

**Public Communication**

to the

**United States National Administrative Office**

under the

**North American Agreement on Labor Cooperation (NAALC)**

concerning

**Labor Law Matters Arising in the Territory of Mexico**

submitted by

**Association of Flight Attendants (AFA)**

**EXECUTIVE AIR TRANSPORT, INC. (TAESA):**

**VIOLATIONS OF WORKERS' RIGHT TO FREEDOM OF ASSOCIATION  
AND PROTECTION OF THE RIGHT TO ORGANIZE; WORKERS'  
RIGHT TO BARGAIN COLLECTIVELY; MINIMUM EMPLOYMENT  
STANDARDS; AND PREVENTION OF OCCUPATIONAL INJURIES AND  
ILLNESSES**

and

**PERSISTENT PATTERN OF FAILURE BY THE GOVERNMENT OF  
MEXICO TO FULFILL OBLIGATIONS UNDER PART 2 OF THE NAALC  
TO EFFECTIVELY ENFORCE LEVELS OF PROTECTION,  
GOVERNMENT ENFORCEMENT ACTION, PRIVATE ACTION, AND  
PROCEDURAL GUARANTEES WITH RESPECT TO TAESA  
VIOLATIONS**

November 10, 1999

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## **I. Jurisdiction; Trade-Relatedness; Mutually-Recognized Laws**

### **NAO Jurisdiction:**

The U.S. NAO has jurisdiction in this submission under Article 16(3) of the NAALC authorizing each NAO to provide for the submission and receipt of public communications on labor law matters arising in the territory of another party. The events prompting this submission arose in the territory of Mexico and concern labor law matters as defined in NAALC Article 49; namely freedom of association and protection of the right to organize, the right to bargain collectively, minimum employment standards, and prevention of occupational injuries and illnesses. The U.S. NAO has provided for such submission and receipt of this public communication under its 1994 Procedural Guidelines.<sup>1</sup>

### **Ministerial Jurisdiction:**

The U.S. Secretary of Labor has jurisdiction under Article 22 to request ministerial consultations with the Secretary of Labor of Mexico regarding these matters. The matters cited in this submission fall "within the scope" of the NAALC.

### **ECE Jurisdiction:**

Under Article 23 of the NAALC, an Evaluation Committee of Experts is authorized to analyze patterns of practice in the enforcement of minimum employment standards and occupational safety and health standards. These matters are raised in this public communication.

### **Dispute Resolution Jurisdiction:**

Under Article 29 of the NAALC, an Arbitral Panel has jurisdiction to consider matters of alleged persistent pattern of failure to effectively enforce minimum employment standards and occupational safety and health standards. Such persistent pattern of failure to effectively enforce Mexican labor law is alleged in this public communication with respect to minimum employment standards and occupational safety and health standards.

### **Statement of Trade Relatedness:**

The matters contained in this submission are related to a situation involving workplaces, firms, companies or sectors that provide services traded between the territories of the United States and Mexico. TAESA provides airline passenger and freight service between the territories of the United States and Mexico.

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<sup>1</sup>See Revised Notice of Establishment of United States National Administrative Office and Procedural Guidelines, 59 Fed. Reg. 16,660-62 (1994).

**Statement of Mutually Recognized Labor Laws:**

The laws of Mexico and the United States address the same general subject matters contained in this submission in a manner that provides enforceable rights, protections or standards. Laws of both countries address freedom of association and protection of the right to organize, the right to bargain collectively, minimum employment standards, and prevention of occupational injuries and illnesses.

## II. Background

Executive Air Transport, Inc. (TAESA) is a privately-owned Mexican airline company founded in 1988. TAESA operates approximately 30 commercial aircraft serving an international market, including the United States. The company employs some 1500 workers, of whom approximately 10 percent are flight attendants.

TAESA was formed in 1988 by the well-known Mexican billionaire Carlos Hank Gonzales, a prominent political supporter of newly-elected President Carlos Salinas de Gortari. Hank installed Alberto Abed, his former executive jet pilot, as president of TAESA while he (Hank) took a post in the Salinas administration as secretary of tourism.

