

103

**ABUSES WITHIN THE MEXICAN POLITICAL  
REGULATORY AND JUDICIAL SYSTEMS AND  
IMPLICATIONS FOR THE NORTH AMERICAN  
FREE TRADE AGREEMENT [NAFTA]**

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Y 4. B 22/1:103-93

Abuses Within the Mexican Political...

**HEARING**  
BEFORE THE  
**COMMITTEE ON BANKING, FINANCE AND  
URBAN AFFAIRS**  
**HOUSE OF REPRESENTATIVES**  
ONE HUNDRED THIRD CONGRESS  
FIRST SESSION

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NOVEMBER 8, 1993

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Printed for the use of the Committee on Banking, Finance and Urban Affairs

**Serial No. 103-93**



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# ABUSES WITHIN THE MEXICAN POLITICAL, REGULATORY, AND JUDICIAL SYSTEMS AND IMPLICATIONS FOR THE NORTH AMERICAN FREE TRADE AGREEMENT [NAFTA]

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MONDAY, NOVEMBER 8, 1993

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,  
*Washington, DC.*

The committee met, pursuant to notice, at 10 a.m., in room 2128, Rayburn House Office Building, Hon. Henry B. Gonzalez [chairman of the committee] presiding.

Present: Chairman Gonzalez, Representatives Watt, Klink, Leach, Roth, Thomas, and Johnson.

The CHAIRMAN. The committee will please come to order. The Chair wishes to thank the witnesses that accepted our invitation. It was a little quicker than we had anticipated, but we want to say at the outset that this was the first committee to have any kind of formal hearings on so-called NAFTA, beginning with the first one before there had been any referrals by the executive branch, but after we had received the five volumes, four of them telephone directory size which I brought to the hearing room at the hearing before last.

Since then, we have had two hearings on NAFTA. The first hearing was held on September 8, and the second was on September 28, and this one is a continuation and also the third hearing on NAFTA. If we could only have enough time and opportunity because we also have a full plate in required legislation that this committee must confront and resolve.

The committee's first hearing, held on September 8, focused on the dangers posed by the agreement to the safety and the soundness of U.S. banks and other financial service providers. Now, my own opposition to the agreement stems from the very beginning. As they say in law, *ab initio*. Soon after some of the details were available to us, about a year ago, it became obvious to me that what has been promoted as a trade agreement, in effect is the smallest residue and, for instance, never once even after we had the first hearing has any popular report been made indicating that there is an entire chapter on financial banking and financial services, and there was a separate chapter on securities and each one of them complex. But on top of that the overall significance of this treaty or agreement is that the most important portion still remains to be either divulged, much less discussed, and it has turned out to be popular in our country.

In other words, it isn't a question of trying to inform and educate our citizens, and without which understanding those of us supposedly representing them would be working against a backdrop of ignorance, and therefore very definite misunderstanding as we go into the future. But as more and more opportunity rises to look into this, for instance, at what time has any spokesman from the President on down or any of the other ex-Secretaries of State and the like reported that the article 101 of NAFTA links it irretrievably to the Uruguay GATT round and inclusive thereof of article 24 of the General Agreement on Trade and Tariffs.

Article 2001, the so-called free trade agreement or NAFTA also sets up the Free Trade Commission, which will be invested with powers, including judiciary powers, and that on top of the assumption that by the time we would get around to NAFTA, the Uruguay GATT round would have been approved but it hasn't happened. And it leaves this hanging midair in suspense, that is if NAFTA is approved. And so I think it is very important that we realize that today's hearing is to bring out the atmosphere and environment in which all these institutions, particularly banking, will be working in the environment of laws and regulations, judicial systems, and the like, so we will examine the nature and the scope of the system which universally is accepted as being corrupt.

American investors and businesspersons must be fully aware, then if they wish to either out of greed or heedless disregard, at least this committee is on record as making an honest, forthright attempt to present the facts as they should be. I think our witnesses today will illustrate that with or without NAFTA, doing business in Mexico is always like facing a yellow light.

Now, on top of this it has been predicated also that for some reason or other it is a mandate we must accept if we want to help Mexico, that Mexico will face dilemmas and crises and the like. I can't think of a more sorrier excuse for Congress' consideration of this agreement than that argument.

In the first place, the highest financial officer in Mexico has indicated that if NAFTA is not agreed to that the detrimental impact will be fleeting and certainly not profound or lasting. So with that I will ask that the prepared text of my introductory statement be placed in the record as well as some of the lesser and unmentioned provisos, annex 1, volume 2, quote, "Representatives of religious associations in Mexico must be Mexican nationals."

Now, who has mentioned that we have religion in NAFTA? But there it is, page 1, M-4 of annex 1, only lawyers licensed in Mexico and so forth, and so forth on transborder, even transborder transactions. Doctors, same way, only Mexican nationals licensed in Mexico can provide in-house services to Mexican enterprises even on the border.

Now, all of these are not noted in any of the reports that I have seen emanating from any other level. Now, I do know that the Ways and Means Committee has been deliberating on the tax impact which, incidentally, if we vote and any Member who votes for this is going to vote for one way or the other finding revenues to make up for the losses to the Treasury, and that is in quite a number of billions of dollars. So with that I recognize Mr. Leach and thank you very much, Mr. Leach, for your continued support.



[The prepared statement of Chairman Gonzalez can be found in the appendix.]

Mr. LEACH. Well, thank you, Mr. Chairman. I always am supportive of the chairman's investigatory initiatives, although I must say there is a bit of irony here that the chairman is working hard to upend an administration policy that the minority is more sympathetic to. I would just like to stress two points.

First, I think there can be a shared premise that Mexico has more corruption than some societies, maybe less than others, but corruption is a problem, as it is everywhere, but significantly in Mexico. It is not completely a shared premise that the best way to do something about that is to maintain the status quo, with the status quo appearing to be one of corruption. But it is hard for me to believe that lowering trade barriers is not a prescription for less corruption.

It is only when you have artificial governmental interplay at virtually every level of society that you end up with higher levels of corruption, and so movements toward freer trade are movements toward lower levels of corruption, and that is something I think this committee ought to keep in mind.

Second, under the jurisdiction of this committee and this agreement—and the chairman is very wise in saying that there are a lot of elements of the agreement that need to be reviewed—but under the jurisdiction of this committee is the creation of a North American Development Bank. I personally think this is an issue that ought to be looked at very, very carefully. It carries some of the costs that the chairman has indicated have to be paid for through taxes. One of the great questions is: Is this something that effectuates free trade or is it something that is designed to buy votes here in Washington, not to lower trade barriers in Mexico? We as a committee are going to have to look at that particular proposal very carefully.

In any regard, I am open-minded about it because there is some reasons to have it, but I am also skeptical in some other very profound ways. I look forward to the testimony of our witnesses. Whether I find it compelling or not doesn't mean that it isn't testimony that doesn't need to be heard. Thank you, Mr. Chairman.

The CHAIRMAN. Do you have any statement, Craig?

Mr. THOMAS. No.

[The prepared statement of Ms. Maloney can be found in the appendix.]

The CHAIRMAN. I am going to recognize the presence of a colleague, Congressman Pomeroy, and ask him to introduce the first witness, the Honorable Sarah Vogel, who is the commissioner of the Department of Agriculture of the State of North Dakota. Congressman.

Mr. POMEROY. Thank you, Mr. Chairman. It is a pleasure to be in the Banking Committee today, and I commend the chairman for holding this very important hearing. I am very pleased to introduce a friend and State official of the State of North Dakota to the committee.

Sarah Vogel is North Dakota's agriculture commissioner. She has experience in both agriculture, finance, and law. She formerly served as an attorney for Manufacturers Hanover Trust. She has

served as Special Assistant for Consumer Affairs to the Secretary of the Treasury. She was lead counsel on the national class action *Coleman v. Block*, which stopped unconstitutional farm foreclosures by the Farmers Home Agency in the 1980's, and she has served now, she is in her second term as North Dakota's agriculture commissioner.

As North Dakota's agriculture commissioner she serves as a member of the State Industrial Commission which manages the largest bank in North Dakota, the State-owned bank, the Bank of North Dakota, with nearly \$1 billion in assets. She is president of the Mid-America Agritrade Council, a trade group of 12 Mid-western States, and she is president of the Midwestern Association of the State Departments of Agriculture.

So, Mr. Chairman, she is indeed someone very thoroughly qualified in the matter she is about to present to the committee this morning. It is high pleasure to introduce her to you.

The CHAIRMAN. Thank you very much, Congressman. We deeply appreciate your presence here and your cooperation.

Well, our first witness, we want to thank you, as we had before. We will have whatever prepared written testimony in the record as you are giving it to us and you may proceed as you deem best.

**STATEMENT OF SARAH VOGEL, COMMISSIONER,  
DEPARTMENT OF AGRICULTURE, STATE OF NORTH DAKOTA**

Ms. VOGEL. Thank you very much, Chairman Gonzalez and other members of the committee. I am going to summarize my written testimony because it is awfully long, and I wouldn't want to burden the committee with that level of detail, so I will try to hit the high points today.

I am here today to talk about what I deem to be a serious abuse of the GSM-102 Export Credit Guarantee Program in Mexico. The GSM-102 Program, as you are aware, is an Export Credit Guarantee Program whereby USDA, acting through the Foreign Ag Service and the Commodity Credit Corporation, underwrites letters of credit issued by foreign banks to pay for imports of U.S. agriculture commodities.

The GSM-102 Program is one of our major export programs. The annual allocation for the GSM-102 Program is \$5 billion a year. Mexico is our number one user of this program. We guaranteed \$1,321,000,000 last year of Mexican bank credit for the purpose of purchasing United States ag commodities. I have been familiar with the GSM-102 Program since I helped start a program at our State-owned bank in North Dakota several years ago to purchase portions of loans which were used to export pinto beans to Mexico.

I then thought it was a good program. I still do think it is a good program, but I am disturbed by the way it is being run in Mexico. Let me give you some background on how I found out about it. In September I was at the World Trade Subcommittee meeting of the National Association of State Departments of Agriculture at our annual meeting.

At that meeting a representative of the State of Missouri came in to the committee with a proposed resolution. This resolution is attached as exhibit C to my testimony, and I will just read three paragraphs of it. The proposed resolution by the State of Missouri

said: "The GSM-102 Program allows importers of grain in Mexico with passthrough credit to Mexican banks to make purchases at much lower interest rates than the prevailing cost of such loans.

