

CANADIAN NAO SUMMARY

Public Communication CAN 2003-1 (Matamoros Garment S.A. de C.V.)

TECHNICAL DETAILS

- Received by the Canadian National Administrative (NAO) on October 3, 2003;
- Same submission sent to the U.S. NAO.

SUBMITTERS

- United Students Against Sweatshops (USAS);
- *Centro de Apoyo al Trabajador (CAT)*, labour rights advocacy group in Mexico).

EXECUTIVE SUMMARY

The submission alleges that the Government of Mexico failed to meet its obligations concerning four of the 11 basic labour principles outlined in Annex 1 of the NAALC. The petitioners cite events that they say took place from 2000 to 2003 at Matamoros Garment, an apparel factory in Puebla, Mexico. However, the petitioners also refer to 1999-2000 events at KukDong International Mexico that allegedly violated the same labour rights, and they refer to several previous NAALC Public Communications and US and Canadian NAO findings. In this the petitioners seek to demonstrate repeated violation of core labour rights in Mexico. They allege a pattern of such violations and claim the pattern results from a systemic problem on the part of Mexican labour authorities to maintain a competent and independent labour law enforcement system.

DETAILED SUMMARY

Matamoros Garment S.A. de C.V. opened in 1999 in Izucar de Matamoros, Puebla, Mexico. The petitioners allege that workers rights violations began at the factory in 2000 and continued until the plant closed in 2003. The petitioners state that from July 29, 2002, the factory was producing largely for PUMA, an athletic apparel company.

The petitioners claim that the Mexican government failed to enforce applicable labour laws in the case of Matamoros Garment, and cite or allege the following:

- use of force to disperse strikers in two instances;
- the engagement of a "protection contract" without the consent or knowledge of workers;
- the factory's threat that the formation of an independent union would result in loss of the PUMA contract;
- the factory's statement that the loss of the PUMA contract was the fault of efforts to organize the independent union;
- surveillance and harassment of the independent union's leaders;
- the use of forced breaks from work workers;

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- execution of a "*paro tecnico*," without certain prior notice or proof of the factory's financial distress; and
- denial of registration of the independent union, SITEMAG (Sindicato Independiente de Trabajadores de la Empresa Matamoros Garment).

The petitioners claim that the Mexican government did not meet its obligation to prevent occupational injuries and illnesses, and cite or allege the following:

- persistent unsanitary conditions in the factory's cafeteria;
- instances where workers were locked in the factory; and
- instances of verbal abuse of workers.

The petitioners claim the Mexican government did not meet its obligation to enforce minimum employment standards, and cite or allege the following:

- garment sewers not paid their minimum wage;
- workers not paid for three weeks of back wages and eventually paid only half of the back wages due;
- workers not paid legally-mandated severance pay subsequent to the factory's closure;
- workers not protected from forced overtime, illegal suspension, and layoff; and
- failure to follow the legal requirements and obligations during the closure of Matamoros garment S.A. de C.V.

The petitioners cite approximately 35 articles of Mexican federal labour law they claim have been violated in the Matamoros case. The petitioners further claim that the alleged events at Matamoros Garment violate Mexico's international obligations vis-à-vis International Labour Organization Conventions 87 and 131, the American Convention on Human Rights and its Additional Protocol (Protocol of San Salvador), the International Covenant on Economic Social and Cultural Rights, and the International Covenant on Civil and Political Rights. They refer to Article 133 of the Mexican Constitution that incorporates all legal obligations and recommendations under ratified international treaties into binding law throughout Mexico.

To demonstrate a pattern of non-enforcement of labour law, the petitioners describe similar violations that allegedly took place during 1999 and 2000 at another factory, KukDong International Mexico S.A. de C.V. in Atlixco, Puebla. They claim similar violations of worker's rights regarding freedom of association, the right to organize, to collectively bargain, to enforce minimum wage standards, and to prevent occupational injury and illness.

The petitioners also refer to US and Canadian NAFO findings in past public communications filed against Mexico. The petitioners believe that past Ministerial Consultations have failed to resolve key issues and call for more far-reaching steps to ensure meaningful progress.

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NAALC PRINCIPLES AND ARTICLES CITED IN THE SUBMISSION

- Principle 1: Freedom of association and protection of the right to organize
- Principle 2: The right to collectively bargain
- Principle 6: The obligation to enforce minimum employment standards
- Principle 9: The obligation to prevent occupational injuries and illnesses
- Article 3: Government Enforcement Action
- Article 4: Private Action
- Article 5: Procedural Guarantees

ACTION REQUESTED

The submitters request that the following actions be undertaken:

- cooperative consultations pursuant to Article 21 of the NAALC to deal satisfactorily with all alleged violations in the submission;
- US/Mexican ministerial consultations pursuant to Article 22 of the NAALC to discuss the alleged failure to enforce applicable Mexican labour laws and international labour laws cited in the submission;
- one or more public hearings, in Houston or San Antonio.

The petitioners also request that support be sought from the Secretary of Labor to provide an opportunity for an Evaluation Committee of Experts (ECE), as per Article 23 of the NAALC, to address the following issues:

- 1) freedom of association
- 2) enforcement of wage laws
- 3) enforcement of occupational health and safety laws

The petitioners request that in a case where these issues were not resolved by the ECE, the Secretary of Labor explore the possibility of an Arbitral Panel as outlined in Article 29 of the NAALC.

Prepared by: Inter-American Labour Cooperation
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