Hank's many business ventures thrived during the Salinas term, often in connection with the privatization of state-owned and parastatal enterprises.<sup>2</sup> The fortunes of TAESA depended significantly on favorable treatment under Salinas' rule. From 100 employees at its inception in 1988, the company grew to more than 4,000 employees by 1994. President Salinas gave TAESA the prestigious role of transporting Pope John Paul II in a visit to Mexico.<sup>3</sup>

Among the favors granted to TAESA from the outset was the granting of employees' union representation rights to the National Union of Air Transport Workers of Mexico, affiliated to the Confederation of Mexican Workers (CTM). TAESA workers did not form this union. They were presented with a *fait accompli*. There was no vote or other expression of employee choice. The CTM is an "official" federation organically linked to the ruling Institutional Revolutionary Party (PRI) under Mexico's traditional corporatist trade union and labor relations structure.<sup>4</sup>

With the end of Salinas' presidency, TAESA's long honeymoon came to an end.<sup>5</sup> Carlos Hank turned the company over to Alberto Abed. Abed dissolved the board of directors and took full control of TAESA. The airline soon shrank to less than half its 1994 size as service failures led to the loss of many charter contracts and drove away former TAESA passengers on its scheduled routes.

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<sup>2</sup>See Joel Simon, *Mexico's "Untouchable" Family*, San Francisco Chronicle, June 12, 1995, at A8.

<sup>3</sup>See Agis Salpukas, *Mexico's Little Airline That Could*, New York Times, November 13, 1992, at D1.

<sup>4</sup>See Kevin Middlebrook, *THE PARADOX OF REVOLUTION: LABOR, THE STATE, AND AUTHORITARIANISM IN MEXICO* (1995).

<sup>5</sup>See, for example, Andrew A. Reding, *Mexico's High Noon: Zedillo vs. Old Pals*, Christian Science Monitor, June 19, 1995, at 19.

Mechanical maintenance of TAESA's aging fleet of aircraft (average age is 30 years) underwent significant deterioration, including in passenger cabins and flight attendant service areas. Abed was charged with tax evasion and other financial irregularities in a still unresolved case.<sup>6</sup>

TAESA workers suffered severely under their company's mismanagement. Wages were frozen after 1994. Today the base pay for flight attendants of other Mexican airlines approaches \$100 per day while TAESA flight attendants' pay is stuck below \$20 per day. Moreover, TAESA failed to keep current its payroll tax obligations covering workers' pensions, health insurance, housing and other social benefits required under Mexican labor law.

Employee training also deteriorated, particularly with regard to emergency procedures. Employees were forced to work extensive uncompensated overtime with no opportunity for training and retraining. Government authorities did not effectively enforce laws to correct these deficiencies.

In 1997 these worsening conditions prompted the approximately 150 flight attendants still working at TAESA to seek representation by the Association of Flight Attendants of Mexico (ASSA). ASSA is an independent, democratic union not part of the PRI-CTM corporatist labor structure. ASSA is affiliated with the National Union of Workers (UNT), a newly-formed federation that represents an independent current in the Mexican labor movement.

ASSA is Mexico's largest flight attendants' union. It represents these specialized, skilled employees at Aeromexico, Mexicana, and some regional carriers. ASSA has negotiated good wages and benefits, high levels of training and skills development, strong health and safety protection, reasonable work schedules, job security, non-discrimination and other protection for the flight attendants it represents. Based on this record of achievement, TAESA flight attendants sought to have ASSA represent them in collective bargaining.

TAESA management, with the complicity of government labor authorities, struck back with a vengeance against the efforts of flight attendants to obtain ASSA representation. They blocked an election for two years, then held an election rife with fear, fraud and intimidation. Finally, TAESA fired the flight attendants who voted by an overwhelming majority for ASSA.

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<sup>6</sup>Abed has been released on a \$700,000 bond and still runs the airline. See Tracy Eaton, *Mexican executive tied to drug trade leaves jail; top airline official charged with tax evasion*, Dallas Morning News, December 12, 1998, at 25A; *Mexican Airline Chief Arrested in Tax Case*, New York Times, December 11, 1998, at C4.

