

**Testimony to the US National Administrative Office (NAO) – Public
Communication U.S. 2003-1 (Puebla)**

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My name is Benjamin Edward Cokelet. Before I give an introduction and hopefully very brief testimony, I'll just make three disclaimers. One is that two weeks ago when we had to submit the written statements of our intention to testify, I submitted about four and a half pages of essentially complete testimony but something I've changed since then for various reasons, given what's already been said. So you guys have that on record, I'm sure and if you need to ask me questions about it, feel free and go ahead, especially regarding the conversations and the e-mails I exchanged with the former operator and director of Matamoros Garment. I believe that was one of the main questions that you guys were interested in asking me about.

In addition, I think one of the other points from that written testimony which I should mention is that I was invited by workers in the CAT on several occasions to accompany both Matamoros Garment and Tarrant workers in meetings with the state and federal governments as well as meet with folks in their home, so, you know, I have met with workers from both factories, heard their testimonies as well as met with and heard the government's perspective on this stuff also, so if you guys have questions for me about that, feel free but I won't go ahead and repeat what I already submitted.

And I guess my last disclaimer is that I hope to be the only witness today that does this in under 10 minutes. So my capacity is a consultant for the American Center for International Labor Solidarity, AFL-CIO. I've been employed there since January 21st, 2003 where I've been a liaison between the Solidarity Center's Mexico office and the Center of the Apoyo al Trabajador or the CAT located in Puebla, Mexico. Among other duties I've collaborated with the CAT during the Matamoros Garment and Tarrant Mexico Ajalpan campaigns including assisting the CAT with communication with international allies, conducting corporate research and providing strategic and organizational advice.

Though I have not participated in either the Matamoros Garment or Tarrant campaigns in a hands-on, organizing role, through invitations from the CAT and the Maquiladora workers themselves, I've met with workers and their families in their homes, accompanied the CAT and the workers in meeting with Puebla state government officials and the Mexican Federal Government. On occasion, I've met with or had contact with the garment and factory owners and their international apparel clients and maintained contact with the CAT's international allies who have likewise had contact with the workers, the factories and their international clients as well as the Mexican Government.

So essentially I want to cover today is a slight review of what's been said, the issues that we see as a collective group pending in the cases that we've presented before you folks, the case of Matamoros Garment and Tarrant as well as I want to finalize and kind of add more meat to I believe the four or five recommendations that you've heard two or three times today from some of the other panelists. First, just to give the brief context of what we've already spoken about, as { } mentioned and as { } mentioned, after 70 plus years of PRI rule in Mexico, you know, with the election of { }, people in Mexico as well as, I'm sure in other countries, including the United States had hoped for significant change with the Administration of Justice's enforcement of Mexico's labor law and its compliance with international labor law, especially its agreement under the North American Agreement on Labor Cooperation.

So it was in this vein that -- or I should say in the last three years that these workers, the Kukdong workers, the Matamoros Garment workers and the Tarrant workers have undertaken these campaigns and what they hoped were surely would be a new climate of labor justice in Mexico. The agreements or the submissions that we've submitted or that USAS, the CAT and Maquila Solidarity Network have submitted have spoken to the Mexican Government's failure to uphold its obligations under federal labor law, international agreements and the North American Agreement on Labor Cooperation, in all three cases what we believe are trade related issues in the sense that all three were garment factory support producing for export to the United States, Canada and lesser so Europe also.

Essentially the NAALC principles as well as the obligations that we feel have been addressed in the Submission include a general duty to provide high labor standards, effective enforcement of labor laws, due process, transparency, timeliness and effective remedies for labor rights violations, promoting public awareness of labor law and workers' rights, freedom of association, the right to organize as well as the right to collective bargaining and something that on behalf of everyone who has given their testimony today I'd like to emphasize, of course, are the violations of the Occupational Safety and Health Standards in both cases of Matamoros Garment and Tarrant, the minimum employment standards including the minimum wage laws, which we can talk about later in the question and answer or if you guys feel it's already been covered in the case of Matamoros Garment and, of course particularly with the overtime and the lack of paid overtime in both cases.

Of course, access to fair and transparent labor tribunal proceedings which has been an issue in all three cases, insuring the labor tribunals operating in a fair and equitable fashion, with appropriate remedies as well as probably the mention but perhaps not so deeply explored allegations of child labor protection, especially in the Matamoros Garment and Tarrant factories where here today we don't have first-hand testimony of, you know, actual child laborers, but of course, second-hand corroborated testimony of instances in both cases of child labor in both factories.

Before I go on to address, I think, the demands that the folks who have testified today have essentially set out or their wish or their desire out of these proceedings, I think it's

important to mention or reiterate what's already been said that this is, of course, a classical case of collusion of state and federal governments, the company and the protection contract union and in both cases as evidenced by the tri-partite Conciliation and Arbitration Boards that { }, { } and others have talked about.

USAS has asked me to mention something that wasn't mentioned in the first testimony which is, perhaps in later submissions or what have you, there were two United students and Sweat Shop students that were in Mexico this past summer who personally interviewed and met with and accompanied both Matamoros Garment and Tarrant workers and actually, essentially wrote and distributed to the submission you guys already have. So if you would, at any time, like to meet with them, we could arrange that also.

