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| Ms Cecilia Malmström  Commissioner for Trade  European Commission  1049 Brussels  [Letter sent by e-mail] | our ref Trade/FOG/OT  date: 29 August 2015  contact: Owen Tudor  direct line: +44 (20) 7467 1325  email: otudor@tuc.org.uk |

Dear Commissioner Malmström

EU-Mexico Free Trade Agreement

On behalf of the TUC, the voice of Britain at work, and our 6 million members of affiliated trade unions, this letter is our submission to the Commission’s consultation on the Impact Assessment that will accompany its recommendation to launch the modernisation of the EU-Mexico Free Trade Agreement. We work closely with the European Trade Union Confederation (ETUC) and Mexican unions[[1]](#footnote-1), and support the ETUC’s contribution to this consultation exercise.

In summary, we believe that before negotiations begin, the Government of Mexico should be required to take steps to bring its labour laws and practice into conformity with international standards – principally those of the ILO – and we believe that the EU should insist in any subsequent negotiations on the inclusion of enforceable dispute settlement arrangements for labour rights, and the establishment of an adequately resourced system of monitoring involving trade unions in Mexico and the European Union.

The revision of this agreement may have a significant impact on workers in both the European Union and Mexico, especially taken in conjunction with the EU-Canada Comprehensive Economic and Trade Agreement (CETA) and the Trans-Atlantic Trade and Investment Partnership (TTIP). As is the case with those initiatives, we would urge that the agreement with Mexico should include an enforceable dispute settlement mechanism should either party fail to respect its undertakings on labour rights.

We believe it is in the interest of European as well as Mexican workers that such an important agreement should respect and improve labour standards in Mexico. This agreement should facilitate the full implementation and enforceability of international standards as set by the ILO as well as other conventions such as the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, as well as the OECD guidelines for Multinational Enterprises; and the UN guiding principles on business and human rights. An overarching objective should be the promotion and respect of the ILO’s Decent Work agenda.

Mexico has ratified 7 out of the 8 fundamental ILO Conventions. However, it has failed to ratify Convention 98 on the Right to Organise and Collective Bargaining, which is one of the most important ones.

A few months ago the Mexican Secretary for Labour and Social Welfare, Alfonso Navarrete Prida committed to ratify ILO Convention 98 and promote genuine collective bargaining[[2]](#footnote-2). We would wish to see these commitments translated into tangible action, as a prerequisite to negotiations.

In addition, the ratification and effective implementation of this Convention is particularly needed to foster social dialogue in Mexico and to allow for better working conditions and improved wages for Mexican workers, many of whom are employed by European companies settled in Mexico. I would draw your attention, as an example, to the situation at BMW, where local management last year bought a ‘protection contract’ (see below) over the internet three years before the planned opening of the factory in 2017 – an issue of particular concern to both Mexican and European trade unions.

We regret to observe that Mexico was among the 24 countries shortlisted for examination by the ILO Committee on Application of Standards in Geneva in June 2015, for its failure to implement ILO Convention 87 on Freedom of Association and Protection of the Right to Organise. The conclusions adopted by the ILO Governing Body and the Committee on Application of Standards asked the Mexican government to:

* identify, in consultation with the social partners, additional legislative reforms to the 2012 Labour Law necessary to comply with Convention No. 87. This should include reforms to prevent the registration of trade unions that cannot demonstrate the support of the majority of the workers they intend to represent, by means of a democratic election process - so-called protection unions; and
* provide a report on progress made to comply with these recommendations by the next session of the Committee of Experts (November 2015)

The Committee requested the Mexican government to fulfil without delay its obligation to publish the registration and bylaws of trade unions on the local boards of the country’s 31 states, and to accept ILO Technical Assistance to address the issues referred to in these recommendations. We of course support those recommendations, conformity with which should be a prerequisite for new negotiations.

Mexican unions, together with international trade union organisations, have identified many serious violations of core labour rights in Mexico. The most serious of these are the practice of ‘protection contracts’ (collective agreements signed between an employer and an employer-dominated union, often without the knowledge of the workers) and the institution of Labour Boards that are subject to corruption and manipulation by employers and employer-dominated unions. The ILO Committee on Freedom of Association and Committee of Experts have also highlighted these problems.

In the light of these considerations we believe that Mexico should:

* enact constitutional reforms to eliminate the corrupt Conciliation and Arbitration Boards at the state and federal level, replacing them with labour judges who are independent from the executive power;
* make all collective bargaining agreements and union registrations public and transparent at the federal and state level, requiring employers to provide each worker a hard copy of his or her collective bargaining agreement and the basic documents of the union that represents that worker;
* make it illegal to file (depositar) a collective bargaining agreement that has not been ratified by a majority of the workers covered by that agreement;
* make the union election (recuento) process more transparent and effective, establishing fixed dates for stages in the process and stipulating that objections are to be resolved after the election is held; and
* eliminate the requirement of union certification (toma de nota) which is used to control and limit the legal existence of unions.

Regarding future governance of the proposed EU-Mexico FTA, we believe that a mechanism similar to that on trade and sustainable development in the EU-Korea FTA, but also including enforcement provisions as mentioned above, might be established involving in particular independent representatives of the social partners and civil society from the EU and Mexico. Such a mechanism should be coherent with other representative bodies that should be instituted under the Global Agreement to advise its governing bodies on the general contents of the agreement.

It is clear from experience of other such bodies that additional resources would be required to maintain such monitoring mechanisms and we propose that a specific budget line be incorporated in any proposal brought for consideration by the European Parliament and Member States.

The TUC hopes to maintain a fruitful dialogue with you on these negotiations given their foreseeable economic and social impact both for Mexico and the EU.

Yours sincerely

**FRANCES O’GRADY**

General Secretary

1. Confederación de Trabajadores de México (CTM), Confederación Revolucionaria de Obreros y Campesinos (CROC), Consejo Nacional de los Trabajadores (CNT), Unión Nacional de Trabajadores (UNT) [↑](#footnote-ref-1)
2. http://www.ituc-csi.org/mexico-to-ratify-ilo-convention-98 [↑](#footnote-ref-2)