Flight attendants first requested an election in early 1997 under a provision in Mexican labor law whereby an occupational or "craft" union can obtain bargaining rights for a workers in a particular occupation when a majority of workers in that craft desire it. TAESA and labor law authorities undertook a series of legal maneuvers to block their right to an election.

The entire process of union organization, recognition and collective bargaining is tightly controlled by Mexico's tripartite Conciliation and Arbitration Boards. The 3-person CABs are composed of government, employer and trade union representatives. A CTM official normally holds the union seat on the CAB, as was the case with the federal CAB that handled the TAESA dispute.

The CAB with jurisdiction over TAESA repeatedly ruled against ASSA's request for an election among flight attendants. When appeals courts ruled in ASSA's favor -- a process that ultimately took two years -- the CAB took a new tack. It ordered an election among *all* TAESA employees, including pilots, ticket agents, and ground crew personnel, on whether they wanted to be represented by ASSA.

The vote was held March 22, 1999. The results were predictable. An overwhelming majority of flight attendants indeed voted for ASSA. But most other workers -- who made up 90 percent of the workforce and whom ASSA insisted it did not want to represent -- voted against the flight attendants union.

Besides being "stacked," the conduct of the vote itself violated any conception of fairness. In the days leading up to the vote, management and the CTM union unleashed a campaign of threats and intimidation against ASSA supporters. Management used scheduling and work assignments to make it easy for anti-ASSA employees and difficult for pro-ASSA employees to vote. The vote itself was public, not secret. Employees had to declare their choice individually in front of company managers and CTM union officials, who ostentatiously noted pro-ASSA voters.

After the election, the company and the CTM union launched massive retaliatory firings of ASSA supporters. Most have been without work since then. Their discharges are now subject to adjudication by the same CAB that arranged the tainted election leading to their dismissals.

The Associations of Flight Attendants (AFA) and the Association of Flight Attendants of Mexico (ASSA) submit this Public Communication seeking review, consultations, evaluation and dispute resolution in these matters consistent with the objective of the NAALC under Article 1 to promote, to the maximum extent possible, labor principles concerning freedom of association and protection of the right to organize, the right to bargain collectively, minimum employment standards, and prevention of occupational injuries and illnesses.

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<sup>7</sup>Note that U.S. labor law provides a comparable procedure under doctrine enunciated by the National Labor Relations Board in *Mallinkrodt Chemical Works, Uranium Division*, 162 NLRB 387 (1966).

### **III. TAESA Violations and Mexico's Failure to Fulfill NAALC Obligations:**

TAESA has massively violated the labor rights of its flight attendants, and Mexico has failed to fulfill its obligations under Part 2 of the NAALC to enforce levels of protection, government enforcement action, private action, and procedural guarantees, in connection with the following labor law matters:

Principle 1: Freedom of association

Principle 2: The right to bargain collectively

Principle 6: Minimum labor standards

Principle 9: Prevention of occupational injuries and illnesses.

#### **A. Freedom of association and the right to bargain collectively:**

TAESA management has violated flight attendants' freedom of association and right to bargain collectively. Mexican labor law authorities have compounded these violations first by failing to enforce the law to protect flight attendants' rights, and then by actions directly aiding and abetting TAESA management's violations.

##### I. Blocking an election

TAESA management used repeated legal maneuvers to block for nearly two years flight attendants' right to an election for ASSA representation in collective bargaining. The federal CAB helped management in the frustration of flight attendants' rights with repeated rulings in the company's favor and against ASSA despite clear legal benchmarks supporting ASSA's request for an immediate election to determine whether a majority of flight attendants wished to be represented in collective bargaining by ASSA. These rulings were repeatedly reversed by appeals courts. Instead of complying, the federal CAB made new rulings against ASSA with just a slightly different twist requiring yet another appeal. This cycle repeated itself several times over a two-year period.