"Currently bank interest rates in Mexico are between 25 and 30 percent, while grain importers who are able to access the GSM-102 Program through U.S. grain exporters are only charged 7 to 9 percent. While the GSM-102 Program certainly provides lucrative opportunities to some Mexican grain importers, the true intended benefits of the program are not reaching all of the potential grain importers.

"As the program is implemented in Mexico, the CCC provides a loan guarantee for between 1 and 3 years."

Incidentally, Mr. Chairman, what actually happens is that they are all three years except for tree products.

Yet, Mexican importers receive no more than 180 days credit from their lending institutions. This 180-day payment period is the result of unwritten agreements among Mexican bankers.

From the CCC's viewpoint it acknowledges that the full benefit of the GSM-102 Program is not reaching all potential Mexican grain importers. The extended benefit the Mexican banks receive from an additional 6 months to 2 years that they are allowed to hold guaranteed funds and reloan at interest rates of 25 to 30 percent is simply the cost of doing business in Mexico and insuring current levels of grain exports are maintained.

We were, to say the least, surprised upon receiving this report from Missouri. A representative of the Foreign Ag Service was at the committee meeting and we asked the FAS to respond. About 2 weeks ago, on October 22, I received a response from the Foreign Ag Service. That response is attached as exhibit D to my testimony.

To say the least, I was surprised. First, the Foreign Ag Service is aware of the problem but chooses to do nothing about it. In the letter they told me that insisting on 3-year terms of credit when 3-year terms of credit are issued would be counterproductive. They called it an intervention into Mexico's internal activities that could cause a revocation of a \$1 billion guarantee of the Mexican Government to Mexican banks, and in conclusion they planned to make no changes at all.

Let me read just the final paragraph of that letter. "We believe that under the current Mexican bank privatization climate it would be unwise for us to make major changes in how we operate the Mexican GSM-102 Program. We do not plan to make any changes until we can see the full impact of the privatization process on the Mexican banking sector."

As I said, I was surprised by this. I had a free weekend and so I went to the law library and also started looking up everything that I could find out about the GSM-102 Program, and I learned quite a bit. I learned that in 1990 Congress tried to clean up the GSM-102 Program in the wake of the unbelievable abuse of this program by the government of Iraq in connection with military purchases and the Banca Nazionale del Lavoro scandal that this committee helped to uncover, and there also had been some harsh reports by the Office of Inspector General of USDA, the General Accounting Office, and others.

Briefly in the 1990 Farm bill Congress said that the GSM-102 Program shall not be used for foreign aid, foreign policy, or debt rescheduling purposes. It added stiff penalties for corrupt payments, extra sales services, or other items extraneous to the transaction provided, financed, or guaranteed by the GSM-102 Program, and it sought to ensure that the Commodity Credit Corporation did not take any undue risks with this program.

As the program now operates, however, in Mexico the principal beneficiaries are not the United States farmers and exporters that the program was designed to benefit, but rather 17 Mexican banks. I think that this program is cheating U.S. exporters the way it is being operated now.

U.S. exporters are required to pay a fee for participation in the program. The fee is the lowest for a 6-month guarantee and it is the highest for a 3-year guarantee with annual payments. These exporters are paying for a guarantee for a 3-year period, but the buyers that are buying their products are only getting 6 months credit. I estimate that this annual cost to U.S. exporters is almost \$7 million a year.

Second, I believe U.S. farmers are being hurt by the operation of the program because the GSM-102 Program is not supposed to replace cash sales. It is not supposed to be available for anybody who can pay cash within 6 months, and if Mexican buyers are capable of paying within 6 months and qualify for the GSM-102 Program, then they are not supposed to be the beneficiaries of the program.

Conversely, there are a number of Mexican buyers who do need the 3-year or 1- or 2-year extended credit terms, and these people are de facto by operation of the Mexican banks being excluded from the program because only the maximum of 6 months is available.

Third, I am very concerned about the U.S. taxpayers. The taxpayers stand to lose a lot. We have billions of dollars in credit guarantees outstanding to Mexican banks that are based on loans from Mexican banks that have, already, in fact been paid by the Mexican buyers.

Our guarantees extend 2½ years after the underlying debt has been repaid. In the United States, as this committee well knows, it is black letter law that payment of an underlying debt extinguishes a guarantee. In fact, release of security on a loan can extinguish a guarantee, but the FAS is condoning this behavior by the Mexican banks, and they are keeping our guarantees out there long after they need to be.

The Foreign Ag Service is risking not only our taxpayers' money but also the money of U.S. bankers who retain a 2-percent liability plus a risk for part of the interest that would not be covered by the guarantee. The bottom line is I don't see why we are not issuing 6-month guarantees for 6 months loans.

Fourth, I am concerned about the credibility of the farm programs. I am upset at the double standard. Our farmers are suffering for lack of resources while these scarce resources are misused by Mexican bankers. It is outrageous, I think, that conduct that would not be tolerated by USDA as to American farmers or American bankers is condoned by the same agency because it will benefit the privatization of banks in Mexico and the economic system in Mexico.

It is interesting that our subsidies under the GSM-102 Program to Mexican bankers exceeds the cost of all our guaranteed loans to American farmers guaranteed by American banks, and the risk of default is much higher in Mexico.

Finally, I think that this issue is of importance in the NAFTA debate. About half of our sales of bulk and intermediate ag products were made possible by the GSM-102 Program. To increase our sales to Mexico, as many proponents of NAFTA state, will we have to increase the GSM-102 Program? Will we have to continue the present system of granting 3-year guarantees on 6-month loans?

Is this program being used for foreign policy purposes by USDA to help the newly privatized Mexican banks and to make Mexico appear more financially sound than it is? If we have to tolerate abuse of the U.S. Farm Program in order to stimulate foreign sales, I wonder about our priorities.

In conclusion, I hope that this committee will explore why the misuse of the GSM-102 Program is being allowed and condoned by USDA. American farmers and exporters and taxpayers deserve an answer. Thank you.

The CHAIRMAN. Thank you very much, Commissioner.

[The prepared statement of Ms. Sarah Vogel can be found in the appendix.]

We are deeply grateful to you. We will proceed with the next witness, Mr. Kaveh Moussavi. Did I pronounce that correctly?

#### STATEMENT OF KAVEH MOUSSAVI, IBM'S FORMER POLITICAL AGENT IN MEXICO

Mr. MOUSSAVI. You did, sir, yes.

Mr. Chairman, sir, ladies and gentlemen, I note that in the press release it is actually mentioned that I am here under subpoena, so I don't have a prepared text. I am going to speak to you for 10, 15 minutes, on my experiences in Mexico.

Since appearing before another august committee of this House, Mr. LaFalce's Small Business Committee, Mr. Chairman, you might be interested to know that I have now been promoted to the dubious status of public enemy number one in Mexico. I have the documents here. I shall very much like to put it into the record.

My sole crime, of course, is that I dared to expose an act of corruption. Rather naively I believed in the glossy brochures put out by the Salinas administration and their cronies and representatives in Britain, Western Europe, and the United States. I am on record as being an extreme Salinista. I have nothing against free trade or indeed against NAFTA as such.

I was one of the people who actively participated in promoting the image of Mexico under Carlos Salinas de Gortari in promoting seminars and so on and so forth. Alas for illusions, Mr. Chairman, the reality, when you confront it, is very, very different.

I would ask that the members of this committee rather than simply reading what appears in the press try to do a little more of what is being done today, confronting a few businessmen who have had firsthand experience of Mexico. The campaign of defamation, character assassination, and more than that, and I will come to that in a moment, which I have had to suffer over the last 9 months is well-documented.

Truly, I can say while the Salinas administration has now promoted me to the status of public enemy number one in Mexico, they themselves have sunk to newer depths of depravity. They have truly set new standards in gutter journalism. I will submit into the record of this hearing later a number of the articles that have appeared about me in Mexico, and I leave it to your own judgment.

On a happier note, after my appearance before the previous committee in which I put into the record a document which cataloged the steps which Her Majesty's government in Britain and the British police have had to take to protect my life and that of my family against the threats which I have absolutely no doubt come from one direction, and I need not spell it out. Surprisingly, after I said that if anything untoward were to happen to a member of my family or myself I would hold Carlos Salinas de Gortari personally responsible, I am happy to announce that since my appearance before that committee all intimidation has ceased.

I leave it to you, Mr. Chairman, to draw your own conclusions. Let me reiterate I have never been a part of an anti-NAFTA, anti-Salinas, anti-Mexico campaign, and anything that I say here I hope, I hope, and I note that there are Mexican journalists here, I earnestly hope would not be interpreted as an anti-Mexican crusade. I am not anti-Mexican, I am not anti-NAFTA as such, though I certainly have doubts about the credibility and the veracity of the undertakings that are given by a government that shows absolutely no respect for the rule of law in its own country.

It shows no inclination whatsoever to abide by its own laws and its own constitutional requirements and so on. I have serious doubts about entering into arrangements with a government that is of that nature. I think it will be best to call a spade a spade and call the Salinas administration really what it is. It is an undisputed fact, Mr. Chairman, that is not even denied by the most vociferous advocates of his regime that Carlos Salinas de Gortari came to power through electoral fraud, electoral fraud on a massive scale.

It is not something that I say, it is something that is agreed to even by the respected conservative London journal, *The Economist*, which has been a consistent supporter of the Free Trade Program and the Salinas administration from day one. In the survey, a detailed survey that they carried out of Mexico, they readily concede in the same breath that they called Carlos Salinas one of the greatest statesmen of the 20th century, they admitted that he came to power through electoral fraud.

The baptism of that government was through fire, indeed. Something like 200 supporters of the opposition have been murdered in the last 4 or 5 years, and coming up to this current election God alone knows what is going to happen there. My testimony is based on my own direct experience of a number of cases, but in particular the case that in Mexico has come to be known as the IBM Moussavi-Caso Lombardo scandal.

The facts of the case, I think, are quite well known. I will run you through them very, very briefly. I was appointed IBM's agent to assist them with their effort to win a contract for air traffic control in Mexico. IBM has an office there, employs, I believe, 2,000

people or so, they have been there since the early part of the century, and yet for reasons that I have not been able to totally fathom, but I have my suspicions, IBM corporation's office in Mexico did not wish to participate in this tender.

The reason for that, it is my strongest suspicion, was that they knew that the tender is not going to be clean. It is not going to be a fair tender. It is going to be corrupt. My experience later on in the events that I will refer to in a moment that took place on the morning of November 9 at the Nikko Hotel confirmed somewhat dramatically that public tenders in Mexico are allocated, shall we say, not on the basis of merit, but on the basis of who are the traditional winners, and I will come to that in a moment.

