IN THE MATTER OF:

PUBLIC COMMUNICATION 2003-01

BEFORE THE CANADIAN NATIONAL ADMINISTRATIVE OFFICE

PURSUANT TO THE NORTH AMERICAN AGREEMENT ON LABOUR COOPERATION

SUBMISSION OF THE UNITED STEELWORKERS OF AMERICA

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PART I: INTRODUCTION - THE PROMISE OF NAFTA/ NAALC

The United Steelworkers of America is pleased to be able to make these submissions to the Canadian NAO in support of the Petitioners in Public Communication 2003-01. Our Union, through our Steelworkers Humanity Fund and our active international agenda, has been leading the struggle to advance labour rights throughout the Americas, and particularly within the North American Free Trade Zone.

In particular, in Canada, our union, together with our Mexican partners, has been at the forefront in trying to bring labour rights abuses to the attention of the Canadian Government through the NAALC. It was this engagement that led us to file and pursue the first and most important accepted case for review by the Canadian NAO, the ITAPSA case (Public Communication 98-1).

We also participated actively in the second four-year review under the NAALC which was recently undertaken by the Canadian Government and we have continued to pursue the issues raised in the ITAPSA case since the Complaint was filed in April 1998.

It is this ongoing commitment that has led us to participate in Public Communication 2003-01. A cursory review of Public Communication 2003-01 (the "Puebla case") reveals that it raises many of the same issues that were raised in the ITAPSA complaint.

As a result, we are participating in this process for several reasons. First, we want to review the issues raised in the ITAPSA case and remind the NAO of the recommendations made in that case over five years ago. Second, we wish to point out that as the Puebla case makes clear, many of the issues raised in the ITAPSA case have not been addressed in Mexico. Third, we think that the fact that little or no progress has been made on key labour rights issues is a significant comment on the usefulness of the NAALC itself.

As we noted in our submission to the second four-year review process, the NAALC is now ten years old and it is surely time that the agreement be evaluated. When it was signed, the NAFTA was promoted as a new kind of trade agreement which would protect labour and environmental rights by containing two side agreements which would guarantee basic labour rights and protect the environment. The NAALC, the so-called labour side agreement to the NAFTA was, together with its environmental counterpart, promoted by the signatory governments as an important safeguard which would counteract the pernicious "race to the bottom" predicted by NAFTA critics.

The NAALC was promoted as a new kind of international labour rights instrument which would provide an opportunity to enforce key labour rights for workers in the North American Free Trade zone. The preamble of the NAALC calls for, among other things, protecting, enhancing and enforcing basic labour rights; promoting higher living standards and encouraging compliance with labour laws in order to maintain a progressive, fair, safe and healthy working environment.

For critics of the NAALC, however, the agreement was nothing more than window dressing designed to placate the opponents of the NAFTA. The NAALC was viewed as

an agreement with no meaningful enforcement mechanism which would ultimately do nothing to help protect workers' rights in Mexico, the U.S. and Canada.

In this brief submission, we wish to first review the ITAPSA case (Public Communication 98-1) as well as the NAO Reports that were produced from the ITAPSA case and the results of the Ministerial Consultations which followed. We will then review the common issues raised in the Puebla Case (2003-01). Specifically, we shall emphasize four issues which were addressed in the ITAPSA case and which appear again in the Puebla Case:

1.The issue of so-called "protection contracts".

2.The intimidation and coercion of workers who join independent unions.

3. The failure of Mexican Labour Boards to protect worker rights and provide fairness to the parties.

4. The failure to enforce health and safety legislation in Mexico.

The fact that these problems are still pervasive in Mexico says a great deal about the ability of the NAALC to address labour standards issues in North America. In our view, the facts set forth in the Puebla case constitute not only an indictment of the respect for workers' rights in Mexico, but also a clear indictment of the NAALC as a vehicle for the enforcement and improvement of workers lives in Mexico.

PART II: BRIEF OVERVIEW OF PUBLIC COMMUNICATION CAN 98-1

A. The Facts

Notwithstanding the clear limitations of the NAALC, a coalition of Canadian, Mexican and U.S. trade unions together with other workers rights organizations decided to file and pursue the first complaint under the NAALC in Canada in April 1998. We filed the Public Communication in part because we wanted to engage the process and evaluate the NAALC on the basis of first hand experience.

