PUBLIC COMMUNICATION

On

LABOR LAW MATTERS ARISING IN CANADA (QUÉBEC)

Before the

NATIONAL ADMINISTRATIVE OFFICE OF THE UNITED STATES

Under the

NORTH AMERICAN AGREEMENT ON LABOR COOPERATION (NAALC)

VIOLATIONS OF NAALC LABOR PRINCIPLES AND OBLIGATIONS IN THE CASE OF THE ST-HUBERT McDONALD'S RESTAURANT

SUBMITTERS:

The International Brotherhood of Teamsters

Teamsters Canada

Teamsters, employés de laiterie, boulangerie, produits alimentaires, ouvriers du meuble, employés de stations service, employés de parc de stationnement, mécaniciens d'auto et aides, camionneurs de la construction et d'approvisionnement et salariés divers, Montréal et les environs –local 973

Fédération des travailleurs et travailleuses du Québec (F.T.Q.)

International Labor Rights Fund

I. INTRODUCTION

This submission raises questions regarding the absence of recourses under Quebec law for anti-union motivated plant closures, as well as unwarranted delays in the certification process. It also raises the issue of access to certification by sector in order to address problems in the

certification process related to multiple employers or multiple facilities systems of corporate structures.

In February 1998, a franchisee of the multinational enterprise McDonald's Corp. violated workers' rights to organize and bargain collectively when it closed its St-Hubert, Quebec, restaurant during union certification proceedings. The closure took place when certification appeared imminent, in circumstances similar to Case No. 9501 NAOMEX (the Sprint case).

Plant closing for anti-union animus

As noted in the report Plant Closings and Labor Rights[1] by the Secretariat of the Commission for Labor Cooperation, the labor law of the Province of Quebec, which has ratified the NAALC, does not provide a remedy for a plant closure motivated by anti-union animus in situations like the McDonald's case.

Delays in the certification process

Procedural laxity in the Quebec Labour Code allowed McDonald's and/or its franchisee to manipulate the certification process to obtain unjustified delays. The weakness of Quebec law in this regard is the requirement that a formal hearing be held whenever the employer disagrees with the proposed bargaining unit.

In the McDonald's case, the franchise system and the fact that the franchisee controlled multiple locations in a franchise ownership system, opened the door to undue delays in that it allowed an artificial challenge to the definition of the bargaining unit.

Problems related to multiple locations businesses

The way the Quebec Labour Code and the certification process are designed is not well adapted to organizing in sectors where businesses are structured in multiple locations or facilities or based on the franchise system of corporate ownership. This submission discusses these problems and addresses possible solutions.

[1] At page 34.

II. NAALC LABOR PRINCIPLES AND OBLIGATIONS FOR COOPERATIVE CONSULTATIONS

A. Labor principles addressed by the submission:

- Freedom of association and protection of the right to organize.
- The right to bargain collectively.

B. Obligations of Quebec governmental authorities addressed by the submission:

- The obligation to ensure that labor laws and regulations provide for high labor standards (Article 2 of the NAALC).
- The obligation to continue to strive to improve those standards (Article 2 of the NAALC).
- The obligation to promote compliance with and effectively enforce labor law (Article 3 of the NAALC).
- The obligation to ensure that persons with a legally recognized interest may have recourse to procedures by which their labor rights can be enforced (Article 4 of the NAALC).
- The obligation to ensure that administrative, quasi-judicial, judicial and labor tribunals proceedings are not unnecessarily complicated and do not entail unreasonable time limits or unwarranted delays (Article 5 of the NAALC).
- The obligation to provide that parties to administrative, quasi-judicial, judicial and labor tribunal proceedings may seek remedies to ensure the enforcement of their labor rights (Article 5 of the NAALC).

III. STATEMENT OF JURISDICTION AND AUTHORITY FOR COOPERATIVE CONSULTATIONS

The National Administrative Office of the United States has jurisdiction to review this submission under Article 16(3) of the NAALC authorizing each NAO to review public communications on labor law matters arising in the territory of another Party, in accordance with domestic procedures.

The U.S. NAO is empowered under Article 21 to request consultations with the NAO of Canada in relation to labor law, its administration, or labor market conditions in Canada.

Under Article 22, the U.S. Secretary of Labor may request consultation with the Minister of Labor of Canada regarding any matter within the scope of the NAALC. The matters raised in this submission are within the scope of the Agreement.