We agreed to participate in this tender. We put a bid at the right time. We were advised that—we were unofficially advised that—we were doing extremely well. By the middle of the tender, and I would like to put on record IBM and I had absolutely no doubt and certain statements have been made in Mexico since my last appearance suggesting that IBM would like to disassociate themselves from this statement. I certainly would challenge them to deny that there is ample documentary evidence which would seem to indicate that at least it was their opinion at the time that the tender was being run corruptly. That is to say in the identification of corrupt individuals in the organization that was running the tender.

If you wish to have details of that, I should be more than happy to oblige later. The tender itself was for an air traffic control program, modernization of air traffic control. We participated in it in the normal course of events. I will not go into the details as such, only to say that halfway through the tender I was the recipient of a number of solicitations for assistance, shall we say, assistance to help to win the contract.

I did faithfully and dutifully report these matters to IBM without ever going into detail. I simply said that this is what the situation is. People are asking to give us assistance. IBM Corp., agreed, and they did authorize me to investigate this matter further. I note that in Mexico certain statements have been attributed to IBM which I have absolutely no doubt could not have been made by IBM Corp.

For the record, I believe the company to be an extremely honorable company. I believe the company to be staffed by extremely honorable individuals. Nevertheless, they did authorize me. I have documentary evidence in the form of a letter dated November 4 from a senior IBM officer written to me allowing me to go down to Mexico to investigate these solicitations.

For the record, and for the benefit of the Government of Mexico, I will put that letter into the record here today. I arrived in Mexico City, Mr. Chairman, on November 8, and as prearranged with my interlocutors I did, indeed, meet the relevant people who had come to see me. Their intention was absolutely clear. They made no bones about the fact that they wanted a contribution of \$1 million to President Salinas' solidarity program. I did report the incident to IBM.

I specifically mentioned the name "solidarity." I specifically mentioned the request for a political contribution. I specifically men-

tioned to IBM that the people were in my considered opinion government officials.

In the confusion that has been created by the cacophony that comes out of Mexico through the government-controlled media, IBM's position and my position has become extremely confused. There can be absolutely no doubt and the documentary record speaks for itself that I did mention that I had been approached and requests were made for political contributions. I repeat, political contributions. I say this in the light of the later attempts by the government in Mexico to obfuscate the circumstances surrounding this tender, and they have attributed all sorts of absurd motives to me and the story surrounding this.

In the event we were unable to make a deal with these gentlemen, who were asking for these payments for the simple reason that at the end of the day I made it a condition that I had to know who they were, and if they were government officials I could not deal with them. For the record, I will say my purpose in going down to Mexico was to discover whether I could make a legal payment, that is to say whether we could come to an arrangement with expert consultants who could assist us in the course of a normal tender.

They were unable to demonstrate to me that they were not government officials, and therefore despite the best will in the world and despite our determination to win this contract we were unable to make a deal with them.

I would be very happy if specific questions are put to me on this aspect of it later. I was warned at the time that if we did not pay, the tender would be swayed away from us. I reported this faithfully to my controllers at IBM at the time.

Mr. Chairman, precisely 10 days later on the morning of November 19 the Government of Mexico announced that none of the contenders were compliant with the requirements of the tender. This was a strange suggestion. Here a Third World country was telling the companies which were on the leading edge of technology that they didn't know what they were doing, but we were rather bemused by that.

A few days later another tender was put out. The terms of the tender were so dramatically changed that in the considered opinion of IBM officers and myself, only the traditional winners could have won this tender. As it was, the case was closed. It was awarded to a nationalized company, the French company, Thomson, and another State company, Italy's Alenia, another nationalized company.

The award was made on December 28. At the time, Mr. Chairman, sir, I think it is important that I reiterate these IBM officers and myself were so outraged at the Government of Mexico that we decided that we would file a formal protest with the government, but we soon discovered that we were not the only people. I can tell you, Mr. Chairman, that in my fairly extensive experience as a businessman I have never, ever, ever participated in a tender in which every single company files a protest. Every single company protested this tender.

IBM Corp., my client, and all the other companies, Japanese companies, British company, British-German company, a Canadian company, and another American company, but to our amusement



and surprise we found that the United States Embassy also protested. We found that the Japanese Embassy protested. We found that the British Embassy protested. The Canadians did even better, Mr. Chairman.

The Canadian Trade Minister himself, Mr. Michael Wilson, formally wrote to his counterpart in Mexico, Mr. Caso Lombardo. I can tell you that by itself should be enough to raise an eyebrow or two about the nature of this tender, and it wasn't an ordinary tender. We are talking about air traffic control. We are talking about the lives of ordinary people who are going to be flying over national territory of Mexico.

Needless to say, the Government of Mexico brushed aside all these protests, and IBM and I decided that this was too much. We were going to take this protest to public domain. I briefed the *Financial Times* with the help of IBM who produced a press memorandum for me and the *Financial Times* produced a report on February 3. If I were to cut the story here and now, ladies and gentlemen, and if it were just to say begin from here and watch the knee-jerk visceral gut reaction of this government toward a forthright statement of a witness who is prepared to come forward, risk everything in Mexico simply on the basis of the belief that he has belief in the goodwill of the Government of Mexico, if you simply watch the reaction of that government, I think it would help to disabuse anyone of any illusion that this is a reform government, that this is a government that is determined to uphold the rule of law, to preserve the principles of due process, to respect at least to a certain degree the requirements—the basic requirements of what goes into a judicial investigation.

If you just catalog the reaction of the Government of Mexico from the afternoon of February 4, the day after the *Financial Times*' report on my statement as well as their own investigation and analysis of the tender appeared, I don't think anyone in their right mind could conclude that this is a bunch of people one could do serious business with. The reaction was immediate; it was hostile. The campaign of defamation that began against me was just unbelievable.

On the 4th the government officially put out a statement in which the presumption that I was lying was total. On the 5th they put out yet another statement, effectively saying that the Attorney General of Mexico, through the Mexican Foreign Ministry was going to come after me. I would be extradited and all sorts of other things.

On the 6th, 3 days later, the Minister himself did even better. He appeared on television and denounced me as a liar and already he acted as the prosecution, judge, and jury at the same time. I was already sentenced to a prison term within 3 days. What possible investigation the Government of Mexico could have carried out into a forthright allegation by an agent, a businessman who had been there who knew exactly what was involved, I don't know.

Counsel tells me I am talking too much and I should cut it. The reaction was like that. I was already condemned. This was on the 6th. But to my repeated request that there should be an immediate investigation, having condemned me already, having already said I should be put in prison, the Government of Mexico, on the after-

noon of the 12th, please remember the dates, 6 days after they had already condemned me, they write a half-a-page fax, half of one page to my attorney, Mr. Bob Perry, asking him, half of one page, which is the sum total of the investigation that they had carried out into my allegations, asking him to provide the names of the men who came into the Nikko Hotel to interview me, knowing full well that I didn't know the names of these people.

I was unable to get them for the simple reason that they didn't want to let it be known that they were government officials. Mr. Perry replied to them on the 18th. Immediately, you could see they had the reaction ready, on the morning of the 19th the Government of Mexico put out a statement saying there is absolutely no evidence for what I am saying, simply because I didn't know the names of the people who had come to solicit the bribe from me.

As a rule I don't know of any people who usually come and ask you for a bribe and they bring television cameras and their lawyers and commission contracts and so on. However, as far as the logic of the Government of Mexico goes, Mr. Chairman, the fact that a witness to a crime does not know the names of the criminals of necessity means that no crime has taken place.

If you, Mr. Gonzalez, sir, walk out of your office tomorrow and you witness a bank robbery in the street and you immediately phone the police and the police stop you and ask you for the name of the robbers and you don't know the names, they conclude that the bank has not been robbed. More than that, they conclude, Mr. Gonzalez, sir, that you are a liar, which is exactly what they have done with me.

Unable to seek judicial redress in Mexico, and I tried very hard, I retained an attorney, and I asked him to issue immediate defamation proceedings against the Government of Mexico and in particular against the Minister. His response was, Mr. Moussavi, your naivete is really touching. This is Mexico. This is not the United Kingdom or the United States.

I was obliged to issue a defamation suit against the Minister in London. When I did, in the English courts, knowing fully well that they could not bribe the judges there or intimidate them, their reaction was instantaneous. Not only they went on television and condemned me again, but very soon after that a senior Foreign Ministry official, Mr. Eduardo Ibarrola, was sent to London, and I have the documentary evidence here, to seek a meeting with me to arrange a comprehensive accommodation. I think you have guessed it, Mr. Chairman, the idea was to bribe me into silence.

They basically offered to assist me with any other contract that I may wish to have in order to shut me up. This, of course, I rejected with the contempt that it deserved, and I told Mr. Ibarrola had this been a tender for 10,000 bars of soap for the Guadalajara municipality, I might have been tempted, but we are talking about the lives of ordinary people. We are talking about an unsafe air traffic control system. We are talking about no ordinary tender.

Needless to say, I did not get the investigation. I didn't get the apology, so I exposed the matter to the press. The result was an immediate denial by the Government of Mexico that they had tried to bribe me, but as I said in the previous committee, the Lord does work in mysterious ways. Six drafts, Mr. Gonzalez, sir, ladies and

gentlemen, six drafts of the denial letter of Mr. Eduardo Ibarrola which was published in the Mexican newspapers appeared on my fax machine from a well-wisher working in the Mexican Foreign Ministry who wrote to me saying, Mr. Moussavi, with profound admiration for what you are doing, with utter disgust for my corrupt government, I would like to assist you to expose these people.

When you look at those drafts I don't think anyone, any fair-minded person can fail to recognize that the government was desperate to clean up after their efforts. Basically, it would be regarded in the United States as an attempt to interfere with a key witness, to basically try and bribe me. I published those, needless to say. For that I have now become public enemy number one in Mexico.

My life has been threatened on a number of occasions; my children's lives have been threatened on a number of occasions. The last time I was going to come to appear before—after responding to the subpoena issued by Mr. LaFalce's committee on the morning of Saturday, I received a telephone call which mercifully the police eventually managed to trace in Britain in which they said if you appear before the United States Congress when you return you will be one child less, Mr. Moussavi.

I leave it to you to imagine what my state of mind was, Mr. Chairman. My motives have been questioned as to why I am here today. I am glad that you mentioned that I am here under subpoena. I am also here, Mr. Chairman, for one reason, one reason alone. The more the press and the more the American public hear about my case, I should think I am going to be a bit safer.