We pursued this Complaint for four years in collaboration with our Mexican partners, in the hope that we would be able to achieve concrete results with respect to the vital issues that are highlighted by the Complaint. Therefore, in order to evaluate the results as part of this review process, we think it is important to review the content of the Complaint and the critical issues which were identified by the case.

The complaint arose out of a Union campaign at an auto parts plant in Mexico which was operated by ITAPSA, a Mexican subsidiary of the U.S. based multinational auto parts manufacturer Echlin Inc. Echlin was subsequently purchased by a larger U.S. based multinational, the Dana Corporation.

Specifically, in approximately June of 1996, workers at the ITAPSA plant began to speak with Union organizers from the Mexican Union of Workers in the Metal, Steel, Iron and Allied Industries ("STIMAHCS"), an independent, democratic Mexican Union affiliated with the Frente Autentico del Trabajo (the "FAT"). The workers were tired of being subjected to terrible health and safety conditions, abusive supervisors, low wages and

sexual harassment. The workers were, at the time, covered by a collective agreement between the National Union of Mexican Workers in Automotive and Allied industries, which is part of the Confederation of Mexican Workers (the "CTM"). The CTM, working very closely with the Employer and the state PRI Government, was utterly failing to represent the workers at the ITAPSA plant. Most workers were not aware that they were covered by a collective agreement or represented at all. When the workers sought help from the CTM, none was forthcoming.

After a lengthy organizing effort, STIMAHCS filed a petition with the Mexican Federal Conciliation and Arbitration Board (the "FCAB") requesting a representation vote to determine which Union the workers wanted at ITAPSA. As soon as the petition was filed, the Company and ITAPSA initiated an aggressive campaign of intimidation that included the mass dismissal of 50 STIMAHCS supporters, direct intimidation by threats and violence, as well as surveillance. The FCAB failed to issue any sanctions for repeated illegal conduct during the campaign and allowed the vote to be delayed by specious motions. Finally, the vote was ordered by the FCAB, however it was then cancelled summarily by the FCAB with no notice to STIMAHCS. This allowed the Employer and the CTM to identify STIMAHCS supporters who arrived to vote without knowing it had been cancelled.

On the day of the actual representation vote, the CTM hired 150 armed thugs and allowed them to roam around the plant and voting area to intimidate voters. The vote itself was not done by secret ballot. Rather, workers were forced to orally declare their support in front of the Employer and CTM officials in a climate of threats and violence. The voting list prepared by ITAPSA was fraudulent.

Representatives of the FCAB attended at the election but failed to provide protection for the safety and security of the voters and failed to stop the vote when the violence and intimidation started.

STIMAHCS immediately filed objections with FCAB regarding all of the illegal conduct described above, and regarding the inequitable election procedures. The FCAB scheduled a hearing to address the complaints but did not provide notice to the terminated workers or to STIMAHCS. STIMAHCS only learned of the hearing after it had taken place. As a result, the STIMAHCS filed a second objection regarding the failure to provide notice and the failure to be heard. The FCAB dismissed the STIMAHCS complaint on the basis that it was not required to provide notice to STIMAHCS. Ultimately, the FCAB refused to permit STIMAHCS to lead any evidence and then dismissed the complaint because of the absence of evidence.

STIMAHCS appealed the FCAB decision to the Mexican Courts. The Courts reviewed the matter and referred the case back to the FCAB. The FCAB then heard evidence, but dismissed the STIMAHCS complaint on the basis that the eyewitnesses were not credible because they were not sufficiently neutral.

Ultimately, the dozens and dozens of terminated workers never returned to ITAPSA. After the vote, the intimidation continued as armed thugs attacked STIMAHCS supporters who disseminated information about STIMAHCS and the conduct of the elections. There has never been a fair secret ballot election, free of violence, at the plant.