IV. BACKGROUND

A. Overview of Quebec's Certification Procedure

Under the Quebec Labour Code, certification applications are made to the Labour Commissioner-General by means of a petition, which must be authorized by a resolution of an association of employees and indicating which group it seeks to represent. The petition is accompanied by applications for membership (membership cards). Upon receiving the application, the Office of the Labour Commissioner-General sends a copy of the petition to the employer who, within five days of receiving it, must provide the association with a list of employees contemplated by the petition[2]. Once a petition regarding a group of employees not represented by a certified association is on file, it renders any subsequently filed petition regarding all or some of the same employees inadmissible[3].

Upon receiving a petition for certification, the labour-commissioner-general is empowered to delegate a certification agent to determine the representative character of the association and its right to be certified[4]. If the certification agent finds that all parties agree on the composition of the bargaining unit and is satisfied as to the representative character of the association (more than 50% of employees in the unit), the certification agent must certify the association immediately and indicate which group of employees constitutes the bargaining unit.

If the certification agent determines that there is agreement between the employer and the association as to the composition of the unit and that 35 to 50 per cent of the employees in the unit are members of the association, a vote must be held. The association will be certified if it obtains an absolute majority vote of the employees. If the parties agree on the bargaining unit and the association is found to be representative but there is some disagreement as to the inclusion of certain persons covered by the petition, the certification agent shall nevertheless grant certification. The disagreement will be referred to a Labour Commissioner.

If the employer objects to the definition of the bargaining unit, he must set forth his written reasons (if he fails to do so within 15 days, he is deemed to have agreed to the bargaining unit)

[2] Section 25 of the Québec Labour Code.
[3] Section 27.1.
[4] Section 28.

and the matter will be referred to a Labour Commissioner[5]. A hearing will then be held. After the investigation, the Labour Commissioner will settle any matter relating to the bargaining unit and the persons contemplated by it, and will also decide as to the representative character of the association[6].It should be noted that regarding the representative character of the association, the employer has no standing. The Code provides that the decision granting or refusing the certification shall be rendered within five days after the investigation is terminated[7], however, this delay has been held not to be mandatory.

Finally, an appeal lies from the decision of the Labour Commissioner to the Labour Court[8].

B. Factual Background

On February 18, 1997, Local 973 of the Teamsters[9] filed a petition for certification with the Office of the Labour Commissioner-General to become bargaining agent for employees working in a McDonald's restaurant in the city of St-Hubert, Quebec. The employer, Les Entreprises JMC 1973 Ltée is a McDonald's Restaurants franchisee which, at the time, operated six restaurants. With the petition, the union filed copies of signed membership cards demonstrating that 49 of approximately 60 employees had joined the union.

The employer responded to the union's petition with a series of maneuvers designed to delay and frustrate the union certification process. Among these tactics, the employer claimed as current employees dozens of persons who had never worked at the St-Hubert restaurant. Later, the employer argued that the bargaining unit should include employees of the five other facilities operated by the employer as franchises of McDonald's. The employer argued that employees were frequently transferred among the six restaurants, but this proved to be false.

The certification agent began his inquiry on March 13th, 1997. He met 28 employees at the St-Hubert restaurant and also met with the employer at the company's head office in Chateauguay.

The certification agent issued his report to the labour commissioner on March 24, 1998, effectively dismissing the employer's claims. The report informed the Labour Commissioner-General that certification could not be granted because the parties did not agree on the proposed bargaining unit. It also contained observations of the agent with respect to the list of

[5] Section 31.
[6] Section 32.
[7] Section 34.
[8] Section 118 of the Labour Code.
[9] Teamsters, employés de laiterie, boulangerie, produits alimentaires, ouvriers du meuble, employés de stations service, employés de parc de stationnement, mécaniciens d'auto et aides, camionneurs de la construction et d'approvisionnement et salariés divers, Montréal et les environs –local 973.

employees submitted by the employer. This detailed report held most of the information that the parties would have to present as evidence before the Labour Commissioner in the following months. However, Quebec law requires hearings when the employer disputes the bargaining unit sought by the union, even when the employer's arguments are patently frivolous. A report from a certification agent, even though it forms part of the file, can not be used as a basis for a decision of the Labour Commissioner who is obliged to conduct his investigation in the presence of each of the parties. This means holding hearings where evidence will be presented subject to the usual rules of evidence.

As the Labour Commissioner later noted in his certification decision of February 27, 1998, after the closing of the restaurant, "it is sometimes necessary to hold several days of hearings to receive evidence of facts known by everyone even before the first day of hearings even starts".