The conclusion, I would say, is that here we have a situation in which an air traffic control contract has been awarded, and the issue goes beyond the air traffic—this particular air traffic control contract. It wasn't very big. The issue goes to the heart of the nature of public procurement in Mexico. It goes to the heart of the nature of the judicial process in Mexico. It goes to the heart of the possibility or rather the impossibility of obtaining judicial redress in Mexico, and it should be a solitary lesson. It should be a warning to anyone, any businessman who goes into Mexico, sees corruption and dares to denounce it. This is what happens to them. Thank you very much.

The CHAIRMAN. Thank you very much, Mr. Moussavi.

[The prepared statement of Mr. Moussavi can be found in the appendix.]

Mr. CHAIRMAN. Our next witness, from Arizona, is Mr. Alex Argueta.

#### STATEMENT OF ALEX ARGUETA, DEVELOPER FROM TUCSON, AZ

Mr. ARGUETA. Mr. Chairman, I have a prepared opening statement, if I may be allowed to read it.

The CHAIRMAN. Yes, and may I say that without objection, the documents that Mr. Moussavi referred to will be in the record in the order that you asked they be published, and all of the witnesses' testimony as given to us will be in the record exactly as you gave it to us.

Mr. ARGUETA. Thank you, Mr. Chairman. Mr. Chairman, I have been invited to testify about my experiences with the Mexican banking and judicial systems. I have accepted your invitation because I have been wrongfully devastated by those systems, and though I have not formed an opinion on NAFTA itself, I understand that the issues raised by my experience may be relevant to the NAFTA debate.

Full details of my experiences are provided in the written testimony submitted to you earlier which I request be made a part of the record. My opening statement will be brief. I would like to start my testimony by entering into the record an article that appeared on March 26, 1993 in the Mexico City newspaper, *El Financiero*.

This article concerns an investigation by the Mexican Attorney General's office known as the PGR into the manner in which large Mexican banks and PGR agents have systematically colluded to use the Mexican judicial system to deprive bank clients of their assets. The article condemns the PGR's and the banks' intentional violations of the clients' human rights and aptly describes the tactics used, including the outright fabrication of preliminary investigations and kidnapping as gangster tactics.

The tactics described in the *El Financiero* article were used against me by Banco Mexicano Somex, now privatized and renamed Banco Mexicano, one of Mexico's largest banks. While visiting Mexico City to arrange for and reconfirm to Banco Mexicano the imminent and on-time payment in full of the loan I had obtained from it a year earlier, I was surprised at my hotel in the middle of the night by agents of the PGR and detained by those agents on false pretenses.

I was held incommunicado at PGR headquarters for almost 2 days, was threatened with bodily harm, and was publicly defamed and humiliated.

I was then locked up for about 1½ years on false charges and deprived of assets worth close to \$20 million.

I obtained my release from prison by signing an agreement modifying the terms of my loan. Since my release, I have made numerous attempts to obtain fair compensation for my losses from the responsible parties, Banco Mexicano and the Mexican Government.

Every approach made by me or made on my behalf to the bank and the Mexican Government has been met with either intimidation or total silence. Major national newspapers and magazines, including the *Wall Street Journal*, the *Washington Post*, and *Newsweek*, have examined my story and reported on it at length. But, still, I am willfully ignored.

It is particularly troubling to note the PGR's grand announcement of an investigation into an admission of complicity in the very abuses that have devastated me and my family and to note, at the same time, that despite the fact that the investigating authorities know of me and know of what happened to me and know further that what happened to me is precisely the type of thing they are claiming to be investigating, not one official of the Mexican Government has ever contacted me to discuss compensation or even to solicit my cooperation with the investigation.

Where is the fairness to foreign investors who have been told—we have been told—we can expect? Where is the commitment to

civil rights, the commitment to redressing the wrongs of the past and preventing the wrongs of the future that Jorge Carpizo is supposed to have infused into Mexican justice?

Sadly, from here on, the ground in the realm of real cases they are nowhere to be seen. And if they cannot be seen here just prior to the vote on NAFTA, how can we have any confidence that they will be seen here or anywhere else later on?

What happened to me and the Mexican Government's continuing aggressive lack of interest in what happened to me highlights not only the status of human rights and Mexico today but also the very direct and personal impact that the human rights failures of that country can and have on foreign investors who have taken up the Salinas challenge and tried to do business there.

The facts of my case should alert each of you to the fact that any reliance upon professions of good faith and good intentions made by the Mexican Government without going further and demanding that those professions be proved by action may ultimately prove harmful to those of your constituents who are waiting for your green light to plunge into the Mexican marketplace.

If you intend to vote for NAFTA or are leaning that way and will be basing your vote, in part, upon nonbinding assurances given by the Mexican Government, I invite you to watch what the Mexican Government does in my case. The Mexican Government has, in effect, admitted its complicity and the amount and quality of the attention given to my case by the press has been substantial.

The NAFTA vote is 9 days away, and this panel has a real interest in seeing concrete evidence of the Mexican Government's willingness to act in accordance with its pleasing rhetoric of fairness and reform. If, given all of this, at the time of the vote the Mexican Government continues to stonewall me, ignoring my claims and leaving me to twist slowly in the wind, what chance is there that I will be the last to be so treated?

Thank you. I would be happy to answer any questions that you may have.

The CHAIRMAN. Thank you, Mr. Argueta, very much.

[The prepared statement of Mr. Argueta can be found in the appendix.]

Our final witness is Ms. Lucia Duncan, the coordinator of American Investors in Mexico.

#### STATEMENT OF LUCIA DUNCAN, COORDINATOR, AMERICAN INVESTORS IN MEXICO

Ms. DUNCAN. Good morning, Chairman Gonzalez. Thank you for inviting me to speak before this committee regarding some of the problems that I and some of my acquaintances have experienced as a result of owning property in Mexico.

I am of Mexican ancestry, speak Spanish, and have lived in Mexico for many years, both as a child—

The CHAIRMAN. Excuse me. Could you get closer to the mike?

Ms. DUNCAN. Yes, I will. Thank you.

I have lived in Mexico for many years, both as a child and as an adult. Therefore, Mexico has always been my favorite country to visit.

My husband and I both share a great love for the Mexican culture, music, food, and lifestyle. We also have a very special admiration for the people. Mexicans, from the very rich to the very poor, exhibit a certain class, style, and graciousness.

Several years ago, after traveling extensively in Mexico, we finally realized our dream of owning property there.

After a lot of comparison shopping, we purchased a condo in the Baja Peninsula. Almost immediately, we encountered a barrage of problems, and I am very happy to be able to say that they were not devastating problems.

Our first problem came up shortly after we purchased our unit. We offered it as a vacation wedding gift to some friends. When they arrived at our condo on their honeymoon, they were informed by the staff that our room was not available and they wanted to rent them another room.

This was only the first of many similar problems. Frankly, they began to take their toll. In spite of our numerous complaints, the problems continued for about 2 years until we retained an attorney to correct them.

Recently, we had another problem with our management company involving mismanagement of funds. This time we were able to file a complaint with the newly formed Consumer Protection Agency. Filing this complaint involved overcoming many hurdles, one of which was a need to resubmit our complaint in Spanish. It was extremely difficult and frustrating, and it took several months to eventually resolve our problem.

I feel that I succeeded only because I am familiar with the Mexican customs, was able to translate my letters into Spanish, and because I was willing and able to spend the time necessary to see it through. I am very concerned that other U.S. investors in similar circumstances do not have those resources available to them.

I can see how easy it would be for these investors to eventually lose their investment, their time, and their health. I am very concerned about this. That is the reason I am here today.

The problems I just discussed were real problems that took a significant amount of time, effort, and money to correct. And I believe that they are typical of the problems faced by many investors in Mexico today. However, although my problems were significant to me, they were nothing compared to some true horror stories faced by other U.S. citizens who have invested in Mexico.

One serious problem that I am personally aware of relates to land controlled by the Ejido. The Ejidos are basically local Indians that have been granted the right to occupy and use certain property under current Mexican law. They have the right to lease the property to others on a relatively short-term basis but cannot transfer title. In addition, the lessee's right to extend the lease and to continue occupying the land, even after constructing substantial improvement is basically at the whim of the Ejido.

While in Mexico, we met an American who had acquired property from the Ejidos, at least he thought he had. This property consisted of a gutted, abandoned structure that was built over 40 years prior. This gentleman invested 10 years of his life and virtually all of his assets to create a charming and economically successful hotel with an additional 34 custom homes, an investment representing mil-

lions of dollars for him and the American families who invested in these homes.

Now that the hotel is completed and successful a local businessman and the Ejido have decided they want the land back, including the hotel and the homes. Of course, they want it for free. This poor man has exhausted his health and his wealth in fighting this confiscation of property. In spite of his efforts and in spite of the obvious injustice of this situation, it is very possible that he will lose everything he has worked for.

Another case that I brought with me today involves a group of approximately 150 investors who purchased hotel suites in Puerto Vallarta. After investing approximately \$8 million, they found the Mexican management group was timesharing their units. Seven struggling years later, they still can't find anyone in the United States to listen to their problems or offer any real help except to put the person that is directly responsible for their problems in charge.

As one of the homeowners succinctly put it: "Putting this person in charge of our problems is like putting the fox in charge of the chicken coop." One of the members was ordered out at gunpoint from one of the homeowners meetings.

Most of the cases I am familiar with involve individuals purchasing vacation places in Mexico, but it also includes businessmen, such as the well-publicized case of Jack Andrews and his partner who, after protesting to a breach of contract by the Mexican Coffee Institute, found themselves being pursued by gunmen in a high speed auto chase. Their case was heard in U.S. District Court, and they were awarded a judgment of \$4 million, a judgment which, in spite of their efforts, they have been unable to collect. In Mr. Andrew's opinion, and I quote, "If you are not General Motors, they will bury you."

Another amazing case involves Mr. Bill Flanagan, a Houston businessman who was awarded judgments against PEMEX and others. It totals over \$450 million. Mr. Flanagan has spent many years of his life involved in this dispute; and in spite of the validity of his claims, he has been unable to collect the money due him.

What do you say to all of these individuals who have spent many years of their lives struggling with these injustices? Do you encourage them to struggle on? Or do you ask them to just become apathetic?

I don't know whether NAFTA will benefit this country or not, but I am concerned that if the NAFTA Agreement is ratified, Americans will go to Mexico and purchase property thinking that they have the same legal rights as they do in this country. They do not. Even if the laws are instituted on a national basis, how can you ensure that the local governments will have the means or the will to enforce them?

I keep on hearing concerns about the loss of jobs from the United States into Mexico if NAFTA passes. My concern is that there could potentially be a great shift in U.S. assets with American investors having little or nothing to show for it. As an American, I am naturally concerned about this.