The second component of the complaint focused on health and safety. The ITAPSA plant manufactures break pads from asbestos. Asbestos is, of course, a well-known workplace hazard. Workers at the plant as well as Mexican Health and Safety experts described an asbestos dust filled plant with inadequate ventilation. Workers were issued substandard masks which were not replaced, causing the employees to work with asbestos dust caked onto their face.

Hazardous solvents and other materials in the plant were unlabelled or labeled only in English. Information on safe work practices was not made available to workers. Personal protective equipment was inadequate.

These health and safety concerns were brought to the attention of the Employer and the CTM and nothing had improved. The state mandated workplace Health and Safety Committee did not exist. Health and Safety Inspections were perfunctory and scripted.

In our view, the facts of this case were so egregious and outrageous that they constituted an ideal test case to determine if the NAALC was a useful forum for the protection of the most basic rights for workers. As a result, we delivered the Public Communication to the Canadian NAO in April 1998. Meetings and hearings took place in July, September and November of 1998.

B. The Canadian NAO Reports

In December 1998 and March 1999, the Canadian NAO issued two reports which found that Mexico had not conformed to the obligations found in Articles 2, 3, 4 and 5 of the NAALC. The NAO recommended Ministerial Consultations.

Part I of the Canadian NAO report focussed on violations of the right to freedom of association. The Canadian NAO highlighted the following issues:

A. The lack of a *secret ballot election* and the resulting distortion of results as well as the violence which (routinely) flows from that failure. The Canadian NAO noted at page 37 of Part I of the report that "Mexican labour officials must take into account the possibility of coercion or intimidation when they [workers] are not allowed to vote with the protection of anonymity".

B. *The bias of labour boards* where CTM members are on the panels and where the Labour Board refuses to hear evidence of violence. The Canadian NAO found that Mexico did not conform with Articles 4 and 5 of the NAALC by failing to ensure that members of the Labour Board are not in a conflict of interest and that procedural protection is afforded to the parties. Labour legislation cannot be enforced, and workers rights cannot be guaranteed unless the administrative bodies that enforce labour rights are neutral and fair. The NAO report raises serious doubts about the neutrality and fairness of Mexican Labour Boards.

C. The *absence of any remedial powers* for the Labour Board to address the termination of union supporters and the absence of a safe vote environment. The

NAO found that these deficiencies did not conform to Articles 2 and 3 of the NAALC. There is no incentive on employers or incumbent unions to respect the wishes of employees when selecting their bargaining agent if the Labour Board cannot provide meaningful remedies in cases of overt intimidation, threats and coercion during an organizing campaign. The freedom of employees to join the union of their choice depends upon the existence of such remedial powers.

D. The failure to provide access, for workers, *to a public record (a registry) of their collective agreements*. In Part I of its report, the NAO stated that this issue must be on the agenda during ministerial consultations. Workers in Mexico have no way to find out if they are represented by a trade union. Further, if they are represented, they have no way to discover the contents of the collective agreements.

Given that the Canadian NAO found that Mexico did not comply with Articles 2, 3, 4 and 5 of the NAALC, the Canadian NAO went on to recommend Ministerial Consultations between Canada and Mexico. Significantly, the Canadian NAO set out an agenda of topics which were to be discussed. These topics for the consultations included:

1. The impartiality and independence of Mexican Labour Boards.

2. The extent of the "effective protection" of the procedural rights of parties to proceedings before Mexican Labour Boards.

3. The protection of freedom of association for workers during union campaigns and during representation votes.

4. How the procedures followed during representation votes protect the integrity and accuracy of the vote.

5. The dissemination of union by-laws and collective agreements to union members and other interested parties.

6. The enforcement of exclusion clauses.

In Part II of the NAO report, serious Health and Safety concerns were raised:

A. The failure of the Mexican Government to ensure that *adequate safety equipment* was provided to workers.

B. The *failure to have hazardous substances labeled in Spanish* places workers at great risk without their knowledge,.

C. The *failure to even provide safety data sheets* to workers who were exposed to toxic and flammable substances in the workplace also represents a dangerous workplace problem for Mexican Workers. The NAALC should at least provide Mexican workers with an opportunity to know the hazards they are being exposed to as well as adequate protection from those hazards.