Over the next 11 months, there were 9 days of hearings with 6 witnesses. Evidence adduced in the hearings overwhelmingly supported the union's position in the matter. The hearings were still not concluded when the facility closed in February, 1998.

On February 12, 1998, when hearings were still scheduled for March, the employer sent a letter to workers informing them that the facility would close the following day.

After the closure, the employer withdrew its challenge to the composition of the bargaining unit and the Labour Commissioner certified the union as bargaining agent for the employees of the now closed St-Hubert McDonald's restaurant.

Other incidents during the certification procedure

On April 24, 1997, the Labour Commissioner received an appearance on behalf of a group of workers from an attorney who declared having been mandated by these workers to inquire into the formalities regarding the filing of the petition and to object to the application by the Teamsters. Frivolous subpoenas were issued to union officials and frivolous challenges were filed against the jurisdiction of the Labour Commissioner. The group of employees even filed a motion for judicial review of the decision of the Labour Commissioner to go on with the hearings despite their request that he be removed from the case. This motion went all the way to the Court of Appeal of Quebec. Regarding these maneuvers, the Court of Appeal declared: "In brief, the intervention of the petitioners before the Commissioner is without any quality and, to say it all, marked with a sign of harassment and obstruction that may only be explained by occult reasons."

The source of financial support for these maneuvers was never disclosed.

Offer from the Fonds de solidarité des travailleurs du Québec to re-open the restaurant

After the St-Hubert restaurant closed, the Fonds de solidarité des travailleurs du Québec (*Solidarity Fund*) approached McDonald's Corp. with an offer to invest in the facility and re-open it under a McDonald's franchise.

The Solidarity Fund is a development capital fund that was founded under the impetus of the Quebec Federation of Labour, the largest union body in Quebec. It raises capital from the public, especially from the 480000 members of the QFL. Its mission is to help create, maintain and preserve jobs in Quebec by investing in small and medium-sized Quebec enterprises.

This offer presented by the Solidarity Fund was rejected by McDonald's.

V. VIOLATIONS OF NAALC PRINCIPLES AND OBLIGATIONS

A. Anti-Union Motivated Plant Closing

With the possibility of using legal tactics nearing an end, the employer, with McDonald's assent, used the ultimate anti-union weapon: closing the workplace entirely. This left the union, and the individual workers, without any recourse.

Indeed, Quebec is the only Canadian jurisdiction having ratified the NAALC which maintains a legal doctrine permitting an employer to close a facility for anti-union motivation with impunity.

In Quebec, plant closure in the context of labour organizing never gave rise to an unfair labour practice as in other provinces of Canada or in the U.S. What has been the subject of litigation, is whether a lay-off resulting from an anti-union plant closing could give rise to a complaint for unjust dismissal based on union activities.

Sections 15 to 17 of the Quebec Labour Code provide that:

> *"**15.** Where an employer or a person acting for an employer or an employers' association dismisses, suspends or transfers an employee, practices discrimination or takes reprisals against him*

or imposes any other sanction upon him because the employee exercises a right arising from this Code, the Labour Commissioner may

a) order the employer or a person acting for an employer or an employer's association to reinstate such employee in his employment, within eight days of the service of the decision, with all his rights and privileges, and to pay him as an indemnity the equivalent of the salary and other benefits of which he was deprived due to dismissal, suspension or transfer.

[...]

b) order the employer or the person acting for an employer or an employers' association to cancel the sanction or to cease practicing discrimination or taking reprisals against the employee and to pay him as an indemnity the equivalent of the salary and other benefits of which he was deprived due to the sanction, discrimination or reprisals.

***16.** An employee who believes that he has been the victim of a sanction or action contemplated in section 15 must, if he wishes to take advantage of that section, present his complaint in writing to the labour commissioner-general within thirty days of the sanction or action of which he complains, or mail it to him within the same time. The labour commissioner-general shall appoint a labour commissioner to make an investigation and decide as to the complaint.*

***17.** If it shown to the satisfaction of the labour commissioner having cognizance of the matter that the employee exercises a right arising from this Code, there is a presumption in his favour that the sanction was imposed on him or the action was taken against him because he exercised such right, and the burden of proof is upon the employer that he resorted to the sanction or action against the employee for good and sufficient reason.*

Every case involving a plant closure in Quebec has been tried under these sections. The leading case on the subject is City Buick Pontiac (Montreal) Inc.[10] in which the Quebec Labour Court held that as long as the closure was permanent and complete, the employer could go out of business with impunity, despite the presence of anti-union motives, as nothing in the law could be constructed as precluding it. The Court held that closing or discontinuing operations

[10] *City Buick Pontiac (Montreal) Inc.* c. *Roy*, [1981] T.T. 22.

constituted just cause for termination, and that the Court could not question the motives behind the decision of the employer as long as this decision to close was real.