And of course, before talking about the actual requests or demands we have, it's important to comment that earlier when we mentioned the coercion and intimidation that's taken place in both cases, workers being forced to sign agreements, meeting under conditions of duress with management and local labor board being present, in the case of Matamoros Garment accepting back pay, the question has come up from your side as why haven't the workers, why haven't the CAT, why haven't the lawyers pursued more effective remedies through the justice system, why haven't they perhaps filed demand when they could have, why haven't they, you know, presented themselves in front of a government entity that they might have not thought of, for example, PROFEDT and I think it's important to mention in all cases that because quite literally of the coercion and intimidation in both cases, both directed towards the CAT, as well as the workers and in all three cases, including Kukdong, there's obviously a high, almost undescrivable level of fear, literally fear for one's life but also fear for physical injury and so on that was evidenced in the case of Kukdong. Before the Matamoros case was underway in November 2000, workers there did a one-day strike and were also beaten by essentially riot police. So as you can imagine, the level of intimidation and fear, I think is the most clear answer as to why folks have not gone forward with perhaps more high level demands in front of the Mexico's Department of Labor and Social Welfare as well as in front of the state.

So essentially to flesh out more of demands and requests that the CAT, USAS and Maquila Solidarity Network have already made in front of the USAO and the Mexican Government, the first that we listed was a report summarizing the obligations of the Mexican Government to respect its national laws and the NAALC principles. Needless to say this would probably be the thousandth time that you've issued a report on these principles, but nevertheless, out of these cases are very serious issues and once again, the petitioners in this case are asking for the public written commitment of the Mexican Government to uphold these standards and these principles. That, perhaps is the most basic request.

Secondly, that the USNAO recommend ministerial consultations in this case on issues presented before your panel, the 11 NAALC principles and if unresolved, vis-a-vis, what I'm about to say, of course, the petitioners ask that this reach a committee of experts. We

feel that that would be an effective second step to address the violations presented in these cases, understanding, of course, that three of the NAALC principles will not be included at this level, nevertheless the occupational safety hazards, the child labor protections, being locked in a factory, and the minimum employment standards, minimum wage and overtime would be eligible at that level.

So needless to say, we hope that the USNAO would recommend ministerial consultations in its report and perhaps in further levels, if we do reach an evaluation committee of experts, that the federal and Puebla Conciliation and Arbitration Boards, number one, publicly disclose the registros and collective bargaining agreements at the federal and local levels specifically in Puebla and that they grant the registros in a transparent manner in accordance with the federal labor law to unions, both independent and otherwise, I of course, would request this.

And of course, the third demand or third request is because essentially in proven cases in ministerial consultation reports issued by the USNAO and the knowledge { } presented in the legal record in Mexico, that the local Conciliation and Arbitration Board system is essentially broken and does not work, which is why we recommend to hope that you would recommend out of an evaluation committee of experts or at the level of ministerial consultations the establishment of a tri-national oversight committee, something composed of labor rights experts with the power to investigate and issue reports regarding allegations of violations in the first three NAALC principles, the ones not addressed at the evaluation committee of experts level and beyond, freedom of association, protection of the right to organize, the right to bargain collectively and the right to strike, specifically focus on the denial of registros, the use of black lists and denial of secret ballot votes in requinto (ph) elections.

Perhaps the last statement, the secret ballot votes requinto elections is something we haven't quite reached in this case, but nevertheless, it's obvious that if there as a more fair system at the earlier stages of the process, we could reach that stage and have to have effective enforcement and perhaps an oversight to be able to assure that that also was transparent and just.

The fourth is that we recommend the holding of a public cooperative activity in Puebla on the theme of the freedom of association and specifically the right of a union to receive its registros under federal labor law with the participation of the governor, the local Conciliation and Arbitration Board, the organizations that have presented the submission, obviously the workers themselves and hopefully with the presence of the Secretary of Labor and Social Welfare.

Lastly that, as mentioned, out of this hearing, out of your public report, and perhaps out of the ministerial consultations if they do not work, that I recommend that the issues in this Submission that are subject to review be moved to an evaluation committee of experts and be reviewed by such a committee. And I think it's important to close just by saying though we've essentially proven that the workers in both cases have exhausted the legal organizing and perhaps moral remedies available to them in these cases, in a sense

they literally and legally have exhausted themselves and, you know, essentially all possible outlets, on both cases, Matamoros Garment and Tarrant workers have told me and told us they still want an independent union registros. This is still a demand on the table essentially that they have before any available body. So needless to say, if they have accepted their -- or if they accepted severance payments, which we can argue have been illegal, and if they have essentially exhausted some of the legal remedies available to us, wouldn't it be wonderful if out of the tension around this case and around the government's compliance with its own labor laws already stated, if they were able to grant the independent union registros in both cases, perhaps more likely in Tarrant because the factory supposedly is going to reopen in May or June of this year and there's a chance then to move to that level. So I'll end with that and, of course, if you have any questions, please feel free to go ahead.