

BEFORE THE  
UNITED STATES NATIONAL ADMINISTRATIVE OFFICE

In re:

GENERAL ELECTRIC COMPANY

SUBMISSION AND REQUEST FOR REVIEW

I. INTRODUCTION

The General Electric Company is one of the world's most powerful corporations. Yet, according to documents appended hereto, GE's motor plant in Juarez, Mexico has flagrantly violated the labor and human rights of its employees. As set forth in greater detail herein, the workers at the Juarez motor plant, which is known as Compania Armadora or CASA, have reported that GE management has actively obstructed union organizing efforts in violation of Mexican and international law, and in violation of the principles of freedom of association and protection of the right to organize.

For example, the company has changed its practice regarding plant entry and now requires workers to get on and off buses inside company property in order to prevent their receipt of union literature. In other instances, managers have taken union literature right out of the hands of the workers. See Affidavits of [REDACTED] and [REDACTED] attached hereto as Exhibits 1 and 2.

Workers have described other violations, ranging from the failure to pay overtime properly, failure to give light work to pregnant women, failure to comply with requirements regarding health and safety including the failure to properly ventilate work areas or provide adequate protective equipment, failure to establish functioning health and safety committees, failure to properly test workers who may be exposed to chemicals and to provide them with the results of the exams, and the use of chemicals which have been discontinued at General Electric plants or banned in the United States in a manner which may be harmful to workers. See affidavits of [REDACTED] and [REDACTED]

[REDACTED] attached hereto as Exhibits 1 and 3.

More serious, GE has recently terminated or pressured into "voluntary" resignations over 100 workers at Compania Armadora, including a young woman who attended the convention of the United Electrical, Radio and Machine Workers of America last August. This is widely perceived as an effort by GE to rid itself of union activists. See affidavits of [REDACTED] and [REDACTED]

[REDACTED] attached hereto as Exhibits 1 and 2.

Most egregious, within a week of publication in the UE News of an article and photograph describing a meeting between Mexican union activists and their counterparts from General Electric plants in the United States, four of the highest paid, most senior workers in the plant were terminated; 3 of the 4 were pictured in the UE News. See affidavits of [REDACTED], [REDACTED] and [REDACTED] attached hereto as Exhibits 3, 4 & 5.

The following week six additional workers, including several who attended the meeting with the UE delegation or appeared in the photograph, were terminated for alleged insubordination. Nor did the anti-union firings stop there. See affidavit of [REDACTED] attached hereto as Exhibit 6.

Finally, Mexican workers who have been terminated are entitled under Mexican law to receive statutory severance pay, which increases in amount based on length of service. In order to challenge the basis for a discharge, the worker must be willing to forego receipt of severance pay. Given the harsh economic reality faced by workers in Mexico, it is virtually impossible for workers facing unemployment to reject substantial sums of money and initiate legal claims for reinstatement. This problem is exacerbated where, as here, the Company visits workers and urges them to accept severance pay, thus relinquishing their legal rights. See Affidavits of [REDACTED] and [REDACTED] attached hereto as Exhibits 1, 4 and 6.

## II. THE COMPLAINANT

The United Electrical, Radio and Machine Workers of America (UE) is a national labor organization headquartered at 2400 Oliver Building, 535 Smithfield Street, Pittsburgh, Pennsylvania 15222. The Union has a national contract with the General Electric Company and represents some 6,000 workers in 15 bargaining units throughout the United States. Approximately two years ago the UE and the Frente Autentico del Trabajo (FAT) established the Strategic Organizing Alliance in order to target for unionization certain

maquiladora plants in the Juarez/Chihuahua region of northern Mexico.

As part of this effort, the Unions focused their efforts on several plants where they had ascertained that workers were eager to unionize, including the General Electric motor plant in Juarez, Mexico.