The Canadian NAO recommended Ministerial Consultations and, as with the Freedom of Association Report, the NAO gave the Minister a list of topics which were to be discussed. These topics included:

1. How the requirement that hazardous substances be labeled in Spanish is enforced.

2. How labour authorities enforce the requirement that employers disseminate. information to workers such as health and safety committee meeting minutes and material safety data sheets.

3. How labour authorities enforce the requirement that proper personal protective equipment is made available to workers.

4. The efficacy of health and safety inspections and monitoring of workplace hazards.

5. How the Mexican workers compensation system works with respect to long term illnesses such as asbestosis.

C. The Resolution of Public Communication CAN 98-1

Following the issuance of the reports, we met with Minister Bradshaw on two occasions and wrote several lengthy letters to the Minister to emphasize the need for meaningful Ministerial Consultations. We also requested that we be consulted with respect to the ongoing discussions.

However, years passed and no progress was made. Finally, in January 2003, we were advised that Minister Bradshaw had concluded the Ministerial Consultations between herself and her Mexican counterpart, Mr. Carlos Maria Abascal Carranza, with respect to Public Communication 98-1. The announcement came in the form of a press release dated January 29, 2003, which proclaimed that Canada was satisfied that the freedom of association issues raised in the Canadian NAO report were satisfactorily addressed by the labour law reform proposal announced by Minister Abascal (the “Abascal proposal”) in the fall of 2002.

As we communicated to Minister Bradshaw in our letter of August 2002, after a detailed review, we have concluded that the Mexican Labour Law Reform Proposal fails to substantively address the issues raised in the Canadian NAO report. While it is true that a number of the proposed reforms appear to superficially address some of the issues raised in the ITAPSA complaint, the legislation will do little to remedy our concerns and those of our Mexican partners. In fact, the legislation may well exacerbate many of the worst features of the current Mexican labour law regime.

In any event, the Abascal proposal has not been passed by the Mexican Legislature.

With respect to the health and safety components of Public Communication 98-1, the January 29, 2003 news release noted that Canada will participate in the Working Group of Government Experts on Occupational Health and Safety established in 2002. We understand that Canada's participation in this Working Group represents the conclusion to the Ministerial Consultations on the health and safety questions raised in the ITAPSA complaint.

We have received no information regarding this Working Group. Without such information, we can only conclude that the NAO reports' findings on health and safety will have no meaningful impact on the working conditions of Mexican workers.

D. Overall Evaluation of the Results of Public Communication Can 98-1

Our experience with the ITAPSA complaint did not lead to the results we had sought. In particular, we had hoped that the Ministerial Consultations would lead to a better result than the regressive Abascal proposal. We had hoped the health and safety issues would be addressed by real changes to the Mexican health and safety regime, rather than just further examination by another committee.

We had hoped to gain some measure of justice for the workers at the ITAPSA plant who suffered terrible violence and dangerous working conditions. Five years later, representation votes are still not held by secret ballot in Mexico. The system of administrative justice is no better. Workers still do not have the right to freely choose their union and they still suffer terribly unsafe working conditions. In short, in our view, there has been no progress on the issues identified in our Complaint.

PART III: PUBLIC COMMUNICATION 2003-01

It is readily apparent that the issues in Canadian Public Communication 2003-01 are very similar to those identified in Public Communication 98-1. As a general matter, both cases involve fundamental issues of freedom of association for Mexican workers. Both cases involve workers covered by "protection contracts" between their employer and a CTM affiliated union. Both cases involve attempts by workers to join an independent union in order to improve their terms and conditions of employment. Finally, in both cases, the workers were substantially motivated by poor working conditions and an unsafe workplace which presented serious risks to the health of the workers.

Most importantly, both Public Communications involve the suppression of the basic right of Mexican workers to join the union of their choice. In both cases, this suppression came from both the employer and the incumbent CTM union. In both cases, Mexican labour tribunals were unable to provide the workers with any protection or remedies when the organizing union and the workers sought to have their cases heard. The Mexican government was clearly unable to ensure that proceedings before labour tribunals were impartial and independent.

In this section, we wish to specifically identify those issues that are common to both complaints in an effort to establish that these issues have not been addressed in the 8 years since the events at the ITAPSA plant occurred.

