

Geneva, 23 October 2012

Sen. Emilio Gamboa Patrón
Sen. Ernesto Javier Cordero Arroyo
Sen. Luis Miguel Gerónimo Barbosa Huerta
Sen. Jorge Emilio González Martínez
Sen. Manuel Bartlett Díaz

Senate of Mexico
Mexico, D.F.
Mexico

Senators: Vote NO to the regressive labour law reform

Dear Senators,

I am writing to you on behalf of IndustriALL Global Union, representing 50 million industrial workers in 140 countries, to express our grave concern about the labour law reform legislation designated as “preferential” by out-going president Felipe Calderón.

The extremely regressive proposal now before you would severely undercut job security by removing existing protections for workers that limit sub-contracting as well as temporary and short-term contracts. These mechanisms are used by employers to ratchet down their expenses by avoiding their responsibilities to pay decent wages, taxes and benefits. This creates social instability, operating to the detriment of working people who can no longer provide for themselves and their families and eliminating the foundation for a stable society.

In addition, this legislative proposal would undercut worker protections against unjustified discharge and make such illegal actions cheaper for employers by limiting back pay to one year plus interest, thus penalizing workers for delays in legal proceedings for reinstatement that are beyond their control.

The renewed attempt to force approval of this recycled proposal is particularly egregious when one considers that it fails entirely to remedy some of the serious deficiencies that currently exist in the current federal labour law.

It has been estimated that some 90% of union contracts in Mexico are protection contracts. The widespread use of such contracts and their violation of fundamental union rights was raised by one of IndustriALL’s predecessor organizations, the International Metalworkers’ Federation, in complaint no. 2694 submitted to the ILO in 2009.

The recommendations put forward by the ILO Committee on Freedom of Association and approved by the ILO’s Governing Body in the spring of 2011 called on the Mexican

government to examine the issue of protection contracts. Specifically, the ILO called on Mexico to investigate and report back to the Committee regarding: “(1) the questions relating to the trade union security clauses, “exclusion clauses”, which were declared unconstitutional by the Supreme Court and which may give rise to the kind of situations contemplated in the complaint; (2) questions relating to the minimum representativeness of trade unions in order to bargain collectively; and (3) the alleged lack of impartiality of the conciliation and arbitration boards (JCAs) and the allegedly excessive length of their proceedings.”

The ILO Committee stated that it “firmly expects that a dialogue will take place with the most representative national workers’ and employers’ organizations, as well as the six organizations that are complainants in this case or that have supported it.” It also stated clearly that it “trusts that legislative and other measures will be taken in the near future to strengthen protection against anti-trade union practices in breach of collective bargaining principles.”

Instead of social dialogue and an effort to remedy the inadequacies indicated by the ILO and the failure to require secret ballot elections, public access to information regarding unions and their contracts, access by union members to information regarding the finances of their union, and the right of union members to approve or disapprove collective bargaining agreements negotiated on their behalf, the executive branch of the Mexican government has intensified its crackdown on independent unions and has presented this regressive labour law reform initiative.

Far from encouraging job creation and the stimulation of the internal market, this initiative will cause the instability of existing jobs and the generation of even more precarious work than already exists in the informal sector.

We hope that these matters will be considered when analyzing this initiative. Whether or not the fast-track process is legal, it is clearly undemocratic and presents a truly unfortunate image of Mexico: as disinterested in the views of legislators or citizens and displaying a blatant disregard for well-established international labour standards.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Jyrki Raina', written in a cursive style.

Jyrki Raina

General Secretary