

**Testimony to the Canadian National Administrative Office (NAO) – Public
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I'd first like to thank the National Administrative Office for the opportunity to testify at this public meeting today on behalf of the Maquila Solidarity Network (MSN). MSN is a network of over 400 organizations and individuals across Canada. MSN was founded shortly after the signing of the North American Free Trade Agreement, and 2004 is our tenth year advocating for the rights of maquiladora workers. MSN is also the secretariat for the Ethical Trading Action Group, Canada's anti-sweatshop coalition that includes national faith, labour, teacher, and overseas development organizations.

Since 1994, MSN has been involved in a number of campaigns in support of Mexican maquila workers' rights. These include the ITAPSA case in 1997, Han Young in 1997-1998, Custom Trim/Auto Trim in 1999, Duro Bag in 2000-2001, Kuk Dong in 2001-2002, Alcoa in 2002, Matamoros Garment in 2003, and Tarrant in 2003-2004. Through our involvement in these solidarity campaigns, we have witnessed a systematic pattern of violations of Mexican workers' rights, particularly their right to freedom of association and to bargain collectively. We have also witnessed the failure of Mexican governmental institutions to enforce national labour legislation, and a pattern of improper and biased decisions by Mexican labour tribunals. As you know, many of these cases have come before the US NAO, and the ITAPSA case has come before both the US and Canadian NAOs. Yet despite serious concerns being raised in ministerial consultations, very little has changed in the past ten years.

In 2001 and 2002, MSN and the Human and Labour Rights Commission of the Tehuacan Valley carried out joint research on the blue jean manufacturing industry in the Tehuacan region in the state of Puebla, and on working conditions and labour practices in jean assembly plants and laundries. Our visits to Tehuacan and other communities in the state of Puebla, and the worker interviews carried out by the Commission have convinced us that the events described in the testimonies and written submissions to this hearing are not isolated incidents. Protection contracts negotiated by "official" unions affiliated with the CROC or CTM without worker knowledge or participation are the norm rather than the exception in Puebla's garment industry. Workers do not have access to these contracts, and in many cases workers are unaware they are represented by a union. The role of the official unions in local and state Conciliation and Arbitration Boards is an institutionalized barrier to fair, equitable and transparent labour boards and processes. Nor are such practices isolated to the state of Puebla, as we have seen from other cases mentioned above.

Based on interviews with workers employed in a number of maquilas in the Tehuacan region, our study documented the following common workplace problems and worker rights violations:

- Wages that don't meet basic needs;
- Compulsory and often unpaid overtime to complete production quotas;
- Verbal abuse and humiliation of workers by supervisors, and racial insults against indigenous workers;
- Discrimination against pregnant women, including compulsory pregnancy testing;
- Sexual harassment and abuse;
- Failure to register workers with the government social security program (IMSS);
- Use of child labour in subcontract factories and home-based facilities;
- Lack of freedom of association and the prevalence of protection contracts rather than collective agreements; and
- Exposure to toxic chemicals in jean laundries, including laundries owned by the Tarrant Apparel Group.

The report also documents the prevalence of wildcat strikes and other spontaneous job actions in Tehuacan's jean factories, which may indicate that workers do not have access to effective legal channels to put forward their grievances or resolve disputes with employers. Most of these spontaneous job actions were provoked by employers' failure to pay wages owed, legal overtime pay or holiday bonuses; unjust dismissals and failure to pay legal severance pay; verbal and physical abuse; and/or failure to register workers with social security.

The study found that vast majority of claims brought before the Local Conciliation Board in Tehuacan and the Labour Tribunal in Puebla in 2001 were for unjust dismissals and/or failure to pay legally required severance pay. It is worth noting that of the 591 claims brought before the Labour Tribunal in that year, only 53 resulted in the payment of a financial penalty by the employer.

The report concludes, "While the lack of independent unions, collective agreements or effective state institutions to adjudicate worker rights violations have been major obstacles to workers' efforts to improve wages and working conditions in periods of economic growth and high employment rates, these same factors have resulted in further victimization of workers during periods of economic downturn."

As we were doing final edits for the report, we received disturbing news from our colleagues at the Commission. On November 27, 2002, two workers died and two others were seriously injured from exposure to fumes from toxic chemicals at Grupo Navarra's Cualquier Lavado jean laundry. While the company was reportedly fined about US\$25,000, we are not aware of any corrective action being taken to prevent similar accidents from taking place in the future.

In an interview with the Commission, a laundry worker employed at Grupo Tarrant's Exportadora Famian laundry described the health hazards he and his fellow workers were subjected to, in the following words:

Every day, we're exposed to toxic substances – fumes from caustic soda and chlorine, contact with enzymes, detergents, peroxide, oxalic acid, sodium bisulphate. Every day, we breathe and are in physical contact with these substances, because the company no longer gives out face masks because they say we're exposed to gases, not to large particles... All of my workmates have respiratory problems and sore throats. But the most extreme case I've seen was a guy whose nasal passages were injured by bisulphuric gases, and they bled for two weeks. They treated it as an illness, and not as a work accident.