A. The Pervasive Problem of Protection Contracts

In its report in Public Communication 98-1, the Canadian NAO directed that ministerial consultations take place to address:

> " the dissemination of information on the content of Union by-laws and collective bargaining agreements to union members and other interested parties".[1]

In the instant case, the Matamoros Garment plant opened in 1999. Workers began protesting for their rights in 2000. After the workers' protests, the company signed a protection contract agreement with the CTM affiliated union without the knowledge or consent of the workers.

Such protection contracts are a systemic problem in the Maquilas and throughout Mexico. Indeed, it has been estimated that 80% of the collective agreements in Mexico are signed without the knowledge or support of the workers covered by that agreement.

In the instant case, the protection contract served to insure the continued exploitation of the workers and the continued profitability of the company. For workers, the existence of the contract was a significant barrier to their efforts to join an independent union and improve their terms and conditions of employment.

The existence of the protection contract ensures that the CTM will act in concert with management to suppress and defeat any attempt by workers to join the union of their choice. Moreover, the existence of the contract makes it very difficult for independent unions to overcome the legal hurdles that exist for unions who seek to displace incumbent unions.

The pervasive problem of protection contracts in Mexico is a root cause for the failure of the Mexican labour regime to respect the right of freedom of association for Mexican workers. This problem was clearly identified by the Canadian NAO over five years ago in the report to Public Communication 98-1. The NAO urged the Canadian Minster to address this issue. As the instant case makes clear, the practice is still pervasive in Mexico, with the same pernicious effects. It is clear that notwithstanding the efforts of the Canadian NAO and the Minister, this issue has not been addressed by the Mexican Government.

[1] Human Resources Development Canada, Review of Public Communication CAN 98-1, Canadian National Administrative Office, December 11, 1998, at p. 38-39

B. The Intimidation and Coercion of Workers who join Independent Unions

In Public Communication 98-1, we detailed a lengthy story of intimidation, coercion and violence surrounding the campaign by the ITAPSA workers to join an independent union. These workers were subjected to termination, threats and physical violence.

The story in Puebla is a similar one. Workers at the Matamoros Garment plant who were exercising their right to join a Union were subjected to threats of plant closings, surveillance and intimidation from company and CTM officials. Further, they were subjected to harassment and the implementation of "forced breaks" from the workplace for leaders of the movement to join the independent union.

Similarly, at the Tarrant Plant, the executive committee of the independent union that had formed at the plant were illegally fired and forced to leave the factory. Shortly after the executive committee was terminated, the employer then proceeded to seek out and fire all of the union supporters in the plant. In total, 250 union supporters were terminated.

In short, while the facts are different, the problem is the same. Workers who choose to exercise the right to freedom of association are routinely subject to threats, intimidation, coercion, and ultimately termination. The stories at the Matamoros and Tarrant plants make a mockery of the right to freedom of association. These workers clearly did not have the right to join the Union of their choice.

In its report on Complaint 98-1, the Canadian NAO found that:

> "it is not clear whether provisions of the LFT (Mexican Federal Labour Legislation) concerning the protection of workers from coercion and intimidation on the part of a union are sufficient to ensure Mexico's obligation under NAALC Article 2 are sufficient".[2]

The Canadian NAO then went on to recommend that Ministerial Consultations address:

> "how the freedom of association protections for workers are enforced before and during representation elections."[3]

In our submission, the experience in Puebla reinforces the concerns expressed by the Canadian NAO in December 1998. It is clear that the current Mexican regime persistently fails to protect workers from unlawful intimidation and coercion during organizing campaigns by independent unions. The fact that these problems are still rampant in the Maquilas is, in our view, an important indictment of the failure of the NAALC processes to achieve fundamental results on basic associational rights.

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[2] Human Resources Development Canada, Review of Public Communication CAN 98-1, Canadian National Administrative Office, December 11, 1998, at p. 35

[3] ibid, p. 38

[4] ibid, p.35

C. The Failure of Mexican Labour Boards

Perhaps the most important issue highlighted in both the ITAPSA Complaint and the instant Complaint concerns the failure of the Mexican Government to establish labour tribunals that are impartial, fair and independent.

