1995. Those regulations provide that Public Communications

- shall be sent to the address of the NAO;
- shall be written in Spanish;
- shall identify the petitioner;
- shall specify whether they contain confidential information, in which case the NAO shall safeguard said information of that nature;
- shall state in detail the labor law issues that have arisen in the territory of the other Parties (Canada and the United States).

After receipt of the Public Communication, the NAO shall notify the petitioner that it has been accepted for its review, or shall indicate the missing data. In performing its review, the NAO may request consultations with the NAOs of the other Parties pursuant to Article 21 of the NAALC, and obtain additional information from the petitioners, as well as from experts and consultants, and hold information meetings.

The NAO must issue, within a reasonable period in light of the complexity and nature of each Public Communication, a report containing the following:

- the labor law issues that have arisen in the territory of the other Parties;
- a list of said issues and the obligations established under the NAALC;

⁸ Article 16.3 of the NAALC.

- a recommendation as to whether or not to request consultations at the ministerial level under Article 22 of the NAALC, and to take any other measure that may enhance the achievement of the objectives pursued in that tripartite legal instrument.

Depending on the recommendation by the NAO, the Secretary of Labor and Social Welfare may request consultations with his counterpart in the United States or Canada with regard to any matter within the scope of the Agreement, in order to perform an exhaustive examination of the issue using publicly available information.⁹

MEX Public Communication 9803

On August 4, 1998, the Mexican NAO received MEX Public Communication 9803 filed by Mr. Netzahualcóyolt de la Vega, Social Communication Secretary of the Confederation of Mexican Workers' (CTM) National Committee. This Public Communication refers to the alleged ineffective enforcement of labor law at the DeCoster Egg Farm in Turner, Maine, USA.

The petitioner points out that the U.S. Government is supposed to enforce labor law effectively with respect to **the protection of migrant workers** (Principle 11, Annex 1 of the NAALC), because the Mexican workers at the farm are not receiving the same legal protection as domestic workers in terms of working conditions. The petitioner cites violations of the **minimum employment standards** (Principle 6, Annex 1 of the NAALC), inasmuch as the laws regarding housing and employment contracts for the Mexican workers at the farm are not being respected.

The Public Communication recounts violations in terms of the **elimination of employment discrimination** (Principle 7, Annex 1 of the NAALC), because the Mexican workers are subject to harassment, differential treatment, and abuse on the basis of their race and nationality, in violation of the provisions of U.S. law. The Public Communication points out that despite the existence of rules concerning the **prevention of occupational injuries and illnesses and compensation in such cases** (Principles 9 and 10, Annex 1, of the NAALC) violations persist in terms of housing safety, and the health authorities have not inspected them. In

⁹ Article 22 of the NAALC.

addition, there have been violations with regard to compensation for job-related accidents, because workers are not notified of their rights nor given the benefits available under the law.

The Mexican NAO accepted the Public Communication for review on August 10, 1998, and notified the petitioner. To gather information, the Mexican NAO requested consultations with the U.S. NAO in accordance with Article 21 of the NAALC, and thus obtained additional information.

III. Issues Related to Labor Law and NAALC Obligations

This report seeks to present, in organized fashion, the pertinent facts presented by the petitioners of the Public Communication and the applicable labor law in relation to each of the NAALC articles and principles listed in the Public Communication. To do this, we will first refer to the relevant facts presented by the petitioners. Second, we will refer to the NAALC principle or article. Third, we will cite the applicable labor law as furnished by the U.S. NAO.