The *City Buick Pontiac* doctrine was followed by Quebec's courts, namely in the case Caya v. 1641-9749 Québec inc., D.T.E. 85T-242.

From this case law, we can conclude that the only way of avoiding the *City Buick Pontiac* doctrine is to demonstrate that the employer is most likely using a scheme to avoid certification or to avoid a first collective agreement **and** that the evidence shows that he has the **intention of reopening** its facilities.

In the context of cooperative consultations, it is worth noting that the *City Buick Pontiac* doctrine appears to exceed, in its anti-labor reach, the *Darlington* doctrine under U.S. labor law. In Textile Workers Union v. Darlington Mfg. Co., 380 U.S. 263 (1965), the U.S. Supreme court ruled that an employer may close his entire business for any reason he pleases, including anti-union motivation. However, it should be kept in mind that the union won the *Darlington* case because the company had not closed the entire business, but only one plant of a multi-plant operation. The U.S. Supreme Court found that this was an unfair labor practice because the closure was intended to deter workers in other facilities of the same employer from seeking to unionize. In this sense, the situation could be seen as a threat of closing. Workers in this case ultimately received back pay and offers of reinstatement at other plants of Darlington Mfg. Co.

In the St-Hubert McDonald's case, the closure of one restaurant in a group of six should be seen as a partial closure motivated, in part, by an aim to discourage unionization in other facilities of the employer - to "send them a message" about the consequences of organizing. Under U.S. law, this is an unfair labor practice which can be remedied by an order to reopen the closed facility, or to offer reinstatement to employees at another company facility.

This remedy was not available to employees of the McDonald's St-Hubert facility.

It is interesting to note that while the employer had maintained all along that the employees of the six restaurants should form only one bargaining unit to facilitate transfers from one restaurant to another, the employees of the St-Hubert facility who were laid off because of the closing were not transferred to the other restaurants.

The closing in the St-Hubert McDonalds' case is a good example to illustrate how inappropriate Quebec law can be with respect to plant closings.

It is common knowledge that the fear of losing employment, especially now at McDonald's, is probably the most important reason why workers do not want to get involved with a union. This is why threats to close or threats of lay off during union organizing drives have generally been held to be an unfair labor practice.

In other words, an employer cannot make an idle threat to close a plant, but he can close down for anti-union reasons.

Therefore, union organizers in Quebec can tell workers that the employer who just threatened to close the plant did not have the right to do so. However, no one can tell workers that the employer does not have the right to close. How effective is the legislation in this context?

The existence of the *City Buick Pontiac* doctrine and the failure of authorities to respond to it amounts to a violation of a number of obligations under the NAALC:

Generally, it is a failure to **maintain high labor standards** as contemplated by Article 2 of the NAALC, which reads:

> *Affirming full respect for each Party's constitution, and recognizing the right of each Party to establish its own domestic labor standards, and to adopt or modify accordingly its labor laws and regulations, each Party shall ensure that its labor laws and regulations provide for high labor standards, consistent with high quality and productivity workplaces, and shall continue to strive to improve those standards in that light.*

Also, it is a failure for Quebec to **enforce its labor law**. Indeed, the right of association is fully recognized by the Quebec Labour Code, but is it enforced when an employer closes a plant for anti-union motives with impunity? Article 3(1) of the NAALC provides:

> *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;*
>
> *(...)*
>
> *g) initiating, in a timely manner, proceedings to seek appropriate sanctions or remedies for violations of its labor law.*

Furthermore, in situations such as the St-Hubert McDonald's case, individual workers who have lost employment because of the exercise of a right recognized under the Quebec Labour Code have **no recourse available** to them by reason of the *City Buick Pontiac* doctrine. This constitutes a violation of Article 4(2) of the NAALC:

> *Each Party's law shall ensure that such persons [with a legally recognized interest] 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* [...]
>
> *can be enforced.*

The failure of authorities to respond to the problems raised by the *City Buick Pontiac* doctrine encourages anti-union gestures by employers. Worker's rights to associate and bargain collectively may be violated with impunity, with the assent of governmental authorities.