Authorities clearly failed to effectively enforce Article 685 of the Federal Labor Law obligating them "to take the measures necessary to achieve the greatest economy, concentration and simplicity of the process." They also failed to fulfill the obligation under Article 5(1) of the NAALC requiring each Party to ensure that its labor law proceedings are "fair, equitable and transparent and [that] such proceedings are not unnecessarily complicated and do not entail . . . unwarranted delays."

## 2. Bias in the CAB

A representative of the CTM federation to which the incumbent union belongs holds the labor seat on the tripartite CAB. This union representative has a self-interest in retaining members within the CTM rather than having them move to an independent federation. ASSA is affiliated with an independent union federation.

Mexico has failed to effectively enforce Article 708 of the FLL requiring CAB members to excuse themselves from hearing a case in which they have a conflict of interest. This structure and its application in this case also clearly violate the obligation in Article 5(4) that "each party shall ensure that tribunals that conduct or review [labor law] proceedings are impartial and independent and do not have any substantial interest in the outcome of the matter."

## 3. Ordering an unfree, unfair election

When it finally ordered an election in TAESA in March 1999, the CAB's ruled that all TAESA employees must vote on representation by ASSA. However, only TAESA flight attendants sought ASSA representation. With flight attendants constituting only 10 percent of the total work force, the CAB knew that structuring the election in this manner ensured that ASSA would lose. This decision deprived the flight attendants of their freedom of association and right to collective bargaining through ASSA.

Labor law authorities failed to effectively enforce the following provisions of Mexican labor law: Article 123 (XVI) of the Constitution guaranteeing workers the right to join together in defense of their interests though forming unions and occupational associations;

Article 388(III) of the FLL allowing a craft union to bargain collectively for all workers in the craft when a majority of workers in the craft so desire, instead of bargaining by a company-wide union;

Article 389 of the FLL requiring the company-wide union, upon loss of majority status in the aforementioned situation, to cede bargaining rights to the craft union;

Article 842 of the FLL requiring CAB decisions to be "congruent" with the demand for relief sought from the CAB.

By these failures, Mexico also failed to fulfill its obligations under NAALC Article 2 to ensure high labor standards; under Article 3 to effectively enforce its labor law; under Article 4 to ensure access to enforcement of the law; and under Article 5 to ensure that labor law proceedings are fair, equitable and transparent and that parties may seek remedies to ensure enforcement of their labor rights.

#### 4. Conduct of the election

The union election on March 22, 1999 at TAESA was conducted in a climate of fear, intimidation and discrimination. Management campaigned openly and aggressively against ASSA through oral and written threats, denunciations, and orders to vote against ASSA.

The company provided free transportation for non-flight attendants who were off-duty on the day of the vote to come in and vote against ASSA. Off-duty flight attendants, however, had to make their own way at their own expense to vote. In addition, management scheduled many flight attendants for extra duty away from voting stations so that they would not be able to vote, while allowing non-flight attendants who were on duty to vote at their convenience.

The vote was open and oral, not secret. Workers had to identify themselves and declare their vote in the presence of government, management, and incumbent union officials. With a flourish, management and incumbent union officials took note of flight attendants who voted for ASSA.

By ordering this unfree and unfair vote at TAESA, Mexican labor law authorities failed to enforce Article 17 of the Constitution guaranteeing application of "general principles of social justice . . . and equity" with reference to Article 123. They also failed to enforce Articles 895 (III) and 931 of the FLL which prescribe an orderly, serious voting procedure that would not allow for such coercive conduct.

Finally, Mexican labor law authorities failed to effectively enforce Conventions 87 and 98 of the International Labor Organization. These conventions are ratified by Mexico and thus part of Mexico's domestic legislation. They prohibit interference by government or management in workers' choice of representatives.

By these failures to effectively enforce its own legislation, Mexico also failed to fulfill its obligations under NAALC Article 2 to ensure high labor standards; under Article 3 to effectively enforce its labor law; under Article 4 to ensure access to enforcement of the law; and under Article 5 to ensure that labor law proceedings are fair, equitable and transparent and that parties may seek remedies to ensure enforcement of their labor rights.