### III. THE CHARGED PARTY

The General Electric Company, according to Forbes magazine, is the most powerful corporation in the United States. It is headquartered at 3135 Easton Turnpike, Fairfield, Connecticut 06431. It employs over 225,000 workers throughout the world, including approximately 950 workers in its Juarez motor plant.

In 1993, alone, GE's gross sales exceeded \$60 billion, with net profits of \$5.18 billion. GE is the world's leading producer of most of the products it manufactures, including electric motors such as those which are produced in Juarez. Despite its enormous profitability, GE has diverted work from U.S. plants to Juarez in order to take advantage of the low wages there. Business Week reported on November 8, 1993 that in the 1980's, GE operations in Mexico expanded dramatically, moving from production for the Mexican domestic market to become a major exporter of appliances.

At the same time, GE has re-located U.S. production to Mexico from at least fifteen plants. For example, in 1989, GE closed its small motors plant in Decatur, Indiana throwing several hundred long-service employees out of work. Although the Decatur plant had

a well-deserved reputation for high quality and productivity, most of the jobs there were diverted to the Juarez plant. At that time, production workers in GE's Decatur plant earned twice as much in an hour as most production workers in GE's Juarez motor plant earn in an entire day. Since then, GE motor division workers in Ft. Wayne, Indiana, Murfreesboro, Tennessee, and Erie, Pennsylvania have also lost jobs to Mexico.

#### IV STATEMENT OF FACTS

As stated earlier, approximately two years ago the UE and the Frente Autentico de Trabajo (FAT) established the Strategic Organizing Alliance. In order to develop closer ties between General Electric Workers in Mexico and the United States, on November 4, 1993 a delegation composed of five General Electric workers from plants represented by the United Electrical, Radio and Machine Workers of America traveled to Juarez, Mexico to meet with their counterparts from the Mexican GE motor plant who were trying to organize through the FAT-affiliated union STIMAHCS.

On November 6, 1993 a meeting was hosted by [REDACTED] at which the Mexican and U.S. General Electric workers exchanged information and pledged mutual support in the effort to unionize the plant.

The meeting took place in a yard outside of [REDACTED] house, and a portion of the meeting was filmed by a MacNeil/Lehrer news crew which was preparing a piece on cross-border organizing.

The Mexican GE workers told their U.S. counterparts that the company was putting tremendous pressure on them by increasing the number of motors that had to be produced annually, and that in the immediate aftermath of the first public union organizing meeting, which was under company surveillance, the company fired over 100 workers, including at least twenty union activists who had attended that September organizing meeting. See Affidavit of [REDACTED] Attached hereto as Exhibit 2. For economic reasons, virtually all of these workers were forced to accept statutory severance pay and look for other work. However, [REDACTED], a mechanic with 10 years seniority who was one of the highest paid workers in the plant at \$15 a day, refused to go quietly and has filed a claim with the Mexican Arbitration and Conciliation Board seeking reinstatement and back pay.

On November 19, 1993 the UE News carried a story about the trip with several photographs, including a picture of some of the workers who had attended the meeting.

On November 25, 1993, only days after the UE News was distributed, four workers were fired, including three who appeared in the photograph. Their accounts are as follows:

[REDACTED] maintenance technician, [REDACTED] service with the company: 10 years; salary: \$12 a day; fired the 25th of November, 1993.

On the 25th of November at 9:30 in the morning, a security guard named [REDACTED] instructed him to accompany him to the personnel office where they wanted to speak to him. [REDACTED] head of personnel, told him: I'm going to read you a letter in which the company accuses you that on the 3rd of November of 1993 you left

your work area without permission from your supervisor, in order to distribute flyers in the interior of the plant and for that reason the company has from that date fired you from your work. The worker denied the accusation as false, since from the first day of November he had left to enjoy his vacation and had not returned to the plant until the 12th of November. This is to say that from the 1st to the 12th of November he had not entered the plant for any reason. The worker asked for proof of the accusation from [REDACTED] but the only thing that he showed him were some photographs in which he saw [REDACTED] organizer of the F.A.T., outside of the plant distributing flyers. The worker asked [REDACTED] for a written statement for the reasons for his discharge. [REDACTED] denied him a written statement, and in doing so the company violated Article 47 of the Federal Labor Law of Mexico. The company also refused to pay the worker for the two weeks that he had worked. Attached is a copy of the proof of the vacation pay which was given to [REDACTED] which demonstrates the arbitrary manner in which Mr. [REDACTED] acted, accusing the worker of something which was totally false, since he was enjoying his vacation at the time.