3.1 Protection of Migrant Workers

3.1.1 Arguments by the Petitioners

*"The Mexican workers have never received the legal protection they need to ensure that they are not hired by deceitful means. The U.S. Government has not implemented any action to protect Mexican workers and to prevent practices such as providing working conditions different from those promised. In the case at hand, for example, the workers were required to pay for transportation and housing when they had originally been told that such costs would be covered."*¹⁰

3.1.2 NAALC Principles and Articles Allegedly Violated

The petitioner states in the Public Communication that the U.S. Government has not promoted compliance with its labor laws nor has it effectively enforced them through government actions, because Mexican migrant workers have been victims of alleged violations of labor rights in U.S. territory ever since 1988, in connection with the following labor principles:

- Labor Principle No. 11: *"Providing migrant workers in a Party's territory with the same legal protection as the Party's nationals in respect of working conditions."*

As to the alleged failure to promote the appropriate government measures to ensure effective enforcement of labor laws, the petitioners classify the violations under the following articles of the NAALC:

¹⁰ MEX Public Communication 9803, page 3.

- Article 3. Government Enforcement Action

"1. Each Party shall promote compliance with and effectively enforce its labor law through appropriate government action, subject to Article 42, such as: ... (b) monitoring compliance and investigating suspected violations, including through on-site inspections; ... (e) encouraging the establishment of worker-management committees to address labor regulation of the workplace; ... (g) initiating, in a timely manner, proceedings to seek appropriate sanctions or remedies for violations of its labor law."

- Article 4: Private Action

"1. Each Party shall ensure that persons with legally recognized interests under its law in a particular matter have appropriate access to administrative, quasi-judicial, judicial or labor tribunals for the enforcement of the Party's labor law.

2. Each Party's law shall ensure that such persons may have recourse to, as appropriate, procedures by which rights arising under: (a) its labor law, including in respect of occupational safety and health, employment standards, industrial relations and migrant workers; and ... can be enforced."

3.1.3 Applicable U.S. Labor Law

The *Migrant and Seasonal Agricultural Worker Protection Act*, 29 U.S.C. §1801, established the obligation to ensure necessary protection to seasonal migrant agricultural workers. It protects seasonal migrant workers in terms of their agreements with farm labor contractors, agricultural employers, agricultural associations, and suppliers of migrant worker housing. All the persons and organizations covered by this Act must observe certain rules whenever they recruit, solicit, hire, employ, transport or provide housing to these workers, or when they provide them to other employers. The workers have the right to know the terms of the labor arrangement or contract. Workers on farms must be paid the promised wage for all the hours worked, unless those hours are covered by a specific exception. All agricultural workers must be treated similarly under the two sets of regulations: the *Fair Labor Standards Act (FLSA)* and the *Migrant and Seasonal Agricultural Worker Protection Act (MSPA)*.

Equal Rights Under the Law, 42 U.S.C.A. § 1981 states that all persons within U.S. jurisdiction must have the same rights in each state and territory to enter into and enforce contracts, to sue, to be a party, to give evidence, and to receive the benefits of all laws and procedures for the safety of persons and properties, as enjoyed by U.S. citizens, and also to be subject to all kinds of sanctions, penalties, punishments, taxes, and licenses.

3.2 Minimum Employment Standards

3.2.1 Arguments by the Petitioners

"...the Mexican workers report a number of violations of minimum employment standards, primarily focused on housing and on the failure to meet some of the obligations set forth in the law on this subject."¹¹

"(1) Housing violations

- a) Workers are required to pay for the housing furnished them.
- b) The dwellings do not meet minimum safety and health standards.
- c) They face hazards such as: fires, smoke inhalation, electrical discharges, and the danger of being electrocuted. Furthermore, the kitchens, bathrooms, and showers are inadequate; suitable facilities for washing and drying clothes are lacking; and there is no equipment for handling wastes.
- d) Several families of Mexican workers, including children, are crammed into a single dwelling.
- e) The dwellings have not been inspected by the state or any local or federal health authority having jurisdiction.
- f) Neither the state nor any local health authority or responsible official has certified the terms and conditions under which the housing units can be occupied.

¹¹ MEX Public Communication 9803, page 3.

g) Mexican workers have not received any notification of the terms and conditions under which the housing units can be occupied."