#### 5. Dismissals of ASSA supporters

After the March 22 election, TAESA management launched a vicious retaliatory assault against workers who voted for ASSA. ASSA supporters were fired and replaced by newly-hired flight attendants who were told that their jobs depended on renunciation of ASSA.

The discharged ASSA supporters' only legal recourse is to bring complaints before the very same CAB that engineered the delays and the election travesty that led to their firings, including a representative of the incumbent union's parent federation. Their cases have not been resolved, and they face a prospect of long delays like those already encountered in trying to get an election. They are all under enormous pressure to accept severance pay and release all legal claims.

Labor law authorities are failing to enforce Article 123 (XXII) of the Constitution making it unlawful to dismiss a worker for joining a union. They are also failing to enforce Article 47 of the FLL detailing the only permissible causes for discharge of any employee, and FLL Article 244 detailing the only permissible causes for discharge of an airline crew employee. These permissible causes for discharge manifestly do *not* include union activity or support.

At the same time, authorities are failing to enforce ILO Conventions 87 and 98, incorporated into Mexican law, prohibiting acts of anti-union discrimination. By the same acts and omissions, Mexico is failing to fulfill its obligations under the NAALC with respect to high standards, effective enforcement, recourse to effective remedies, fairness, equity, transparency, impartiality and timeliness in labor law proceedings.

## **B. Minimum Labor Standards**

### 1. Forced overtime and failure to pay overtime premium pay

Title Six, Chapter IV (Articles 215-245) of the FLL set forth employment conditions and requirements for flight crews in Mexican airlines. TAESA violates these rules. It forces flight attendants to work in excess of the maximum 90 hours of flying time in a month under Article 224 of the FLL, sometimes up to 130 hours per month.

In addition to violating the maximum hours law, TAESA violates overtime premium pay requirements for flight attendants who work overtime. FLL Article 230 requires double time pay for flight attendants' overtime work. Article 232 requires double time pay for work on Sundays and holidays. Article 233 requires 30 days' vacation per year for flight attendants. TAESA violates all of these requirements, failing to pay overtime and Sunday and holiday premiums and denying flight attendants due vacation leave -- all key reasons why flight attendants sought ASSA representation.

The claims of flight attendants seeking redress for these violations from labor law authorities have been unavailing. Authorities are failing to effectively enforce Title Six, Chapter IV of the FLL. Mexico is thereby failing to fulfill its obligations under NAALC Articles 2-5 to provide high standards, to effectively enforce its labor laws by monitoring compliance, investigating suspected violations, and seeking assurances of voluntary compliance; providing private access to procedures to have labor rights enforced, and to provide remedies to ensure enforcement.

## 2. Payroll taxes for social programs

Article 132 of the FLL and other relevant Mexican labor laws on minimum labor standards require prompt, full payment of payroll taxes by the employer on workers' behalf into the following social funds:

- a) IMSS -- the government fund for retirement income, health insurance, disability and other social benefits;
- b) AFORES -- the new private pension funds;
- c) INFONAVIT -- the savings and loan fund to assist workers with housing purchases.

However, flight attendants who have sought health care or who have inquired into the status of their retirement and housing accounts have been told that TAESA has failed to make timely, full payments of payroll tax contributions on their behalf.

Compliance with mandatory payroll tax contributions for employees' health, retirement, and housing benefits is indistinguishable from compliance with minimum wage requirements. This is true both for the employer's obligation to comply, and for the government's obligation to enforce.

An employer who complies with minimum wage requirements to employees, or who even pays wages above the minimum, but who fails to make required payroll tax contributions on workers' behalf, effectively violates the minimum wage law. Payroll tax contributions are wage-based, creating an inseparable link to minimum wage requirements.

It is well known that Mexico has a large, informal sector where many workers do not participate in the social security system or other payroll tax-based programs like AFORES and INFONAVIT. Here, however, we have an international passenger airline company. It is regulated by national and international authorities. This company is a quintessential formal sector enterprise that should comply carefully with all legal requirements. Shockingly, however, TAESA fails to make minimum mandatory payroll tax contributions for its flight attendants.