In 2001, MSN also joined with the Worker Support Centre (CAT), USAS, and a number of other labour rights groups in the US and Europe in an international campaign in support of workers at the Kuk Dong factory in Atlixco, Puebla, now known as Mex Mode. After a long and difficult struggle, local organizing combined with international pressure on brand-name buyers won employer acceptance of the independent union. However, it is worth noting that the Puebla Conciliation and Arbitration Board initially rejected the workers' application for union registration, and only approved a second application after the employer had recognized and accepted the independent union.

The precedent set at Kuk Dong/Mex Mode raised hopes that there would be a change in how the state authorities and conciliation and arbitration boards responded to worker applications for the registration of independent unions. Unfortunately, that proved not to be the case. The CAB's responses to subsequent applications for the registration of independent unions at Matamoros Garment and Tarrant confirm that, despite this important precedent, very little has changed. The Conciliation and Arbitration Boards continue to block workers' legitimate and legal attempts to be represented by the union of their choice, and the state and federal governments turn a blind eye to these practices.

It is also important to note that Mexican maquila workers and human and labour rights advocacy groups who attempt to challenge improper actions or decisions of companies, official unions and/or government institutions often find themselves subjected harassment or violence. In the testimonies of our Mexican colleagues, we will hear about threats and harassment against workers and members of the Worker Assistance Centre. I would also like to draw your attention to the case of Martin Barrios of the Human and Labour Rights Commission of the Tehuacan Valley. In addition to collaborating with MSN on the Tehuacan study mentioned above, Martin and other members of the Commission have been providing support and advice to illegally fired workers at a number of Tarrant-owned factories in the Tehuacan area.

On December 30, at 9:30 a.m., Barrios was about to enter his house, which also serves as the Commission office, when he heard a voice behind him, turned and saw a man coming at him with a brick. He was beaten on the face and head, but managed to throw off the attacker who fled to a taxi driven by an accomplice that was parked outside the house.

Barrios laid a formal complaint with the local authorities, but to date, no one has been brought to justice.

It appears the attacker had been waiting for Barrios to return home, and that the attack had been planned ahead of time. The attacker made no effort to enter the house or to steal anything from Barrios. For those reasons, the Commission believes the attacker was hired to intimidate Barrios other members of the Commission in order to discourage them from continuing to defend the rights of maquila workers employed in blue jean factories in the Tehuacan region. Barrios has since received an anonymous death threat by e-mail.

Given the Maquila Solidarity Network's ten-year history promoting respect for maquila workers' rights, we are extremely concerned about recent violations of workers' rights in Puebla's garment industry, and the failure of the Mexican government to ensure that its labour laws are enforced. As a Canadian network, we are also concerned about how the lack of labour standards enforcement in Mexico impacts on workers in Canada. It is worth noting that Canadian apparel manufacturer, Peter Nygard, is a major shareholder in the Tarrant Apparel Group. While Nygard employees in Canada have been able to make use of legal processes to gain recognition of their union, Tarrant workers in Mexico are denied that same right because of the lack of labour standards enforcement by our NAFTA partner.

In addition, the Canadian retailer La Senza and its CEO and President are major shareholders in Wet Seal, which has been sourcing from Tarrant's Puebla factories. Despite repeated requests for support, to date, management at Wet Seal has been unwilling to bring appropriate pressure on Tarrant to respect its workers' rights.

As you listen to the testimonies today, I would urge you to view them as part of a pattern of practices that are not isolated to one city, region or state of Mexico. While these testimonies focus on specific incidents that took place in three factories in the state of Puebla, they are symptomatic of a general failure of Mexican governmental institutions to ensure respect for workers' fundamental rights.

Because of persistent nature of the failure of Mexican governmental institutions to enforce the Federal Labour Law, we propose that the Canadian NAO recommend in its public reports that a series of concrete steps be taken by the Mexican government to ensure that its commitments under the NAALC are put into practice. We join with our colleagues of the CAT and USAS in proposing the following recommendations:

- 1) Conciliation and Arbitration Boards (CABs) publicly disclose union registrations (*registros*) and collective bargaining agreements (both important transparency measures currently not practiced by the Mexican government);
- 2) CABs grant *registros* in a transparent manner in accordance with Federal Labor Law;

- 3) A tri-national oversight committee be established, composed of labor rights experts with the power to investigate and issue reports regarding allegations of violations of the first three NAALC principles (freedom of association and protection of the right to organize, the right to bargain collectively and the right to strike), and specifically the denial of *registros*, use of blacklists and the denial of secret ballot voting in union elections;
- 4) A public cooperative activity be convened in Puebla on the theme of freedom of association and specifically the right of a union to receive its *registro* under the Federal Labor Law, with the participation of the Governor, CAB and the three petitioners; and
- 5) The issues in this submission that are subject to review by an Evaluation Committee of Experts (occupational health and safety, forced labor, child labor and minimum wages) be reviewed by such a committee as provided for in the NAALC.

Thank you again for giving me the opportunity to discuss these important issues with you today. I urge you to take appropriate action to ensure that the Mexican government fulfills its obligations under the North American Agreement on Labour Cooperation.

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