I know that Mexico has a wonderful idyllic image. For the most part, it is justified. But what most people will not be able to see,

until it is too late, is that the reality of doing business in Mexico can be quite different from the wonderful qualities that Mexico has to offer us as visitors.

American citizens should not avoid Mexico, but they need to be aware of potential problems. There needs to be some safeguards and guarantees instituted in the NAFTA Agreement to protect not only these frustrated, confused, and angry investors but it is equally important to protect the ones to follow.

As a final note, I wish to add that, since the United States-Mexico relationship doesn't exactly appear to be made in heaven, perhaps we should require NAFTA to be a well thought out prenuptial agreement.

Thank you very much.

[The prepared statement of Ms. Duncan can be found in the appendix.]

The CHAIRMAN. Thank you very much. I think you hit the nail right on the head as far as our endeavors are concerned.

The sorry thing is, as I said, the effort now is to propagandize, not to enlighten and get this over with. And I think the President is in a very sorry way, trading out anything, making all kinds of pacts with the Devil to get votes in the House. And I think this is very unbecoming of our head of State. But the issue is that.

In other words, I don't think one of us desires anything but to try to reach a proper agreement. The idea is not whether we should have some kind of a trade agreement for North America involving the three given nations. The question is this particular agreement.

The reason that I believe it finds itself in such a situation is that, for 14 months, this deal was put together in absolute secrecy. Nobody knows exactly who participated, and what was said. When we had our first hearing, we had the Deputy Secretary—or the Assistant Deputy Secretary of the Treasury for Monetary Affairs, and he reported in answer to my conjectural question as to whether those that participated possibly could have a conflict of interest; and he said, yes, it was possible.

The fact that I then asked him if he could provide, for the record, the names of those that they consulted and those that participated and he did provide the committee with this information.

And I am asking unanimous consent to include that in the record today. And it shows clearly who put the banking part of it together.

And there is no question. I mean, it would be very difficult to think they would put something together that would be inimical to their interests.

[The information referred to can be found in the appendix.]

Finally, with respect to the witnesses this morning, we invited representatives of both the Justice Department and the Labor Department to testify on the case of Mr. Robert Bostic.

Mr. Bostic was a high level Labor official who recently pled guilty to illegally seeking to profit from NAFTA while he was a negotiator for the agreement. The American public has a right to know if our country's interests were compromised during the negotiations as a result of Mr. Bostic's activities.

We also asked the Justice Department to tell us of any other investigation of individuals involved in the NAFTA negotiations.



Both agencies refused to appear and testify. And Mr. Bostic's plea agreement has been sealed by the court.

You don't seal things in a court proceeding unless the government is part and parcel. Ironically, Mr. Bostic is scheduled to be sentenced on November 17, which is the day that we are supposed to be voting on this contraption.

I would like to place several documents on the case with respect to Mr. Bostic in the record. And if there is no objection, it is so ordered.

[The information referred to can be found in the appendix.]

The CHAIRMAN. I, again, thank the witnesses. I am going to try to stay within our limits, even though we have not had the time signal. I think I have a pretty good idea of how long I have taken thus far and will try to stick to the 5-minute limitation and recognize the other members and then come back if possible.

One question before my full 5 minutes are up is actually directed to Commissioner Vogel. Do you have any knowledge as to how long the abuse of the GSM-102 Program by the Mexican banks has been going on or, for that matter, the total amount of loans which have been converted in violation of the program's purposes?

Let me also add that I am not surprised at the attitude of the Agriculture Department that is reflected in your statement, this abuse by Mexico. This is the same organization which allowed Iraq to turn this very same program and foreign loans, into weapons.

I concur with your suspicion that the abuse of the program is allowed to continue for other reasons related to NAFTA and propping up the government.

So with that, I will recognize Mr. Leach. And then if we have a round robin, maybe we could get a reply and get to the other witnesses; if not, I am going to ask unanimous consent anyway that I and all other members, both present and absent, be permitted to submit questions in writing for the witnesses.

[The information referred to can be found in the appendix.]

The CHAIRMAN. Mr. Leach.

Mr. LEACH. Thank you.

First, let me just thank you all for testifying from different perspectives. It strikes me that three of the four have talked about illegality in one way or another.

Mrs. Vogel has talked about an abuse of a program that is not illegal, as I understand it. And that the correction for that abuse, would appear to be, if it is an abuse, in our own government's administration of the program, not the Mexican Government's.

Isn't that correct?

Ms. VOGEL. Mr. Leach, I think the question as to whether this is an abuse that would arise from an illegality is something that I couldn't answer.

Mr. LEACH. Are you alleging that it is an illegality?

Did you raise that?

Ms. VOGEL. What I am doing, Mr. Leach, is putting in the various laws that this Congress put in saying false statements are prohibited, secret payments, extra sales services, and so forth, are all prohibited.

I also point out, however, that the guarantee cannot be disallowed as to anybody who didn't have any knowledge of this.

Mr. LEACH. If this is all the case, why is it that the Clinton administration has not moved after receiving your letter?

Ms. VOGEL. That I don't know. I would assume—well, to go back to Chairman Gonzalez' question—how long has this been going on—I don't know the answer to that. And I think it may have been going on for a while.

What I detected in the letter that I got back—which I have no idea whether Secretary Espy saw or Mr.—any of the other gentlemen at the USDA. But I think this may have been going on for a while.

Mr. LEACH. Have you looked at other countries? Is this common practice in other countries, or is this unique to Mexico?

Ms. VOGEL. I only know about this with regard to Mexico, and the FAS letter that I received only spoke of Mexico.

And, again, I don't know if it is a violation of Mexican law or United States law. I do know that our U.S. exporters are paying fees for 3-year guarantees; documents are being written on the expectation that it is a 3-year guarantee. I do know that banks, such as the Bank of North Dakota, are making low-interest loans on the assumption that those are 3-year loans, while, in fact, the loans are repaid within 6 months. And the U.S. Treasury is holding a guarantee for billions of dollars for a 2½-year period when they admit that the Mexican banking system is risky.

One of the exhibits I have says that, because of Mexico's large external debt, that it is a risky place to invest but that U.S. exporters shouldn't worry about it because of this guarantee. So it is a 98-percent guarantee which certainly facilitates sales.

Mr. LEACH. Fair enough. I think you have documented a very difficult circumstance in Mexico today, both at smaller levels doing business as well as at larger levels doing business. And so you, in effect, said that the status quo is, at best, awkward.

Would any of the three of you care to characterize what a change in the status could mean, a movement toward the Americanization of practices? Is that likely to make the Mexican situation of a less illegal, less corrupt nature or a more corrupt nature?

And, by that, I mean, is NAFTA going to expand corruption, or is it going to retard corruption?

Mr. Moussavi.

Mr. MOUSSAVI. Mr. Leach, sir, the most authoritarian and lawless regimes are not incompatible with liberal free market economics.

The modern late 20th century, I think, has plenty of examples. If we go back in the century, we can think of the 1930's and the most enormous growth in the economy of Nazi Germany was precisely recorded at the time when the most brutal regimes ever in the history of mankind of ruling that country.

In a similar vein, the growth of the former Soviet Union was phenomenal under Stalin, just at the time of the Moscow trials.

Coming back into the recent past, we heard much of the—about the miracle of Pinochet in Chile. I am fundamentally of the opinion that free markets cannot truly thrive in a society which is not free. I am fundamentally of the opinion that investment will take place, will look for and find societies—

Mr. LEACH. I understand your theory, which you have expressed in somewhat contradictory terms; but putting that aside, do you think that NAFTA leads in the direction of lower or higher levels of corruption? Yes or no.

Mr. MOUSSAVI. I think NAFTA will help the present ruling elite to continue their nefarious activities. That is my short answer to that.

Mr. LEACH. That is political. Are you saying that corruption will increase under NAFTA, decrease, or stay the same?

Mr. MOUSSAVI. Will it increase, decrease? Where there is no rule of law I think—

Mr. LEACH. Do you want to answer this question, Mr. Argueta?

Mr. ARGUETA. Mr. Leach, thank you. Whether NAFTA will increase or decrease corruption? I don't know.

Mr. LEACH. OK.

Ms. Duncan, would you care to answer that question?

Ms. DUNCAN. That is a very difficult one to answer.

Mr. LEACH. None of you want to stab a guess.

If I asked the four of you on the panel, November 17 you are a Member of Congress, would you vote for or against NAFTA?

Ms. Duncan.

Ms. DUNCAN. I would not.

Ms. VOGEL. I would vote against it.

Mr. MOUSSAVI. Against it.

Mr. ARGUETA. I am not that well informed on the contents of the NAFTA Agreement to give you a good reasoned opinion.

Mr. LEACH. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Watt.

Mr. WATT. Thank you, Mr. Chairman. And let me commend the chairman for collecting these witnesses to highlight problems that exist currently and follow up, if I could, on Mr. Leach's line of questioning.

I presume if the administration representatives were here, their response to all of this testimony would be that one of the rationales for having a NAFTA Agreement is that that agreement would require enforcement of a set of rules and laws that would try to address some of the abuses that you have described this morning.

And it sounds like, from your response to Mr. Leach's questions, that you are not really in a position to say, yes, that is the case or, no, that is not the case.

At one level, Ms. Duncan's testimony struck me as being some of the same kinds of problems that we might experience in this country, at least to the person coming into this country having some lack of familiarity with our legal process.

But let's assume that NAFTA does address some of these legal concerns, I guess one of the concerns that I am having and have addressed to the administration about NAFTA is, if we are to put into place a process for addressing these kinds of legal concerns by individuals who are doing business in Mexico by businesses, IBMs and bankers or people who are dealing with banks in Mexico, and if we are to subsidize, in effect, business relationships between United States and Mexico at the risk of doing some harm to employment at the lower end of the spectrum in this country, ought

not we also be willing to subsidize the retraining of employees who are adversely affected?

And I am not sure that I am posing a question to these witnesses as much as I am making a statement that it seems to me that we ought to be addressing, in addition to the issues that are outlined here this morning by these witnesses. If NAFTA is to address those concerns, I am concerned that it also address the concerns that are being raised by low-wage employees in this country who are reaching out to the government for retraining programs and jobs programs.

And I am not sure that there is anything in the NAFTA Agreement—even if I concede that they address some of the concerns that these witnesses have addressed, I certainly haven't seen anything in those agreements that would address the concerns of low-wage employees who are about to be displaced.

Having said that, Mr. Chairman, I am not sure that I really have any questions for these witnesses. I would, again, thank you for having the witnesses here and helping to enlighten us about some of the issues that we need to be aware of to address making an intelligent decision in favor of or against NAFTA on November 17.