[REDACTED] technician, charged with the management of chemical substances at the General Electric Compañía Armadora plant; seniority in the company: 6 years; salary: \$12 a day; discharged the 25th of November, 1993.

On the 25th of November, the security guard [REDACTED] asked the worker to accompany him to the personnel offices because the director wanted to speak to him. The same [REDACTED] told the worker that in recent months the company had been waiting for the worker to give them a reason to fire him, since he together with Apolonio Talamantes had dared to demand of the company that they be reinstated by the company in the posts that they had occupied previously. "I have a report from your supervisor that the 3rd of November, at 10 in the morning, you abandoned your work area without permission from your supervisor in order to distribute flyers and in addition in order to leave the factory to pose for some cameras operated by visitors from the UE of the United States which were filming the workers and in addition in the interview that you gave you spoke badly of the company, denouncing that Compañía Armadora continued to use chemical substances that in the United States had been banned. That for these reasons the company has fired him, refusing the worker a written statement of reasons for the discharge and in addition denying him pay for the last two weeks that he had worked. The worker denied

these accusations as false since he had never distributed flyers either inside or outside of the company and that in addition the interview that he had with the delegation from the UE was the 6th of November in the house of another worker outside of the plant on a Saturday, that moreover was his day off. In addition the worker demanded to know from [REDACTED] why the company never told him the results of the medical exams that they had done on him and that were supposed to be for his own safety since he was charged with the management of chemical residues. Faced with this demand by the worker, [REDACTED] ordered the guard [REDACTED] to immediately escort the worker out of the plant.

[REDACTED] maintenance technician; salary: \$12.50 a day; seniority in the plant: 13 years; fired the 25th of November of 1993.

On the 25th of November at 4:30 the security guard named [REDACTED] asked the worker to accompany him to the personnel office. [REDACTED] Personnel, told the worker that the company was firing him and that he should turn in his tools, his overalls and other work utensils since from that moment on he had to leave the plant. The worker requested an explanation for why he was being fired. [REDACTED] told him that the company accused him of having a gathering at his house with some workers from the UE of the United States in which other workers from General Electric's Compañía Armadora had denounced violations of law which were daily committed by the company. In addition they accused him of having, on the 9th of November, abandoned his work area in order to distribute flyers. The worker denied that he had distributed flyers inside or outside the plant, and in addition the gathering that he had with the workers from the UE had been on a Saturday at his home at an hour which was outside of his work schedule. Moreover on that Saturday, the 6th of November, knowing that he had an obligation with respect to the gathering of the UE delegation, he was told by the company that he had to work that day, and indeed he worked seven hours of overtime that day from 6:00 in the morning until 1:00 in the afternoon. In other words on that Saturday which was his day off, he nevertheless complied with his obligation to the company and worked overtime that day and afterwards participated in the gathering of the UE delegation at his home.

[REDACTED] refused to give him a written statement of the reasons for his discharge and in addition refused to pay the worker for the last two weeks of work.



[REDACTED] 14 years of service; [REDACTED] daily wage \$9. [REDACTED] did not attend the November meeting with the UE delegation and was simply told that on November 25 that his services were no longer needed. When he returned the following day with an attorney to negotiate his statutory severance pay, he was told that unless he took the money that was being offered by the company, criminal charges would be filed against him for theft and drug trafficking in marijuana.