(2) "Violations of other minimum employment standards

a) They have not received written copies of the employment terms and conditions.

b) Posters have not been posted at the company, listing worker rights and the protection to which they are entitled.

c) They have been given false or misleading information with respect to employment terms and conditions.

d) They have not been assigned one dwelling, free of charge, for each family under safe and healthful conditions, as was promised them.

a) [sic] They were not provided free transportation from their point of origin to the DeCoster Egg Farm, nor from their dwellings to the workplace, as was promised them.

b) They have not received the free services that were promised them."

3.2.2 NAALC Principles and Articles Allegedly Violated

- Principle 6: *"The establishment of minimum employment standards, such as minimum wages and overtime pay, for wage earners, including those not covered by collective agreements."*

- Article 3: Government Enforcement Action. Cited earlier, see page 9.

- Article 4: Private actions. Cited earlier, see page 10.

- Article 7: Public Information and Awareness: *"Each Party shall promote public awareness of its labor law, including by: (a) ensuring that public information is available related to its labor law and enforcement and compliance procedures; and (b) promoting public education regarding its labor law."*

3.2.3 Applicable U.S. Law

The agricultural industry has no obligation to furnish housing for workers and their families; however if they do so, this housing must comply with the federal and state regulations of the *Occupational Safety and Health Administration* (OSHA), as well as the stipulations of the *Agricultural Worker Protection Act*.

The *Migrant and Seasonal Agricultural Worker Protection Act*, 29 U.S.C. §1801, establishes an obligation for employers in the agricultural industry to furnish minimum grades of housing, which must satisfy certain standards in order to be habitable.

The *Migrant and Seasonal Agricultural Worker Protection Act*, 29 U.S.C. §1801, (a), (b) and (f), states that:

- Persons who hire migrant agricultural workers must determine and disseminate in writing the following information to each of them: place of employment; wage rates; type of crop and kind of work to be performed; period of employment; transportation, housing and any other employee benefits, as well as any costs to be charged to workers; existence of any strike or work stoppage at the place of employment; and any employer arrangement that represents a benefit to him as a result of any sale to the workers by each establishment.
- Establishes the obligation to post in a conspicuous place in the place of employment a poster furnished by the Department of Labor that indicates all the rights and protection to which migrant agricultural workers are entitled.
- No employer shall deliberately furnish false or misleading information to a migrant agricultural worker with respect to the terms, conditions or existence of the obligations established in the *Migrant and Seasonal Agricultural Worker Protection Act*, 29 U.S.C. §1821 (a), (b), (c) and (d).
- Provision of housing is regulated under the H-2A program. It stipulates that housing must be provided at no cost to all workers who cannot reasonably return to their places of residence on the same day, and that such housing must also satisfy requirements established by OSHA.

3.3. Elimination of Employment Discrimination

3.3.1 Arguments by the Petitioners

"Mexican workers say that they have been and are the object of policies that discriminate against them because of their race." ¹²

They mention situations such as the following:

- a) They are harassed and abused on the job because they are Mexicans.
- b) They are the victims of threats and intimidation, and are assigned hazardous duties that are not assigned to other workers.
- c) They were hired with benefits, rights, and terms and conditions inferior to those of the other workers.
- d) The dwellings provided to them are neither safe or clean; they demonstrate that the housing units furnished to the other workers are safe and clean and are occupied by only one family or individual at a time. In the case of dwellings occupied by Mexican workers, very often as many as three families must live together in the same unit.
- e) The Mexican workers have not received the appropriate medical services and treatment, such as the other workers are given. For example:
 - When a Mexican worker has a job-related accident, frequently he is not taken to the hospital for medical treatment or, if he is taken there, it is after considerable delay.
 - Mexican workers who suffer job-related accidents and are unable to work, according to a doctor's order, are obliged to resume their duties ahead of time, under threat of being fired if they refuse.
 - Mexican workers who suffer a job-related accident are not notified of their rights, or given the benefits stipulated in workmen's compensation laws. Furthermore, the appropriate accident reports and documents required by the workmen's compensation law are not kept on file.