I, for one, am continuing to wrestle with the pros and cons of this agreement; and I think the testimony of these witnesses helped to put that in perspective and helped me to either be more confused or less confused about where I come down on it.

Thank you very much.

The CHAIRMAN. Thank you very much, Congressman.

Mr. Roth.

Mr. ROTH. Thank you very much, Mr. Chairman.

Mr. Chairman, I want to congratulate you for holding these hearings because I think there are a good many questions left to be resolved with NAFTA, and I think all the testimony here this morning can help us clear away some of the fog.

I have not made a commitment on how I am going to vote on NAFTA because, quite frankly, I have told our people that I am going to keep an open mind and listen to the testimony that we have.

Ms. Vogel, I am intrigued by your testimony. You are the secretary of agriculture for North Dakota.

Ms. VOGEL. Yes, I am. I am the commissioner. It means the same thing.

Mr. ROTH. Will NAFTA help your North Dakota wheat farmers? Why or why will it not?

Ms. VOGEL. Mr. Chairman, Mr. Roth, the North Dakota wheat farmers are very concerned about this version of NAFTA because it fails to address some of the existing difficulties that we have with the Canadian Free Trade Agreement.

As a three-country deal, we feel that existing problems with the Canadian Free Trade Agreement should be addressed; namely, the lack of price transparency by the Canadian Wheat Board which enables them to sell at below cost of acquisition to other countries and to basically take over the Mexican wheat market in the last couple of years and the Western Grain Transportation Act subsidy.

Mr. ROTH. So, basically, your argument is not with Mexico as it is with Canada?

Ms. VOGEL. Yes, that is correct, and our concerns about how do we compete in the Mexican market, which is a very important market, if we cannot address these unfair trading practices by Canada.

Plus there is a new 15 percent tariff being added by NAFTA that we did not have before. That is one of the concerns. And many of the other producer groups in North Dakota have other concerns with regard to beans, barley, and so forth.

Mr. ROTH. In the State that I come from, Wisconsin, of course, we have a lot of dairy. Do you have much dairy in North Dakota?

Ms. VOGEL. It is very important to us; but on the national scale, our dairy industry is very small.

Mr. ROTH. Maybe you could help me a bit. Your dairy farmers, are they in favor of NAFTA?

Ms. VOGEL. I think our dairy farmers are divided on NAFTA. I think they have a number of concerns. One of the issues that I think is of concern to North Dakota and possibly also Wisconsin is that it is little known that, under the NAFTA version, Canada has continued to absolutely bar free trade in Canada on milk and dairy.

Poised as we are on the northern tier, we would have an opportunity, if NAFTA did mean free trade, to sell into Canada; but as it is, we can't carry a quart of milk into Canada.

I was at a trade show in Canada last year where we had a promotional brochure that had a picture of a cottage cheese container on it, and representatives of Canada came to our North Dakota booth and said you can't sell cottage cheese in Canada.

So I am pointing out that NAFTA, whatever it is called, is not really a free trade agreement. It is a negotiated trade agreement. And Canada negotiated its dairy sector out.

Mr. ROTH. But if we had NAFTA, you could sell your cottage cheese in Canada just like you could in Mexico, couldn't you?

Ms. VOGEL. No. Absolutely not.

Mr. ROTH. Why?

Ms. VOGEL. Canada has negotiated a deal whereby we do not have the ability to sell milk products into Canada. They have done the same thing with poultry.

Mr. ROTH. I will have to look at that a little more closely. But I appreciate your testimony.

Mr. Chairman, it is very enlightening. I see my time is up. But maybe I will stick around for the second round because I have a number of other questions.

But I must say that the Vice President is lucky that he is only debating with Ross Perot tomorrow night because if he were debating against Chairman Gonzalez, I know he would lose.

That is what you call buttering up your Chairman.

The CHAIRMAN. Well, I have been critical enough. Now, don't make it worse.

Mr. Roth, you still have about a minute, but let me point out if you will yield to me—

Mr. ROTH. I have a question, Mr. Chairman; but I am happy to yield.

The CHAIRMAN. Well, now, time has expired; but I wanted to point out that I am sure you received those five volumes—

Mr. ROTH. Yes.

The CHAIRMAN. Representing NAFTA and the side agreements and the schedules, tariff schedules. One whole book has to do with Canada. And that is what the commissioner has made reference to. Canada, naturally, is looking out for its interest.

But what I am saying is that we don't know, because all of these proceedings were in absolute secrecy; so little by little, we are trying to get at them. But we will have time to come back.

Mr. Klink.

Mr. KLINK. Thank you.

Commissioner Vogel, picking up on what Mr. Roth said, your position as commissioner of agriculture in North Dakota is an elected one unlike Pennsylvania where our Governor appoints a secretary of agriculture.

Ms. VOGEL. That is correct.

Mr. KLINK. So you are responsible to voters.

Ms. VOGEL. Yes, I am.

Mr. KLINK. Your comment to Mr. Roth went by quickly. And wheat is not one of the biggest things in the Fourth Congressional District of Pennsylvania. We are a steelmaking district.

But you say that in the NAFTA Agreement a tariff will be added to wheat?

Ms. VOGEL. Yes. That is pursuant to the process of tariffication where a nontariff barrier is converted into a tariff and over a period of time, generally 10 to 15 years, will be eliminated altogether.

What happens in the next 10 to 15 years, however, is of very large importance to my State because, to be very blunt, the farm crisis is not over. A lot of our farmers are in a vulnerable financial conditions. Let me give an example or two.

On barley, for example, we have been selling large quantities of barley to Mexico for the last several years. Between 1989 and 1991, our average annual exports were 180,000 metric tons. And that was pursuant to an export license granted by the Mexican Food Agency.

Under NAFTA, as is disclosed in the volume having to do with the Mexican Tariff Schedule—which is, incidentally, printed entirely in Spanish and not that accessible—the tariff free access that we will be allowed for barley is 120,000 metric tons, less than what we have enjoyed in the past. And anything after that amount will have a prohibitive tariff of 129 percent, which will come down over a 15-year period.

This is not very well known. As I said, it is buried in the Mexican Tariff Schedule, which is in Spanish.

But we will also have other problems with barley because the existing access or the access that we will have as of January 1994, if this passes, will be used primarily by malt barley. And under the way the agreement is written, for rules of origin, Canadian malt barley can be processed into malt in the United States and count against our access and it will not count against the Canadian access.

I would like to emphasize, along with the chairman, that in my mind, we do need a North American Free Trade Agreement. I am very firm that Mexico is one of our best trading partners. Canada is one of our best trading partners.

Mr. KLINK. The problem is that many people thought we were eliminating tariffs. But even though we are not eliminating them reciprocally, you are telling me that tariffs are going to be created for your farmers?

Ms. VOGEL. I would like to see a trade agreement, but it is just that this version raises a lot of troubles with my farmers and with me.

Mr. KLINK. I think that you will find that many of us are in agreement with you, and this Congressman included.

Mr. Moussavi, how do you know—when these people approached you, you made a point that you didn't know their names. How did you know that they, in fact, represented the government? Who was soliciting you and the fact that they would be able to deliver what they said?

Mr. MOUSSAVI. I have said in previous testimony that I was receiving unsolicited calls, Office of Assistance and so on. One gentleman, who was persistent, stated to me—I met him at the Carlisle Hotel in New York in December, and he was convincing enough in the sense of the information that he had about the tender, I reported this to IBM, and we agreed that I should go down and see him.

They telephoned me in my room from the lobby. I went down to see them. I gave them my card, and they cannot produce a card. And I was taken aback. And then I said, gentlemen, at the very least, I need to know who you are if we are going to have a deal. And one of them said, do you want to know the name of my grandmother, or do you want to know what I can do for you? And I said I would be interested to see what can you do for me, but I need to know who you are.

At which point we sat in the lobby, and one of them opened his briefcase and produced tender documents that belonged to the government. They had \$1 million incentive to prove to me that they were not government officials. The key to our being able to make a deal, Mr. Klink, was that I would not be in contravention of the Foreign Corrupt Practices Act.

I would have been delighted to meet Mexicans who were able to deliver a deal to me based on their wide experience and knowledge, but people who I wouldn't be breaking the law in dealing with them. And they were unable to demonstrate to me that they were not government officials, but they were extremely well informed about the tender. They showed absolutely no fear of conducting an interview, which basically was a solicitation for a bribe in the middle of a very busy lobby of the hotel.

Afterward—and, of course, they were asking for a donation to the solidarity program. So I would have thought these three were powerful indicators.

When I left the hotel, I left the proposal open with them. I said IBM have not agreed to increase the remuneration so that I can take care of this. But they and I know that if you are illegal, if you are freelancers, we can't possibly make a deal with you. And this deal was on the table. They were never able to prove to me that they weren't government officials.

If somebody comes to me and has \$1 million incentive to prove to me that he is not what I think he is, then I am bound to conclude that he is a government official.

Mr. KLINK. Mr. Chairman, I will yield to the next round. My time is up.

The CHAIRMAN. Well first, let me state ironically that the more substantial final agreements were reached, of course, as I said and repeat, in absolute secrecy; but guess where, at the Watergate Hotel. I think that is more than just symbolic.

Anyway, what I wanted to asked Mr. Argueta, I believe in your statement you said that you were detained and incarcerated for 36 months?

Mr. ARGUETA. Sixteen months.

The CHAIRMAN. Sixteen months. Without any hearing or trial?

Mr. ARGUETA. Yes. There were charges filed by the bank against me. And a process under Mexican law was begun which constituted going through a total of six judges, because in five of the six cases, they declined to rule on my case.

So I was kept, detained through a lengthy process where there was no resolution by the courts.

The CHAIRMAN. Was there any system of bail or bond available?

Mr. ARGUETA. Apparently, within the criminal code in Mexico you have certain restrictions under certain cases that do not qualify for bail.

The CHAIRMAN. I think that is important. Where were you incarcerated?

Mr. ARGUETA. Mexico City has a system of prisons called reclusorios, which is where people who are under a court process are detained. It is a prison system.

The CHAIRMAN. So actually your business dealings were conducted where? In Mexico City or in northern Mexico?

Mr. ARGUETA. In all of—in Sonora, in Guadalajara, and in Mexico City. The bank which I dealt with was in Guadalajara.

The CHAIRMAN. I wonder if you could enlarge a little bit on the nature of your transactions with the Mexican bank.

Mr. ARGUETA. I requested and applied for a loan from a Mexican bank for \$2 million, which involved a real estate transaction in Mexico subject to a resort development.

