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May 15, 2005

Office of Trade Agreement Implementation  
Bureau of International Labor Affairs  
U.S. Department of Labor  
John P. Mondejar, Ph. D.  
Senior Economist / Information Officer  
200 Constitution Avenue N.W.  
Room S-5205  
Washington, D.C. 20210

Re: Mexico's failure regarding its commitments and obligations arising under labor law matters as defined in the North American Agreement on Labor Cooperation Article 49 and Part Two of the NAALC, in relation to the labor conflict between Consorcio Aviaxsa, S.A. de C.V., dba Aviacsa Airlines and the Mexican Airline Pilots Union, ASPA de Mexico

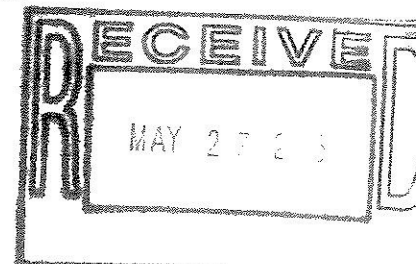
Dear Mr. Mondejar,

We would like to submit for your review and consideration the following:

We are represented by ASPA de Mexico, the Mexican Airline Pilots Union and find ourselves in a labor conflict with Aviacsa Airlines that has been ongoing for more than five years. We believe that our case is worthy of submission and qualifies for review under Section F of the Procedural Guidelines of the Office of Trade Agreement Implementation. Specifically, the enclosed documentation will show that Mexico has demonstrated action inconsistent with the United States and Canada's commitments and obligations under the NAALC by violating Articles 1, 2, 3, 4, and 5 of the agreement, as well as labor principles set out in Annex 1.

We allege that Mexico has caused harm to us by failing to enforce Aviacsa's obligations to comply with the requirements mandated under Mexican federal labor law. We also believe that our submission will demonstrate a sustained and recurring course of action of non-enforcement of labor law by the Mexican government. To support our allegations, please find enclosed copies of press releases, letters, and documents relating to our conflict.

We believe the matters referenced in our 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. Aviacsa Airlines provides airline passenger and freight service between the territories of the United States and Mexico.



We allege that Mexico has displayed a course of action that reflects something other than a reasonable exercise of discretion or bona fide decision regarding the allocation of resources in the decisions handed down by the labor courts lacking impartiality, transparency, and fairness in their actions. Relief has been sought under the domestic laws of Mexico by the various lawsuits and injunctions filed against Aviacsa's labor union, the Sindicato de Trabajadores de la Industria Aerea, Similares y Conexos, STIAS which is recognized in the labor circles as a protection union. The enclosed documentation will show the status and progress of the legal proceedings. The enclosed documentation will also show that our case has been submitted to the International Labor Organization and since October of 2004, we are awaiting a ruling by the Mexican Supreme Court.

We believe that our submission will raise issues concerning freedom of association and protection of the right to organize and the right to bargain collectively. We also believe that our submission will raise issues regarding access for workers to fair, equitable, and transparent labor tribunal proceedings, and that these allegations will show an overall and persistent pattern of non-enforcement of labor laws.

As a party to **ILO Convention 87**, Mexico has an obligation to allow for the right to freedom of association in the workplace. Furthermore, the ILO has declared that all countries that are members of the ILO must "**adhere to ILO Convention No. 87 as a condition of membership, regardless of whether they have ratified it.**". In the case of the Aviacsa pilots, freedom of association was violated by the company's attempt to intimidate pilots and supporters by termination of employment and by the Junta Federal de Conciliacion y Arbitraje, JFCA, Mexico's labor tribunal's failure to provide protection to those pilots ratifying their votes on 1 April through 5 April of 2002.

As a party to the **American Convention on Human Rights**, Mexico has an obligation to enforce the rights of freedom of association, specifically including labor associations, as outlined in Article 16. Mexico has violated this obligation by allowing the JFCA to act in the interest of Aviacsa rather than its pilots, by failing to allow and clear obstacles for their representation by ASPA de Mexico.

As a party to **Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador)**, Mexico has a legal obligation to enforce the right of all people to organize trade unions and join a union of their choice, as outlined in Article 8. Mexico has failed to enforce this principle by failing to allow ASPA de Mexico to be recognized as the representative union for the pilots of Aviacsa.

As a party to the **International Covenant on Economic, Social and Cultural Rights**, Mexico has a legal obligation to enforce the following principles:

- 1.- All people shall have the right to work, as outlined in Article 6. Termination of employment for union activities derogates this fundamental right.
  - 2.- All people shall have the right to join and form a trade union of choice, as outlined in Article 8. The further failure to provide a fair and impartial union representation process for the Aviacsa pilots indicates Mexico's failure under this obligation to recognize and remove any obstacles for the representation of Aviacsa pilots by ASPA de Mexico and to ensure its labor tribunals have no conflict of interest in protecting Mexican worker's labor rights.
- We the petitioners request that the United States NAO hold one or more public hearings, as outlined under Section H of the Procedural Guidelines, to receive oral testimony and further explanation of the issues raised in our submission.
  - We the petitioners request that the United States NAO conduct cooperative consultations as outlined in Article 21 of the NAALC, in order to resolve issues that have been raised in this submission. The resolution must satisfactorily deal with all violations in this submission.
  - We the petitioners request that the United States NAO conduct ministerial consultations as outlined in Article 22 of the NAALC, to discuss the failure to enforce applicable Mexican labor laws and international laws cited in this submission.
  - We the petitioners request that the United States NAO seek support of the Secretary of Labor to provide the opportunity for an Evaluation Committee of Experts (ECE), as outlined in Article 23 of the NAALC. As mentioned before, the issues meet the requirements of trade relatedness and mutually recognized labor laws.

NAFTA and the NAALC exist to provide not only free trade but also the furtherance of labor rights and assurances that trade will not deteriorate labor rights. In order to ensure that this objective is met, we urge the United States NAO to accept this public submission and assist the pilots of Aviacsa Airlines, ASPA de Mexico and the Mexican government in resolving these issues immediately.

On behalf of the below mentioned, I would like to thank you for your time and look forward to hearing from you in the near future.

Respectfully,

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Legal counsel for ASPA de Mexico  
Lic.

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Mexico D.F.

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Asociacion Sindical de Pilotos Aviadores de Mexico

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