In the ITAPSA case, the Canadian NAO found that:

> "The pertinent NAALC provisions related to the effective enforcement of labour legislation through appropriate government action contemplate that labour boards are under the obligation to take positive steps to investigate alleged violations of the law and to make sure legal recourses are available to those protected by the law. The JFCA [the Mexican Labour Board] could be expected to bear the responsibility for maintaining order and safeguarding the integrity of procedures carried out under it auspices. The information submitted suggests that the JFCA failed to use its authority to fulfill this responsibility. To that extent, a question arises as to whether Mexico is in conformity with Articles 3(1)(b), 3(1)(g) and 3(2) of the NAALC"[4]

The NAO went on to find Mexico to be in violation or Articles 4 and 5 of the NAALC for failing to provide neutral labour tribunals with the necessary procedural protections for the parties. Further, the NAO found Mexico to be in violation of Article 2 and 3 of the NAALC for failing to provide labour tribunals with the necessary remedial powers to address the termination of union supporters during union campaigns.

It is clear that the deficiencies identified by the Canadian NAO have not been remedied, at least in the state of Puebla. At the Matamoros Garment Plant, the facts surrounding the rejection of SITEMAG's petition for Union certification by the Junta de Puebla are reminiscent of the absurd unfairness to which STIMAHCS was subjected in the ITAPSA case. Further, it is clear that the Junta de Puebla is unable to provide adequate protections for workers who seek to join independent unions.

The concerns raised by the rejection of the application by the independent union for registration at the Tarrant plant are even more striking. Again, the Application was rejected by the *Juntas de Conciliation y Arbitraje* (the "JLCA") on the most spurious grounds. Noted Mexican labour lawyer, Arturo Alcalde Justianni, has written with respect to the Tarrant case, that the decision of the JLCA that denied the Union's application was "totally contrary to law" and evidently made in "bad faith". Mr. Alcalde characterized the decision as clear evidence of a total lack of neutrality on the part of the JLCA.

It is worth noting that Mr. Alcalde testified at the hearings conducted by the NAO into the ITAPSA case in the fall of 1998. At that time, he testified to precisely the same abuses by the Mexican system of administrative justice. It is clear that the system he described in the ITAPSA case has not improved.

As the Canadian NAO recognized in its report in Communication 98-1, the NAALC is primarily concerned with the enforcement of labour standards. Labour standards cannot

be enforced unless the tribunals charged with this responsibility are fair and impartial. Further, labour tribunals must be given the power to remedy problems when they occur.

In its report in the ITAPSA case, the Canadian NAO specifically recommended that Ministerial Consultations take place on the following issue:

> " How the requirement of the agreement (the NAALC) that labour boards (*Juntas de Conciliation y Arbitraje*) be impartial and independent and not have any substantial interest in the outcome of decisions is respected during the selection of representatives who serve on these boards."[5]

Further, the Canadian NAO recommended Consultation on the following specific issue:

> "the extent of effective protections of procedural interests of parties to labour board (*Juntas de Conciliation y Arbitraje*) proceedings"[6]

It is disappointing that over five years after the Canadian NAO specifically requested that the Government take action to bring Mexican Labour Boards into compliance with the NAALC, these same Labour Boards continue to fail to provide the fairness, impartiality and procedural protections required by the NAALC.

D. The Failure To Enforce Health And Safety Legislation

Like the ITAPSA case, one of the significant issues which led the workers in Puebla to seek to join independent unions was the persistent failure to enforce key health and safety issues.

In the Matamoros plant, the Mexican government failed to prevent occupational injuries and illnesses by failing to address the unsanitary conditions in the factory cafeteria, allowing workers to be locked inside the plant and abused by management. Similar conditions are alleged at the Tarrant plant.

These working conditions clearly violate Mexican Law. In its report in Public Communication 98-1, the Canadian NAO found that Mexico may not have met its obligations under article 3 of the NAALC at the ITAPSA plant by failing to ensure that workers were provided with adequate protective equipment and chemical safety data sheets and Spanish labels for hazardous substances.