Even more shocking is the failure of government labor law authorities to enforce minimum labor standards in TAESA. This failure is a clear violation of Mexico's NAALC obligations to provide high standards and to effectively enforce its labor law through appropriate government action such as monitoring compliance and investigating suspected violations.

## **C. Prevention of Occupational Injuries and Illnesses**

TAESA has violated requirements to provide sufficient emergency training and retraining for flight attendants. It has failed to maintain its aircraft cabin areas in safe operational conditions. It has forced flight attendants to work more than the maximum number of permitted hours in flight. These violations -- inadequate training, unsafe flight conditions, and forced overtime resulting in fatigue -- create serious health and safety hazards for flight attendants and for airline passengers.

### 1. Training

TAESA is required to give newly-hired flight attendants complete emergency training for each type of aircraft to which they might be assigned. Regular retraining courses are required periodically after the initial training.

TAESA does not comply with these training requirements. Newly-hired flight attendants receive a short, superficial training without reference to the different types of aircraft in the TAESA fleet. Retraining courses take place haphazardly and intermittently, with the result that no flight attendant receives full emergency training.

Especially serious is the failure to provide simulated emergency training such as a full load evacuation with fire and smoke in the cabin, in-air smoke emergencies, escape chute launching and sliding, water landing and launching of life rafts, handling and steering of life rafts, and simulated hijacking emergency response procedures.

It is self-evident that the lack of adequate training creates serious risk of occupational injuries and illnesses for flight attendants (and the flying public). Mexico's failure to enforce these rules violates its obligations under the NAALC to effectively enforce health and safety standards.

### 2. Safety Hazards

TAESA's failure to adequately maintain its aircraft has resulted in a series of alarming hazards affecting the health and safety of flight attendants and passengers. These violations, documented by TAESA flight attendants as violations of international civil aviation regulations, include:

- \*defective smoke alarms and smoke alarms whose batteries are removed because of continuous beeping;
- \*fire extinguishers with rusted valves making them inoperable;
- \*broken locks on overhead baggage compartments creating a risk of falling luggage harmful to flight attendants and passengers;

- \*water leakage from bathrooms into galley areas and passenger aisles, creating a danger of falling and impeding emergency exits;
- \*first aid kits that lack essential components;
- \*inoperative cabin crew oxygen masks;
- \*broken seat belts;
- \*failure to adequately clean bathrooms, galley areas and food service trolleys to guard against food contamination;
- \*inoperative tracking lights (lights along the aisle that are supposed to illuminate an emergency exit path when the general lighting system fails);
- \*inoperative public address systems;
- \*exposed, rusted metal protrusions on passenger and crew seats (these have already injured several flight attendants and passengers);
- \*emergency exits blocked by seats that do not provide sufficient clearance for safe passenger egress;
- \*defective wheels and locks on food service trolleys, creating a risk of flight attendant falls and food or drink spillage;
- \*the use of obsolescent "Skidrol 500B" lubricant instead of the required MobilJet II, resulting in contamination of the air circulated through the cabin air conditioning system.

Labor law authorities are failing to effectively enforce the provisions of FLL Article 132 (XVI) and (XVII) to provide a safe and healthy workplace and to comply with other relevant laws and regulations. These include transportation department and civil aviation regulations intended to protect the health and safety of flight attendants in their work.

Failure to enforce these rules violates Mexico's commitment under Annex 1 of the NAALC to "laws, regulations, procedures and practices that protect the rights and interests" of the workforce, here with respect to labor principle 9 on "prescribing and implementing standards to minimize the causes of occupational injuries and illnesses." This failure also violates Mexico's obligation under NAALC Articles 2 and 3 to provide high labor standards and to effectively enforce its laws.

### 3. Excessive hours

As noted above, Article 244 of the FLL sets a maximum number of hours per month of flight time at 90 hours. However, TAESA routinely forces flight attendants to work beyond this limit, sometimes up to 130 hours per month. Excessive overtime results in fatigue and loss of visual and mental acuity and judgment. Fatigue caused by excessive hours prevents the adequate alertness and response by flight attendants in emergency situations, endangering their own and passengers' health and safety.