On December 2, 1993, at least six additional workers [REDACTED] [REDACTED] [REDACTED] were fired for alleged insubordination. On December 10, [REDACTED] was also fired as part of the "anti-union hysteria that followed the visit to Compania Armadora by members of the United Electrical Workers Union." See Affidavit of [REDACTED], attached hereto as Exhibit 6.

The United Electrical, Radio and Machine Workers of America and numerous other concerned individuals, unions and organizations urged the company to look into the matter and correct the injustices which had been committed.

On January 12, 1994, the UE was officially advised by the General Electric Company that the six workers who were fired on December 2, 1993 had been offered reinstatement but had all chosen statutory severance pay as an alternative.

The Union was further informed that [REDACTED] [REDACTED] and [REDACTED] would not be offered reinstatement and that they had all chosen to accept statutory severance pay. The company did not refer to [REDACTED] [REDACTED] in its letter.

On January 25, 1994, the United Electrical, Radio and Machine Workers of America again advised the General Electric Company that [REDACTED] and [REDACTED] had not accepted severance pay and are continuing to fight to regain their jobs.

#### V. VIOLATIONS OF LAW

Based on the attached affidavits by workers at the General Electric motor plant in Juarez, Mexico, and by STIMAHCS organizer [REDACTED] it is hereby believed and alleged that the General Electric Company has violated the Labor Principles contained in Annex 1 of the North American Agreement on Labor Cooperation (NAALC); The Universal declaration of human Rights<sup>1</sup> and the United Nations Covenants on Civil and Political Rights<sup>2</sup> and Economic, Social and Cultural Rights<sup>3</sup>; International Labor Organization (ILO) Conventions 87, 98 and 170; Articles 6, 7 and 123 of the Constitution of Mexico, and the Federal Labor Law of Mexico, in the following respects:

- A. By restricting communication between workers in furtherance of their collective interests and interfering with the distribution of union leaflets, and engaging in surveillance of union meetings the Company has violated the above cited international standards as well as Article Six of the Mexican Constitution which guarantees

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<sup>1</sup>. U.N. Res. 217A (III), 3(1) U.N. GAOR Res 71, U.N. Doc. A/810 (1948).

<sup>2</sup>. U.N.G.A. Res. 2200 (XXI), 21 U.N. GAOR, Supp. (No. 16) 52, U.N. Doc.a/6316 (1967), entered into force March 23, 1976.

<sup>3</sup>. U.N.G.A. Res.2200 (XXI), 21 U.N. GAOR, Supp. (No.16)49, U.N. Doc.6316 (1967), entered into force January 3, 1976.

the right of free expression, Article Seven which guarantees the right to write and publish freely about any subject, Article 123 which guarantees the right to organize.

- B. By discharging workers for union activity and without cause, the General Electric Company has violated the above cited international standards as well as Article 123 of the Mexican Constitution and Article 357 of the Federal Labor Law of Mexico.
- C. By failing to properly pay overtime, the General Electric Company has violated the above cited international standards as well as Article 123 of the Mexican Constitution and Articles 58, 59, 60, 61, 63 and 68 of the Federal Labor Law of Mexico.
- D. By failing to give light work to pregnant women, the company has violated Article 123 of the Mexican Constitution and Articles 164, 166, 167 and 170 of the Federal Labor Law of Mexico.
- E. By failing to comply with requirements regarding health and safety including the failure to properly ventilate work areas or provide adequate protective equipment, failure to have functioning health and safety committees, failure to properly test workers who may be exposed to chemicals and to provide them with the results of their exams, and by using chemicals which have been discontinued in General Electric facilities or banned in the United States in ways which may subject workers to harmful exposure, the General Electric Company has violated ILO convention 170 as well as Article 123 of the Mexican Constitution and Article 132, Sections 16, 17, 18 and 19 of the Federal Labor Law of Mexico.
- F. By failing to give workers a copy of the work contract that they signed with the company, The General Electric Company has violated Article 123 of the Mexican Constitution and Articles 24 and 25 of the Federal Labor law of Mexico.
- G. By failing to give workers a written statement of the reason for their discharge, the General Electric company has violated Article 47 of the Federal Labor Law of Mexico.
- H. By pressuring workers into accepting statutory severance pay and relinquishing claims for reinstatement, the General Electric Company has violated the above cited international standards as well as Article 123, Section

22 of the Mexican Constitution as well as Articles 47 and 947 of the Federal Labor Law of Mexico.

