



United Steelworkers of America

Ken Neumann
National Director / Directeur National

December 7, 2004

Vicente Fox Quesada
Presidente de la República
Palacio Nacional Patio de Honor
Col. Centro
06067, Distrito Federal
México

Via Fax: 011 52 55 5277 2376
E-mail: vicente.fox.quesada@presidencia.gob.mx

Dear President Fox:

I am the Canadian National Director of the United Steelworkers of America. On behalf of our 260,000 members in Canada, I am writing to express my great disappointment that the Plan Abascal is about to be introduced in the Mexican Congress.

Our Union, working with our Mexican partners, has a keen interest in the rights of Mexican workers. In particular, we have been actively involved in both of the significant complaints launched in Canada under the North American Agreement on Labour Cooperation (the NAALC). The first complaint, Complaint CAN 98-1 (the "ITAPSA complaint") was finally concluded on the basis of assurances given to the Canadian Minister of Labour by your Government that the issues raised in the complaint would be addressed by the Mexican Labour Law Reform process.

Our Union also took an active role in the recently filed complaint CAN 2003-01, which raises many of the same issues as the ITAPSA case. We participated in the Complaint CAN 2003-01 because it is apparent to us that none of the issues raised in the ITAPSA Complaint have been addressed by the Plan Abascal.

As a result of our engagement, we have taken the time to thoroughly examine the Mexican Labour Reform Proposal. We have also consulted with our partners in Mexico. Our review has given us serious concerns regarding the Mexican Labour Law reforms proposed by Minister Abascal and we think it is important that we take this opportunity to express our concerns to you.

First, we believe that the process which led to the proposal was fundamentally flawed. As you know, the Authentic Workers Front (the FAT) and National Union of Workers (the UNT) were co-petitioners in the ITAPSA complaint. When Minister Abascal initiated consultations with respect to labour law reform, the UNT was included in the discussions and a commitment was made by the Minister that no legislation would be introduced without a consensus. However, as the discussions progressed, the UNT was virtually forced out of the negotiations and the remaining parties fashioned a piece of legislation which is far from a consensus.

Given the absence of consensus, it is hardly surprising that the resulting legislation does not reflect the needs and priorities of Mexican workers. Indeed, the legislation has been vigorously opposed by the UNT and the Party of the Democratic Revolution (the PRD).

In our view, the broad effect of the proposed legislation will make it much more difficult for workers to exercise their freedom of association and gain the protection of a collective agreement negotiated by a legitimate, authentic trade union. The legislation will eliminate the right to strike. In addition, the Abascal proposal will make it more difficult for workers to democratically change unions if they should wish to do so.

Furthermore, the new legislation does not protect the confidentiality of employee wishes with respect to unionization. While the new legislation purports to provide a secret ballot process during union representation votes, the legislation also imposes prerequisites that obligate a union to disclose the identity of its members in order to initiate the process which will lead to the election.

This effectively gives the employer and the incumbent union license to discharge and intimidate workers prior to the election, eliminating those likely to vote for the applicant union prior to the election itself.

Moreover, there is nothing in this legislation that prevents the dubious agreements that lead to the so called "protection contracts" which have served as the principal barrier to an independent and legitimate union movement in Mexico.

In short, this legislation will do nothing to address the kind of abuse and intimidation that can take place during union campaigns in Mexico. In fact, these proposed reforms will make access to legitimate union representation more difficult for Mexican workers.

We are also of the view that the proposed reforms will not address the bias of the Federal Labour Board which was identified by the Canadian Government as being in violation of the NAALC. While the draft legislation claims that it will improve the administration of labour justice in Mexico, we have concluded that much more fundamental reforms are necessary to address the systemic problem highlighted by the ITAPSA complaint.

The proposed legislation preserves the current Federal Conciliation and Arbitration Board (the "FCAB") and the current system of tri-partite representation. As a result, the FCAB will continue to be controlled by employers and the representatives of CT unions

with whom employers have signed protection agreements. As such, independent unions will continue to face an adjudication regime that is biased against them.

Our co-petitioners in the ITAPSA complaint, the UNT and the FAT, have no faith that these reforms will give them access to neutral adjudication. Indeed, the legislation supported by the UNT and the PRD would seek fundamental constitutional and legislative changes which would entail the elimination of the Boards of Conciliation and Arbitration and their replacement with Federal Labour Judges. This is the only means to truly eliminate the bias of the current system.

We acknowledge that the Labour Law Reform proposal contains changes which are aimed at expediting procedures and increasing the accountability of the FCAB. However, in the absence of a complete overhaul of the structures of administrative justice in Mexico, as proposed in the UNT-PRD reform package, we do not believe that the FCAB will be able to protect workers who are terminated, intimidated and coerced during union campaigns. As such, we do not believe that these reforms address the issues raised by the Canadian ITAPSA Complaint.

We must also express our most sincere disappointment that the proposal advanced by Minister Abascal does not address the most basic demand that an easily accessible public registry of collective agreements be established. Rather, it seeks to impose a new level of state control on trade unions, thereby further guaranteeing the preservation of the corporatist unions while making it more difficult for democratic unions to apply for and obtain the right to represent workers. A public registry of collective agreements and unions is essential if Mexican workers were to participate meaningfully in their representation and end the widespread existence of protection contracts.

Finally, the Abascal proposal weakens workers' rights by promoting the "flexible" hiring of temporary contract workers. It weakens minimum standards which have been enshrined in Mexican law such as the length of the work day. Again, these measures constitute an attack on the most basic rights of Mexican workers.

This set of proposals is opposed by unions, social organizations and most recently by the church in Mexico. We write to join our voice to the chorus of those who deplore this effort to deprive workers of their fundamental right to organize and bargain collectively, and to strip them of the protections afforded by Mexican law.

For us, the Abascal proposal is especially disappointing given the commitments made by the Mexican government following the ITAPSA Complaint. Specifically, on May 18, 2000, an agreement which was reached under the NAALC in which the Mexican Ministry of Labour committed the Federal Government to the promotion of public registries of unions and contracts as well as elections by secret ballot. This agreement was signed by the Governments of Canada, Mexico and the United States.

Further, in a letter dated January 23, 2003, from the Canadian Government to our Union and the Canadian Labour Congress, we were assured that the Mexican Labour Law Reform Process would address the issues raised in the ITAPSA Complaint.

However, in our view, none of the key issues that are important to our Mexican partners are addressed in the legislation. Indeed, this legislation is an attack on the existing rights of Mexican workers.

I consider this to be a matter of crucial importance and respectfully request that you take the necessary measures to ensure that a truly balanced labour law reform proposal be introduced which reflects a consensus by all affected sectors of society.

I look forward to your response.

Sincerely,



Ken Neumann
Canadian National Director

KN/MR/LR/ae

cc. Honourable Joseph Frank Fontana, Canadian Minister of Labour and Housing
Ken Georgetti, President, Canadian Labour Congress
Wayne Fraser, USWA District 6 Director
Michel Arsenault, USWA District 5 Director
Steven Hunt, USWA District 3 Director
Frente Autentico del Trabajo
Union Nacional de Trabajadores