B. Delays in the certification procedure

Closure of the St-Hubert McDonald's restaurant violated worker's rights to organize and bargain collectively in accordance with Labor Principles 1 and 2 of the NAALC. A substantial majority of the workers joined the union and wished to be represented in a collective bargaining process with McDonald's. Instead of respecting their right to do so, the franchisee, as it is often the case at McDonald's, launched into a campaign of legal manipulation and delay.

Much of the company's ability to delay the process stemmed from the franchise nature of McDonald's operations and the fact that the employer controlled more than one location. The principal argument of the employer was that the definition of the bargaining unit was not appropriate because transfers of employees among facilities were frequent. The employees knew this to be completely false, but the employer was allowed to delay the process for months of hearings.

The weakness of Quebec law in that regard is the fact that a formal hearing must be held as soon as the employer disagrees on the proposed bargaining unit. It is very easy to find ways to object to the definition of the bargaining unit. If it means more delays, more attorney fees and so on, it is something an employer might want to explore to bar the certification process.

The formal hearing before the labour commissioner seized of the matter can only take place after the certification agent has investigated and drawn up a report. This may take at least a month. In the case under consideration, it took 50 days before a hearing date was proposed to the parties.

The report prepared by the certification agent may contain relevant information with respect to the definition of the unit. However, even though the report forms part of the file, its content must be proven through the usual rules of evidence. As well, the process is inherently difficult if workers, as is often the case, are afraid to testify.

As we witnessed in the St-Hubert McDonald's case, holding nine days of hearings may take up to a year. The obligation to hold hearings that are procedurally scattered is a real concern.

It should be noted that the case of the St-Hubert McDonald's is not an isolated one. Another franchisee of McDonald's is using the same tactics to delay a certification procedure at this very moment. The Teamsters are involved in the unionisation of another restaurant situated in the heart of the city of Montreal, where the employer opposes the definition of the bargaining unit on the same grounds. The employer in this other case also tried to inflate the list of employees by hiring many workers a few days before the petition was filed by the union. These tactics force the Commissioner to hold hearings and this slows down the process considerably. They are commonly used by employers in sectors structured on franchise systems of corporate ownership or multiple locations businesses, especially in restaurants and in the retail industry.

Statistics regarding delays between the filing of a petition and the time of the decision granting certification demonstrate that hearings on the determination of the appropriate bargaining unit entail unreasonable and unwarranted delays[11]. For example, in 1990, certifications that did not involve a debate over the definition of the bargaining unit were granted within 60 days in 93% of cases. For certification procedures involving a hearing, decisions were rendered after 60 days in 100% of cases, and in 45% of cases the delay rose to more than 90 days. These statistics make no distinction as to whether the procedure involves a first certification or not. It is common knowledge that a first certification is often problematic and entails longer delays.

This weakness of the Quebec certification procedure amounts to a violation of Article 5(1)d) of the NAALC which reads:

> *1. Each party shall ensure that its administrative, quasi-judicial, judicial and labor tribunal proceedings for the enforcement of its labor law are fair, equitable and transparent and, to this end, each party shall provide that:*
>
> *(...)*
>
> *(d) such proceedings are not unnecessarily complicated and do not entail unreasonable charges or time limits or unwarranted delays.*

C. Problems related to multiple locations businesses

As we have seen, this submission raises issues related to the difficulties encountered when seeking certification in sectors where businesses are structured in multiple locations or facilities or based on the franchise system of corporate ownership.

[11] Statistics provided by the Conseil consultatif du travail et de la main d'oeuvre, 1991.

The *Quebec Labour Code* and its certification procedure are based on a traditional bipartite employer-employee relationship and limited to single employer bargaining units.

In today's labor market and in particular in retail businesses, in restaurants, as well as in many other service-oriented sectors, this model does not adapt very well to the reality of the workplace. In the last two decades, Quebec has seen its economy transformed more and more into a service-oriented economy. We have seen, in this context, the rise of atypical forms of employment relationship such as casual or part-time contractual work as well as an increase in the number of full time independent (or dependent) contractors.

It is quite relevant to note that since 1992, the union density rate[12] in Quebec has fallen by 9 points of percentage, as it was at the level of 49,7% in 1992 and at 40,3% in 1997[13]. This represents a relative decline of 19%.