UE requests that the review initiated in this case address both the conduct of the General Electric Company and the failure of Mexico to enforce its labor laws with respect to the issues raised in this matter, in particular, those laws and regulations, or provisions thereof, that are directly related to (per the Definitions specified in Article 49 of the NAALC):

freedom of association and protection of the right to organize;

minimum employment standards, such as minimum wages and overtime pay, covering wage earners, including those not covered by collective agreements;

prevention of occupational injuries and diseases;

This review should not be forestalled by any argument that the incidents cited are or may be processed under Mexican labor law procedures such as conciliation boards or labor courts. The failure of the Mexican authorities to enforce its labor laws is established by a number of sources.

Mexico has ratified ILO Convention 87 on freedom of association and protection of the right to organize, making that Convention part of Mexican labor law. But the ILO's Committee of Experts has repeatedly found Mexico in violation of the Convention, most recently at the 1993 ILO Conference (see ILO, Report of the Committee of Experts Concerning Ratified Conventions (1993), at 210-213).

In a massive study of Mexican labor conditions, the U.S. Congress' Office of Technology Assessment reported that:

"[T]he evidence suggests that the Mexican government and official unions have often used their power to block independent union formation." (U.S. Congress, Office of Technology Assessment, U.S.-Mexico Trade: Pulling Together or Pulling Apart (1992), at 80).

Professor Nestor de Buen, a respected Mexican labor lawyer and professor (and an advisor to the Mexican government's labor side agreement negotiating committee) has characterized the government as:

"[T]he omnipotent decisionmaker under the guise of social partnership...Under it, collective rights have been nullified, trade union freedom has been suppressed, and the right to strike has been eliminated." (de Buen, "Otro Modelo de Relaciones Laborales," Carlos Reyes Romero, ed., Dos Proyectos de Nacion (1989), 243-255, at 247).

Another Mexican labor law analyst has stated that:

"[F]ederal labor law leaves the door open for legal procedures to be manipulated by employers, using the law in a fraudulent manner." (Graciela Bensusan, "Transgression y Discrecionalidad en el Mundo Laboral: Algunos Ejemplos," Trabajo No. 9 [1993]).

A. U.S. News & World Report investigation found that:

"Workers who fight for better pay run head-on into a system that checks their ability to form independent unions...Arbitration boards supervised by the secretary of labor determine which unions are legitimate...The arbitration boards are chocked with representatives from the government, PRI-affiliated unions and business." (Linda Robinson, "Reaching to the South: Free Trade Alone Cannot Bring Mexico and the United States Together." U.S. News and World Report (March 1, 1993), p. 43).

GE's failure to implement a joint labor-management health and safety committee typifies employer flouting of this Mexican law. In any case, worker members are not chosen by employees. They are

appointed to these committees by management, which maintains effective control over committee work. The U.S. News report cited above quotes a U.S. official who follows labor issues in Mexico and says that "the 'watchdog panels' are structures that management can intimidate and dominate."

General Electric's firing of union supporters, interfering with workers' communication with one another orally and through leaflets about wages, working conditions and the need to organize, and pressuring workers into accepting severance pay and relinquishing claims for reinstatement, without labor law enforcement by Mexican government authorities, violate Principle 1 of Annex 1 of the North American Agreement on Labor Cooperation: freedom of association and protection of the right to organize.

The failure to properly pay overtime, the violation of independent employment contracts, and the failure to provide workers with copies of their contracts of employment, violate Principle 6, minimum employment standards for wage earners, including those not covered by collective agreements.