That loan was granted by the bank's branch in Guadalajara, which was the situs of, also, the trust where the property was held.

In Mexico, foreigners cannot own land in fee simple 50 kilometers from the coastal areas and 100 kilometers from the border. We had to set up a trust of which we were the beneficiary and a Mexican Bank acting as fiduciary was the legal titleholder. The property held in trust was put up as collateral for the loan.

The lending institution, Banco Mexicano Somex, who formulated the charges alleged this was an irregular or illicit operation. However, property granted as collateral was mortgaged by the fiduciary, Banco Internacional, also a Mexican Bank, and the property in question was duly registered with the Property Registry as a lien against it. The property itself consisted of 199 fully developed lots in a resort development in the State of Sonora near the Port of Guaymas.



At a later date, after the loan document was executed, we began having difficulty just plain communicating with the branch in Guadalajara. I wrote many letters attempting to clarify the situation but did not receive a single reply. They were times when I would fly to Guadalajara and sit in the manager's office for 3 to 4 hours waiting for an interview, which I had requested previously and had been granted.

I decided to go to Mexico City to the corporate headquarters of the banks and, again, the same results. So by the time, just before my detainment, I went to the bank to advise them that the loan would be paid; and that was the day before I was detained.

The CHAIRMAN. Well, that is quite an ordeal. But it does stress the fact that the agreement—no place, that I can see, attenuates, in any manner, shape, or form, because I am sure it would be considered an improper interference with the internal laws and the system of Mexico.

However, the other way around, what hasn't been fully evaluated—and we just simply haven't had the chance—is the ability, through the understandings of an entity, American entity going into Mexico, to come back and, in effect, penetrate and vitiate any of the 50 States' regulatory systems and laws.

This is the big thing that I see as very dangerous. And I criticized President-elect Clinton when, without any evaluation, he endorsed two activities of the outgoing President, President Bush. He rubberstamped his involvement in Somalia, even before he was sworn in; and this NAFTA Agreement.

And then after being sworn in, without any evaluation of his own, or his Cabinet, announced after January 20, and rubberstamped an agreement.

So I think that we have a greater responsibility in the Congress. It is our vote, but we also voted for dispensing with the traditional American, democratic processes of open hearings and deliberations and rather delegated, as we are being asked to delegate now.

What I am saying is that the ultimate implication, if this is approved in its present form, is that the Congress will further delegate and I believe unconstitutionally set up extrajudiciary, supranational bodies like the commissioner referred to at the outset that I think we don't want to have any part of.

Anyway that is my interpretation thus far.

Mr. Leach.

Mr. LEACH. No further questions.

But I would simply say that the chairman and I have a difference on the NAFTA issue. But that issue aside, we respect the perspective that all of you have brought to this panel.

And I might say, particularly to Mr. Argueta, that we are all very impressed with the difficulties you have undergone personally in a way that none of the rest of us will ever understand. And so we appreciate you coming forth.

As far as Mr. Moussavi, to the degree that there are threats to a family, that is something the Congress of the United States takes very seriously. And when witnesses appear before us, we expect them to be protected. And to make representations of the nature you made to the degree that there is any validity to them, this Congress will obviously be watching that very carefully. We expect

that there will be nothing untoward that will happen and, if there is, that there will be repercussions, obviously, in a public way in the United States.

The CHAIRMAN. May I add, Mr. Leach, that we do have statutes that protect the witnesses appearing before the Congress. And so, of course, we will be watching developments.

And, hopefully, nothing will happen, Mr. Moussavi, because if it does happen, it is too late for us to do anything about it, if an attempt, which God forbid, I hope never is made. It is enough to have to live in fear as to the well-being of your loved ones. And there, I can share sympathy because I know that sometimes in politics passions get inflamed; and in anger, people will do things that they normally wouldn't do. And one of them is trying to get at you through your family, and that I think is reprehensible.

Mr. Watt, do you have any additional questions?

Mr. WATT. Yes, Mr. Chairman.

It occurred to me that we have been given as one rationale for support of NAFTA that NAFTA will provide—or has a provision which requires governments to enforce its own laws.

Is that the chairman's understanding, Mexico would be required to enforce its own laws, the United States would be required to enforce its own laws, Canada would be required to enforce its own laws?

That is an understanding that I have had about NAFTA. Is that the chairman's understanding?

The CHAIRMAN. Well, the idea is basically that is to be expected. However, the idea of an understanding or a trade agreement is to provide give and take in the areas of the respective sovereignty of each participant.

And it is that area that I think we American representatives have to be the most sensitive about. Because if it allows, wittingly or unwittingly, the forfeiture of the sovereignty of the States, forget about the national statutes, the States governing body with respect to regulatory functions in the case of insurance. On the last witness panel we had, one of the commissioners from the State of Texas who, incidentally, heads the National Panel of Insurance Commissioners on NAFTA who did admit that NAFTA could result in the intervention by Mexican entities in insurance business and penetrating and vitiating State statutes.

Now the same thing, in my opinion, and my interpretation is true about the banking laws and regulations. So to the extent that the agreements reflect a supposed give and take in the area of respective sovereignties, yes, as far as enforcement is concerned, it would be the responsibility of each sovereign nation to enforce its agreement and its laws.

Mr. WATT. Let me then, pick up on that. Because one of the things, I guess, I am concerned about in light of the testimony of Mr. Argueta is how a nation's laws could be used in such a way as to incarcerate somebody for 16 months over what appears to be a civil matter.

We would certainly characterize a dispute between a bank and a bank's customer as a civil matter in this country. If you owed the bank money, the bank would file a lawsuit against you on that note and it would be worked out in the civil courts, not in the criminal

courts. You certainly would never be picked up and incarcerated in that process.

What law was it—what Mexican law was it that allowed you to be picked up and incarcerated for 16 months over what was essentially a civil matter?

Mr. ARGUETA. I would have to very distinctly answer that they abused their legal system by choosing a criminal code over a civil matter.

Mr. WATT. And what was that criminal code, I mean, that they presumed to be preceding—

Mr. ARGUETA. It classified that the lending of funds from the bank to my company was done irregularly and without proper guarantees. That was the accusation. So that when they wanted to enforce some type of modification to an existing agreement—and by the way, the loan was not mature. The loan was still in force and would be matured several months after my detainment. So it was current. It was a performing loan.

So the only answer I can give you, sir, is that there was abuse of power. The bank wanted to change a contract for, I guess, many reasons that existed in that particular moment; and that is how they chose to do it.

And the article that appeared in the newspaper *El Financiero*, which I referred to in my opening statement, very clearly states that, at that time, the banks, and maybe even today, for all I know, were using the attorney general's office of Mexico to enforce collections.

Mr. WATT. But, in effect, there is some Mexican law that gave them at least some possibility of being involved in this process to presumably legitimize what they were doing.

And I guess the point I am concerned about is, if there are laws on the books that can be used in that way, the justification that we have been given for supporting NAFTA is that NAFTA will require each country to enforce its own laws, I guess we can't really find any solace in that consolation because if they are enforcing their own laws and they can enforce them in this way, in such an abusive way in what is essentially a civil context, then what we thought might be a justification for NAFTA presumably would not be a justification. Is that correct?

Mr. ARGUETA. I think I would like to divide that in two. They did refer in their accusation to what is termed under Mexican law "net worth loss" or "quebranto patrimonial," which is a term used when an institution suffers a loss.

Mr. WATT. And that is a criminal offense. When a private institution suffers a loss, the State has an interest in that?

Mr. ARGUETA. Well, the second part of my answer is how you apply the laws that exist on the books, and apparently they were able to manipulate the application of those laws to create a criminal case.

The CHAIRMAN. If the gentleman would yield, and I will ask unanimous consent he be given an additional minute, I think I might be a little helpful here. We, of course, are inured to the Bill of Rights, first amendment, but remember even the mother country doesn't have a first amendment. I have always said that if it did in England, you would have solved the Northern Ireland dilemma

long ago, but in Mexico even though you have a Federal republic, it is a very centralized system. And a President, for instance of Mexico, can depose or install a Governor of a State or a mayor of a city, which to us, sounds—well, how can you call that a Federal system, yet that is the tradition.

It is a highly centralized Federal republic with the legal system where the influence is there with the authority, let us say the Attorney General's office can be bent.

Now, we have had abuses in our country where we have had overzealous prosecutors, sometimes persecuting more than prosecuting. But that is strictly in the confines of what we well know through precedent, common law, and everything else as criminal as distinguished from civil, and I am saying this is an entirely different tradition. So that as Mr. Argueta says, if it was possible for them to bend the system, perhaps even contrary to the norms even in Mexico, it is going to be done, and there is nothing in NAFTA that would in any way find surcease for the kind of pain that was given Mr. Argueta. So thank you very much.

Mr. Roth.

Mr. ROTH. Mr. Chairman, you know, we are living in a world today where the old rules don't seem to apply or at least we seem to be living in a world where all the rules are being rewritten. Now, you two gentlemen have a good deal of acquaintance with what goes on in Mexico. You know this NAFTA issue has a terrific profile today. It seems to be all out of proportion to what many of us thought it was going to be when the debate first started.

I mean, the chairman here used the words, "passions are inflamed." I would say it is almost the point of being hysteria. Seven different groups called this morning insisting to see me. I was supposed to be at a luncheon with Jack Kemp at this time.

Lobbyists all over the Hill and the President has even said that the labor leaders are, if not overzealous, they are irresponsible in their lobbying techniques. I can tell you, there is a mean spiritedness out there and the vocabulary that is used is inflammatory vocabulary.

Now, this morning when I was reading the paper I just sort of pooh-poohed it. I said oh, this can't be possible. Ross Perot is now under a death threat. The FBI told him he is under a death threat, and at first I was chuckling, this is not possible, but then I hear your stories and I see that we had some of our drug agents assassinated, so I want to ask you, you have got a good deal of experience. Is it possible, does Ross Perot have anything to be concerned about?

Mr. MOUSSAVI. I never in my wildest imagination thought I would ever have anything in common with Mr. Ross Perot, but it seems that, thanks to the Government of Mexico, we have found a common denominator. In Mr. Perot's shoes, I think given what has happened to me, I would be slightly concerned, yes, sir.

Mr. ROTH. You would be?

Mr. MOUSSAVI. Yes, sir, I would.

Mr. ROTH. How about you, sir, knowing how the operations and so on work?

Mr. ARGUETA. Yes, I would have some concern for Mr. Perot.

Mr. ROTH. Well, I think that behooves us here in the Congress, Mr. Chairman, maybe to say something about that because we certainly want people to be able to speak out in our country, and it seems that nowadays that the passions are so inflamed that people are afraid to speak out, and, Mr. Chairman, I think we should say something about that.