¹² Page 4 of MEX Public Communication 9803.

f) Parameters regarding performance and work assignments have been applied subjectively and are different for Mexican workers than for other workers.

3.3.2 NAALC Principles and Articles Allegedly Violated

- Principle 7: *"Elimination of employment discrimination on such grounds as race, religion, age, sex or other grounds, subject to certain reasonable exceptions, such as, where applicable, bona fide occupational requirements or qualifications and established practices or rules governing retirement ages, and special measures of protection or assistance for particular groups designed to take into account the effects of discrimination."*
- Article 3: Government Enforcement Action. Cited earlier, see page 9.
- Article 4: Private actions. Cited earlier, see page 10.

1.1.3 [sic] Applicable U.S. Law

Federal and local laws prohibit race-based discrimination in the workplace. The Civil Rights Act of 1964, as amended (42 U.S.C. 2000e), provides that *"it is a violation of its Title VII to discriminate against any Mexican worker by reason of his/her race. This statute is the generally applicable Federal Law for employers who have 15 or more employees. Executive Order No. 11246 also prohibits race discrimination by an employer who has a federal contract or subcontract."* In addition, to prohibit discriminatory acts, Executive Order No. 11246 requires federal contractors to take affirmative actions to ensure that workers are treated without discrimination in all aspects of their work.

The *Maine Human Rights Act*, 5 M.R.S.A. §4551 indicates that it is state policy to prevent discrimination in employment, housing, or access to public services on the grounds of origin.

Equal Rights Under the Law, 42 U.S.C.A. §1981a grants people the right to sue for compensatory and punitive damages, if they are intentionally discriminated against by an employer.

The *Equal Employment Opportunity Commission (EEOC)* protects the right of workers to be free of discrimination in the workplace on the grounds of race, color, sex, religion or nationality. If an employee believes he/she has been discriminated against, he/she must file charges of discrimination with the EEOC or the corresponding state agency.

Agricultural workers in Maine have the same rights as the poultry workers in other U.S. states, since the *Occupational Safety and Health Act* and the *Migrant and Seasonal Agricultural Worker Protection Act* apply to all states and were specifically adopted by Maine under 26 M.R.S.A. §586.

The only way in which the rights of agricultural workers in Maine differ from those of other workers in the poultry industry in other states is that limitations are placed on the ability of the associations to enter into collective agreements based on the number of laying hens and employees present at the plant where they are working.

3.4 Prevention of Occupational Injuries and Illnesses

3.4.1 Arguments by the petitioners.

*"The Mexican workers say, however, that the rules that reduce job-related hazards have not been applied."*¹³

They mention the following as violations in terms of safety and health:

- a) The dwellings do not meet minimum health and safety standards, and they face hazards such as fires, smoke inhalation, and the possibility of being electrocuted.
- b) The kitchens, bathrooms and showers provided them are not adequate. They lack facilities for washing and drying clothes, and do not have equipment for handling wastes.
- c) The responsible health authority has not inspected the dwellings and has not certified the terms and conditions under which the housing units can be occupied.

3.4.2 NAALC Principles and Articles Allegedly Violated

¹³ See page 6 of MEX Public Communication 9803.

- Principle 9: "*Prescribing and implementing standards to minimize the causes of occupational injuries and illnesses.*"
- Article 3: Government Enforcement Action. Cited earlier, see page 9.
- Article 4: Private actions. Cited earlier, see page 10.

3.4.3 Applicable U.S. Law

The Maine Department of Labor must ensure that Maine workers have rights and safety and health protection on the job, according to *The Bureau of Labor Standards*, M.R.S.A. §41; and the *Occupational Health and Safety Act*, 26 M.R.S.A. §61.

Occupational Safety Rules and Regulations, 26 M.R.S.A. §56 establish that it is the policy of the state of Maine that all workers in all occupations are to be protected from hazards to their safety and health, and their working conditions must be reasonably free of this type of danger.