We urge the NAO to find, again, that Mexico is in violation of the NAALC for failing to enforce health and safety standards. The NAALC recognizes the critical importance of enforcing health and safety laws. Companies should not be able to gain competitive advantage by subjecting their workers to unsafe workplaces. It is simply unacceptable for workers under the NAALC to be subjected to clearly dangerous working conditions

[5] ibid, page 38
[6] ibid, page 38

and we urge the Canadian NAO to take strong action to address these health and safety issues.

PART IV: REQUEST FOR ACTION

We join the petitioners' request for action in Public Communication 2003-01. Those who have been critical of the NAALC since it was first signed have long emphasized the weakness of the enforcement mechanism in the agreement. As we have already noted, the most disappointing element of our experience in Public Communication 98-1 was the failure of the Canadian Government to achieve any real progress during the Ministerial Consultations which followed the publication of the NAO reports.

Given that the instant complaint raises issues that were also raised in the ITAPSA case, it is essential that the NAO and the Canadian Government commit to taking meaningful action to insure that the issues are addressed in Mexico. A failure by the NAO and the Government to take strong action to address these issues will surely terminate any credibility the NAALC may have had with trade unions and other workers rights organizations.

We wish to emphasize certain specific request made by the petitioners.

First, Ministerial Consultations or the Cooperative Activities must lead to real results and commitments, not merely seminars, meetings and action plans. In Public Communication 98-1, the NAO recommended Ministerial Consultations. However, as we have outlined above, and notwithstanding the best efforts of the Canadian Minister, we do not believe that the Consultations led to any real progress in remedying the problems identified by the NAO. This complaint must not end with the same result.

Second, matters that are not resolved in a manner that is satisfactory to the petitioners should be referred to the Evaluation Committee of Experts (the "ECE") and, if necessary, to Arbitration. As we noted in our submissions during the recent NAALC review process, none of the 26 cases filed pursuant to the NAALC have yet been to the ECE or to Arbitration. This is another telling failure in the NAALC process.

We submit that this case presents an ideal opportunity for the Canadian Government to refer a case to the ECE or further. The issues in this case are related to trade and deal with mutually recognized laws. Both the Tarrant case and the Matamoros case raise concerns regarding the enforcement of occupational health legislation and minimum employment standards which can, under the NAALC, be referred to the ECE and to arbitration.

Further, as we have attempted to make clear in our submission, the issues raised in this case relate to a persistent failure by the Mexican Labour Regime to enforce legislation that is essential for the protection of fundamental worker rights in Mexico. The persistence of these problems is made clear by the fact that the ITAPSA case raised these same problems 8 years ago and there is no evidence that these issues have been addressed.

PART V: CONCLUSION

Our experience with the ITAPSA case was that while the NAO took the issues seriously and wrote productive reports, the Ministerial Consultations led to few concrete results.

The filing and acceptance of the instant complaint by the Canadian NAO confirms, in our view, that the problems raised the ITAPSA case are still pervasive in Mexico. Indeed, in our experience, worker campaigns to join unions that are not affiliated with the CTM are routinely met with violence, intimidation and coercion. As we have stated, protection contracts are the norm in Mexico.

Our Union is dismayed that 8 years after the events at the ITAPSA plant, the same problems continue to occur throughout Mexico. The events at the Matamoros and Tarrant plants confirm that the Canadian NAO reports in the ITAPSA case have had little or no effect.

It is also clear that the filing of this new case has much larger implications. Our experience under the NAALC, together with the filing of this new complaint, suggest that the NAALC is not, at present, a legitimate forum for the advancement of the issues that affect working men and women in Mexico, Canada and the United States.

The NAALC has now largely been discredited by the labour movements in all three signatory countries. Unless the Canadian NAO and the Canadian Government can demonstrate in its response to this latest case that the process can lead to concrete results, the only question remaining will be whether it is worth amending the NAALC and revamping the processes associated with the Agreement. Moreover, given that the NAALC has served as a model for subsequent trade agreements in the hemisphere, skepticism will continue to grow about whether labour rights can be enforced or improved through trade agreements.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

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The United Steelworkers of America