Labor law authorities fail to enforce FLL Article 244, and thereby violate Mexico's obligations under the NAALC to effectively enforce health and safety standards.

#### **D. 1994 TAESA Crash at Dulles Airport**

The concerns expressed above are not just speculative. On June 18, 1994 a TAESA Learjet 25D crashed at Dulles Airport, killing all ten passengers and two crew members. The seating capacity of the TAESA charter airplane was eight passengers. The TAESA charter flight was carrying soccer fans to a World Cup game in Washington, D.C. The National Transportation Safety Board (NTSB) assessed the incident and made the following findings:<sup>8</sup>

*"The captain was not authorized to attempt the approach and was relatively inexperienced for an approach under these conditions."*

*"The captain failed to adhere to acceptable standards of airmanship during two unstabilized approaches."*

*"An operating Ground Proximity Warning System (GPWS) aboard the airplane would have provided continuous warning to the crew for the last 64 seconds of flight and might have prevented the accident."*

*"The airplane was not equipped with a flight data recorder, as required under Annex 6 of the International Civil Aviation Organizations provisions for international flights."*

*"The crew may have been experiencing the effects of fatigue following an all-night flight."*

*"There were only eight cabin seats and safety belts installed, which meant that at least two passengers were not properly restrained. This is not in compliance with Annex 6 of the ICAO standards for international flights."*

*"Oversight of the operation of the accident airplane and the accident flight by TAESA and the Mexican government was inadequate."*

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<sup>8</sup> See *Aircraft Accident Report*, NTSB/MR-95/02 PB95-91 0402, March 7, 1995

## **IV. Action Requested**

### **A. NAO Cooperative Consultations**

We ask the U.S. NAO to undertake cooperative consultations with the NAO of Mexico under Article 21 of the NAALC with a view to resolving the violations and failure to effectively enforce Mexican law cited in this public communication. Such resolution must include:

- \*recognition of ASSA as the collective bargaining representative of TAESA flight attendants;
- \*reinstatement of ASSA supporters who wish to return to work, with back pay for lost wages;
- \*adoption of a collective bargaining agreement consistent with industry standards for flight attendants negotiated by ASSA;
- \*proper payment of overtime, Sunday and holiday pay including back pay where proper payment was not made;
- \*proper crediting and payment of IMSS, AFORES and INFONAVIT funds including for the period when flight attendants were unlawfully dismissed;
- \*adequate training and retraining programs, improved airline cabin maintenance, and effective enforcement of maximum hour regulations and other safety and health standards.

### **B. External Consultations**

We ask the U.S. NAO to consult with relevant national and international air transport safety bodies regarding the health and safety violations and failure to enforce Mexican law cited here.

### **C. Public Hearings**

We ask the U.S. NAO to hold one or more public hearings at appropriate locations under Section H(3) of its Procedural Guidelines to receive oral testimony and written briefs on the matters cited here.

### **D. Ministerial Consultations**

We ask the U.S. NAO to recommend ministerial consultations in the matter under Article 22 of the NAALC with a view to resolving the violations and failure to effectively enforce Mexican law cited here.

### **E. Evaluation Committee of Experts**

If violations and failure to effectively enforce Mexican law have not been resolved through ministerial consultations, we ask the Secretary of Labor to move the matter to consideration by an Evaluation Committee of Experts under Article 23 of the NAALC.

### **F. Dispute Resolution**

If violations and failure to effectively enforce Mexican law have not been resolved through an ECE, we ask the Secretary of Labor to seek the support of the Minister of Labor of Canada in obtaining an Arbitral Panel under Article 29 of the NAALC.

### **G. Sanctions**

If the matters cited in this Public Communication have not been resolved and Mexico fails to implement an Arbitral Panel's action plan to resolve them, we ask for application of fines and other sanctions as provided in Articles 39-41 and Annex 39 of the NAALC.



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