Agricultural Labor Housing Standards, 26 M.R.S.A. §586, provide that the Bureau of Labor Standards must adopt rules to protect the safety, health and social welfare of the housing that is furnished to agricultural workers and their families, when that housing is owned or controlled by the employer. These rules apply only to agricultural employer housing facilities when the employer furnishes housing to more than five workers and whose minimum housing standards are not established under the regulations of the *Occupational Safety and Health Act* or in the *Migrant and Seasonal Agricultural Worker Protection Act*. The rules adopted by the Bureau of Labor Standards must be identical to those in the *Federal Housing Regulations* issued under the *Migrant and Seasonal Agricultural Worker Protection Act*.

3.5 Compensation in Cases of Job-Related Injuries or Occupational Illnesses

3.5.1. Arguments by the Petitioners

"According to Mexican workers, the laws in this respect are being violated because when they have had an accident on the job, they have not been notified of their rights, or given the benefits stipulated in the laws that provide for compensation in cases of job-related accidents.

*Furthermore, no records are kept of the appropriate accident reports and documents, as required by workmen's compensation laws."*¹⁴

3.5.2 NAALC Principles and Articles Allegedly Violated

- Principle 10: *"The establishment of a system providing benefits and compensation to workers or their dependents in cases of occupational injuries, accidents or fatalities arising out of, linked with, or occurring in the course of employment."*
- Article 3: Government Enforcement Action. Cited earlier, see page 9.
- Article 4: Private actions. Cited earlier, see page 10.
- Article 5: Procedural Guarantees: *" 5. Each Party shall provide that the parties to administrative, quasi-judicial, judicial or labor tribunal proceedings may seek remedies to ensure the enforcement of their labor rights. Such remedies may include, as appropriate, orders, compliance agreements, fines, penalties, imprisonment, injunctions or emergency workplace closures..."*
- Article 7: Public Information and Awareness. Cited earlier, see page 12.

3.5.3 Applicable U.S. Law

Maine workers have the right to be compensated in the event of job-related accidents and illnesses, pursuant to *The Maine Workers' Compensation Act*, 39A M.R.S.A. §101.

IV. Recommendation

*The Mexican workers at the DeCoster Egg Farm believe that labor laws have not been effectively enforced. They say that they lack adequate access to labor courts. The Mexican workers say that labor laws on the subject are not being effectively enforced in U.S. territory. In addition, they say that they are not adequately informed of the rights and protection afforded them by U.S. laws, because these have not been publicized.*¹⁵

¹⁴ See page 6 of MEX Public Communication 9803.

¹⁵ Page 7 of the Public Communication.

Federal and local labor laws protect and regulate these rights and in all cases provide that the U.S. Government, acting through the corresponding administrative authorities, must monitor compliance with that legislation.

The review by the Mexican NAO was performed within the NAALC framework at the request of the petitioners, sought to attract the attention of the governments by exchanges of information on the alleged points.

It should be pointed out that the review by the Mexican NAO took place in full respect for the laws and competent labor authorities of the United States of America and is not intended to create supranational mechanisms, since it is not the NAO's function to judge or attempt to change the legislation. On the contrary, its function is to foster strict enforcement of U.S. laws and protection of worker rights. Studying the matter in depth is the responsibility of the Evaluation Committees of Experts. The imposition of penalties, if appropriate, for alleged persistent examples of ineffective enforcement of laws, is provided for in Part V of the NAALC, using an Arbitral Panel.

After reviewing Mexican Public Communication 9803, the Mexican NAO, pursuant to Article 22 of the North American Agreement on Labor Cooperation, **recommends that the Secretary of Labor and Social Welfare of Mexico request Ministerial Consultations with the Secretary of Labor of the United States.** The purpose of the Ministerial Consultations will be to obtain further information on the steps that the U.S. Government is taking to ensure that Mexican migrant agricultural workers enjoy the same legal protection as its nationals; and that they enjoy the respect of their rights in matters of: minimum employment standards; elimination of employment discrimination; safety and health (prevention and compensation for job-related accidents and illnesses).