Difficulties in the certification process in this new economic context may stem from the nature of the employment relationship, and the fact that workers in atypical forms of employment do not meet criteria for the definition of employee in labor laws. Problems may also arise when defining the bargaining unit, as was the case with St-Hubert McDonald's.

Bargaining unit definition, limited by law to a single employer, is complex in industries where corporate ownership is not limited to the traditional one plant-one owner model. Businesses with multiple facilities or with multiple owners, often involve complex bargaining unit debates even though most of the problems raised by employers regarding unit definition could easily be resolved through the collective bargaining process.

In this context, the franchise system of corporate ownership may also act to obscure the employment relationship and bar attempts to certify a union.

The present submission may offer an interesting basis for cooperative consultations regarding possible avenues of solutions, as it is a good example of how businesses with multiple facilities may use their organizational structure as a tool to obstruct certification procedures.

Solutions that have been proposed to address these issues include the possibility of permitting multiple-employer bargaining units and establishing a system of certification by sector.

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[12] Percentage of the workforce covered by a collective agreement.

[13] Statistics provided by the Centre de recherches et de statistiques sur le marché du travail, to be published in anupcoming issue of *Le Marché du travail*, in an article by Roger Shawl.

If Quebec were to adopt a proactive approach to these issues, it would certainly serve as a model for the improvement of labour standards and the promotion of the right to organize and bargain collectively, as contemplated by the NAALC.

Conclusion

Submitters hasten to acknowledge that Quebec generally maintains high labor standards. However, this does not insulate Quebec from being subject to a public communication on labor law matters arising in Quebec related to the *City Buick Pontiac* doctrine, or to cooperative consultations on this doctrine, delays in the labor law enforcement system, and other labor law matters.

Submitters hope that Quebec might serve as a consistent model of high labor standards and effective enforcement for all jurisdictions in America. To accomplish this and to fulfill the article 2 obligation to continue to strive to improve labor standards, Quebec might consider revising the *City Buick Pontiac* doctrine through new legislation that provides an effective remedy for an anti-union closure. It might also consider taking measures to facilitate certification of labor unions through the reduction of delays in the certification process. Finally, Quebec might adopt a proactive approach by revising the system of certification based on bargaining unit limited to a single employer.

VI. ACTION REQUESTED

Submitters request the U.S. NAO to undertake a review of the labor law matters arising in the Province of Quebec, Canada, as outlined in this public communication under Article 16 of the NAALC. In this regard, we urge the U.S. NAO to hold public hearings in the matter where petitioners can present the case in greater detail with direct testimony from workers and other persons involved. The NAO of Canada should participate in such hearings. Officials of McDonald's Corp. from its U.S. headquarters, Canadian headquarters and from the management of the employer involved in this case should be invited to participate in such hearings.

Submitters ask that the U.S. NAO request cooperative consultations with the NAO of Canada under Article 21 of the NAALC in relation to the matters outlined in this public communication so that the NAOs may better understand and respond to the issues raised.

Submitters request that Ministerial Consultations be held under Article 22 of the NAALC to resolve matters raised in this public communication, including through exchange of information to enable full examination of the matter. Such exchange might take the form of further public

hearings similar to the hearing accorded by the labor secretaries of the United States and Mexico in the *Sprint* case.

Submitters request that the Secretariat of the Commission for Labor Cooperation undertake a report pursuant to Article 14(2) of the NAALC on the following subjects:

1) The effects of the *City Buick Pontiac* doctrine on workers' right to organize and bargain collectively in Quebec, compared with the effects of the *Darlington* doctrine in the United States and any analogous legal norms in Mexico. The following questions merit attention: i) in how many instances has the legal impunity for anti-union plant closure deterred Quebec workers and unions from pursuing remedies for violations of their rights to organize and bargain collectively? ii) How often, and with what effect, has the *Darlington* doctrine been applied to specific plant closures in the United States since the case was decided in 1965? Iii) How often, and with what effect, has a labor law authority in any jurisdiction in North America ordered an employer to reopen a facility closed because of anti-union motivation?

2) The effects of delays in certification proceedings on workers' rights to organize and bargain collectively; in particular, issues should be addressed concerning possible solutions or alternatives to holding formal hearings on the question of bargaining unit definition.

3) The effects of the franchise system of corporate ownership and management or multiple locations business structures on workers' rights to organize and bargain collectively, with special attention to the operations of multinational enterprises such as McDonald's operating in the three NAFTA countries.

SUBMITTED this 19th day of October, 1998 by

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