The failure to protect against dangerous chemical and other hazardous substances, the failure to provide light work to pregnant women, lack of government enforcement of protective safety and health laws, and the failure to establish genuine labor-management health and safety committees, violates Principle 9: prevention of occupational injuries and illnesses.

All these instances reflect ineffective enforcement or non-enforcement of "labor laws" as defined in Article 49 of the NAALC.

## VI. RELIEF REQUESTED

WHEREFORE, the United Electrical, Radio and Machine Workers of America(UE) requests:

A. That the United States National Administrative Office (USNAO) initiate a review pursuant to Article 16 of the North American Agreement on Labor Cooperation (NAALC);

B. That the USNAO hold a public hearing in Juarez, Mexico, or should it not be competent to do so, in El Paso, Texas, having first made adequate arrangements for translation and visas for witnesses, and having provided adequate notice to Complainant, pursuant to Section (e)(3) of the Federal Register Notice of Establishment, F.R. Vol.58, No. 249, of December 30, 1993;

C. That Mexico require the General Electric Company to comply with International and Mexican law. More specifically, the United Electrical, Radio and Machine Workers of America(UE) requests that the General Electric Company be instructed to:

1. Respect the rights of workers to communicate in furtherance of their interests and to meet and to distribute and receive leaflets free from company interference or surveillance;
2. Return to the former practice of letting workers off the bus outside the company gates, so that they can receive literature without interference or surveillance;
3. Instruct all management personnel that they must stop snatching union leaflets out of the hands of workers;
4. Stop discharging workers for union activity and without cause;
5. Cease pressuring workers into accepting statutory severance pay and relinquishing claims for reinstatement, and immediately offer reinstatement

with full back pay and lost benefits to [REDACTED]

[REDACTED] all other workers who have been unjustly terminated because they engaged in, or were believed by the company to have engaged in, union activity;

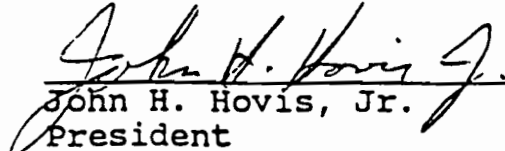
6. Properly pay overtime;
  7. Provide light work to pregnant women;
  8. Comply with requirements regarding health and safety including proper ventilation of work areas, provision of adequate protective equipment, the establishment of functioning health and safety committees, proper testing of workers who may be exposed to chemicals and provision of the results of their exams, and the elimination of chemicals which have been banned in the United States, or whose use has been discontinued in General Electric's U.S. plants where such use may subject workers to harmful exposure;
  9. Provide all workers with a copy of the work contract that they signed with the company;
  10. Provide any worker who may be discharged with a written statement of the reason for their discharge;
  11. Post notices at all U.S. and Mexican General Electric facilities, setting forth in detail the corrective actions it is taking, and stating its agreement to respect the labor and human rights of its employees in the future; and
  12. Send a copy of said notice to all individuals and organizations which wrote to the General Electric Company to inquire about the fired workers and to whom the Company incorrectly responded that the matter had been resolved.
- D. In the event that the relief requested in Paragraph C is not satisfactorily obtained, that the USNAO Secretary recommend that the Secretary of Labor request consultations at the ministerial level pursuant to Article 22 of the NAALC regarding all such matters that may properly be considered;
- E. If, following such consultations, the relief requested in Paragraph C is not satisfactorily obtained, that the



USNAO Secretary recommend that the Secretary of Labor request that an Evaluation Committee of Experts (ECE) be established under Article 23 of NAALC regarding all such matters that may properly be considered;

- F. If, following presentation of a final Evaluation Committee of Experts report under Article 26(1) of NAALC, the relief requested in Paragraph C is not satisfactorily obtained, that the USNAO Secretary recommend dispute resolution under Part Five of NAALC regarding all such matters that may properly be considered;
- G. That the USNAO Grant such further relief as it may deem just and proper.

Respectfully submitted,

  
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