I mean, after all, you had mentioned before we had these huge volumes that were negotiated in secret, and I think the Congress has a right to hear both sides, and when we are being threatened that we cannot hear both sides, I think that is a serious situation. I want to yield to the chairman to ask for his opinion on that.

The CHAIRMAN. Well, I appreciate the gentleman yielding. A newspaper item quoted a very prominent Mexican industrialist saying that he had intended to invest \$20, \$22 million in Ross Perot's Fort Worth activity, but because of Ross Perot's opposition to NAFTA he was not going to do it.

Now, I thought that was first unwise and uncalled for, but nevertheless it was duly reported in the press. Mr. Perot was here on the Hill last week. In fact, he came by my office, but I wasn't there. I was here presiding over a hearing. One of his aides left word that Mr. Perot, with all of his money, was being blacked out as far as coverage was concerned in his opposition and reasons for opposition to this agreement to the point where this individual reported that Perot's offers to purchase ads on TV and newspaper were denied.

Now, I can't testify to the truth of that. As to threats to his life, you say that the FBI reported threats?

Mr. ROTH. Mr. Chairman, there is a report in the paper this morning that Ross Perot has been told by U.S. Government officials that there is a death threat on his life, and I am somewhat concerned about that because in ordinary times I would just pooh-pooh that sort of thing, but this is almost, this NAFTA is almost on the verge of hysteria.

You know, Mr. Chairman, how many people are knocking at your door, and the lobbying is no longer here is my side and here is the other side. The lobbying today is if you don't vote for us, we are going to get you, and I don't think, Mr. Chairman, that our society can operate, our government can operate under that type of a climate, and I think that the President of the United States didn't help it any, if I may say so, when he challenged Ross Perot to a debate or had the Vice President debate Ross Perot. This is unprecedented. This is not a reasonable approach to things, and I think the President himself is responsible for some of the hysteria that has taken place, and I think that we have got to have some civility in our society again and in the way we operate here on the Hill, and this is not the case today.

And as I say, under ordinary circumstances I would just pooh-pooh and laugh off something like Ross Perot is under a death threat, but when I see what is going on here on Capitol Hill, when I see your testimony this morning, it causes some concern, and I want to say, hey, maybe we had better take a second look at this.

Mr. LEACH. Will the gentleman yield?

Mr. ROTH. I would be happy to yield.

Mr. LEACH. I think the gentleman is making some fair points. I don't think we ought to exaggerate the circumstance, but in the

United States the protections of our Constitution apply to everybody, and I would be, I think, remiss to say that just as we would believe that there should be no action taken against a foreign national that may testify before this congressional committee that an action taken against an American citizen would be viewed very seriously, and beyond that let me just be very precise if anything were to happen to Mr. Perot, this Member and many Members who support NAFTA would reverse our judgments instantaneously.

Beyond that, I just think that this really underscores a very difficult circumstance, but anyone that thinks that they are going to achieve an objective in the Congress by threatening American citizens is going to find that judgment sorely tested.

Mr. ROTH. I appreciate your comments, but when you are dealing—that is why I say it is almost bordering on hysteria because reasonable people wouldn't even think of anything like this. It is because you have these inflamed passions that you have these types of events developing, and I don't think if people can assassinate President Kennedy like they did, I am sure they wouldn't have any hesitancy in some corners to assassinate other Americans.

I just want to thank the chairman for this hearing this morning, but I am going to ask the chairman because he has got a lot of clout and a lot of power to also issue a statement to say that the Congress is not only going to talk about this, but if anything happens to an American because of this lobbying, this threatening lobbying that is going on on this issue today that the Congress is not going to stand still for it.

I think we have to have that because you have got to have some deterrence. We had our drug officials killed in Mexico. Nothing happened, nothing happened, and we have had all kinds of murders that have never been reported in the press. It is only because Mr. Ross Perot has such a high profile I am sure that this even came to the attention, to our attention, and we have to let people know that when we deal here on Capitol Hill that we are going to do it in a civil manner, and that we are not going to be subject to threats.

The CHAIRMAN. Thank you, Mr. Roth.

Mr. Klink.

Mr. KLINK. Yes, I wanted to really start along that same line. Mr. Moussavi, at the beginning of your comment you mentioned you did not have a prepared statement. You mentioned something about, and I think your figure was 200 opposition party people who have been killed. What sort of documentation do you have for that?

Mr. MOUSSAVI. Yes, sir. Mr. Klink, I always like to quote authority when it doesn't prejudice my case. In this particular case I quote from the London *Economist*, which I think you would agree is a very reputable newspaper. It has been a consistent supporter of the administration of Carlos Salinas de Gortari.

I just quote, "The Mexican political establishment has noticed deep respect for the merits of universal suffrage. The PRI has a long history of effective tampering with election. It is generally considered by impartial observers to have cheated on a massive scale in the 1988 presidential election when Mr. Salinas only just squeaked home. The ugly truth is that Mr. Salinas and his band

of bright technocrats, adored though they are by the great and the good on the international conference circuit, wield power courtesy of prefixes and worse in the countryside. Mexican politics is not without its violent side. The opposition party, the PRD, claims that after last September 164 of its members have been murdered since 1988."

That is February 13. This week's *Economist*, if you look at it, this week's, literally this week, I have a copy here, but I will just—it reads—it is in this week's *Economist*, again, there has been absolutely no change in the position of this particular newspaper. It is dated November 6, *Economist*, November 6 in which they speak about, they mention the figure of 200 opposition supporters have been murdered.

I will just find it for a little bit. Yes, it says, "in the most notorious incident"—this is talking about the defamation and the dirty tricks methods of the Mexican Government—"the PRI should be feeling pretty confident. In fact, it is not. The regime appears curiously afraid of Mr. Cardenas. He has been the target of censorship and dirty tricks that he blames on the government. One Mexican journalist—" It goes on about some other issue, then it says, "In the most notorious incident a campaign dinner in the eastern state of Veracruz was enlivened by the surprise appearance of a group of microskirted transvestite dancers from a local nightclub, appropriately called Bum Bum. They fussed over and kissed a surprised Mr. Cardenas. Photographs of this rigged encounter duly appeared in the Mexican press, allegedly in space bought by the PRI state government. More seriously, the PRD blames the government for the killing of more than 200 of its members since 1988, many of them during protests over alleged fraud in state elections."

Mr. KLINK. Mr. Chairman, I ask for unanimous consent that both those articles be included in the record.

The CHAIRMAN. Without objection, it is so ordered.

[The information referred to can be found in the appendix.]

Mr. KLINK. Thank you. Now, there appears to be a couple of different stories which are coming out here which really, I think, relate. Ms. Duncan and Mr. Argueta, you seem to be talking about the lack of any kind of security with an investment that takes place in Mexico.

On the other hand, Mr. Moussavi is talking about the fact that if you want to do business in Mexico you have to do business in a way that is somewhat underhanded.

Mr. Argueta, let me just ask you this, how much experience did you have prior to your unfortunate experience with doing business in Mexico?

Mr. ARGUETA. Quite some time. I started to visit Mexico for business purposes in the early 1970's.

Mr. KLINK. So you were aware that there were a handful of families essentially that controlled the vast majority of wealth in Mexico and that they were very much tied into the PRI party?

Mr. ARGUETA. Not so much in that sense because the early part of my association with visiting Mexico was primarily to seek services in the form of professional services, architectural and so forth that they had and that we thought would be very good to use in getting their consulting services.

Mr. KLINK. You certainly, I can't imagine that you didn't think that your business investment was well protected?

Mr. ARGUETA. Undoubtedly. I thought that especially the way we conducted things with the Mexican bank trusts and so forth that they were supposedly protected.

Mr. KLINK. You said you didn't know how you would vote on the NAFTA, but if the NAFTA were to pass or if it were to fail, what would be your advice to businesses that want to think about moving to Mexico and people who want to think about investing there, given your experience?

Mr. ARGUETA. Well, particularly relative to the first question about voting pro or thinking pro or against NAFTA, I am totally an advocate of free trade. I believe that is healthy and it is good for communities in every sense. The concern has been, of course, my own experience and some of the others that I have heard.

As far as what people could do to do business outside of the United States, particularly in the region of Mexico, I would suggest that they be very well secured with legal counsel prior to, during, and after their transactions; that they retain jurisdiction whenever they can in the United States because you can do that by executing contracts within the United States jurisdiction in certain cases.

You can't do it in others, but wherever you can, I would retain jurisdiction in this country because this is where you can then have applicable laws.

Mr. KLINK. Ms. Duncan, I was interested in your testimony. I was in Puerto Vallarta this summer. I know you can't walk 50 feet without somebody trying to sell you a time share. I was interested in that aspect. I know a lot of Americans are going down there. You are seeming to say also that there should be some reluctance or certainly some certain amount of thought process that should go into making any kind of an investment in Mexico. Either with NAFTA or without?

Ms. DUNCAN. I believe that Americans should not invest in real estate in Mexico at this point, that is all that I can say. I only speak from my own personal experience and those that others have shared. I don't know of anyone who has had an easy experience. Everyone that I speak to has had problems, many problems.

Mr. KLINK. And your purchase, the one that you had was a relatively minor amount of money in comparison to what some other people might invest?

Ms. DUNCAN. Definitely, yes, and I was fortunate to be able to resolve those problems.

Mr. KLINK. Because you said you had the time, the familiarity with the language, a lot of the work you probably did yourself?

Ms. DUNCAN. Well, and I hired an attorney, but it was still—you know, I hesitate to say because everything is so relative, but it was—I thought it was a nightmare, but, you know, I can only speak for my own experience.

Mr. KLINK. No further questions, Mr. Chairman.

The CHAIRMAN. I was just going to pursue one or two points with Mr. Moussavi.

Mr. MOUSSAVI. Yes, sir.

The CHAIRMAN. Did you or have you had any other dealings in Mexico?



Mr. MOUSSAVI. Yes, sir.

The CHAIRMAN. Have your experiences been somewhat parallel or different from this one in which you represented IBM?

Mr. MOUSSAVI. Mr. Gonzalez, sir, the particular significance of the IBM experience is that the way in which the Government of Mexico were able to bludgeon a \$75 billion company to at the very, very least, based on the documentary evidence, at the very, very least to attempt to be economic with the truth. IBM Corp., knew perfectly well that I had been approached for a bribe.

They knew that the tender was not clean. They knew that—they had identified officers of SENEAM, the relevant organization who had, to say the least, a shady past and experience in this particular matter. The reason why this particular case has become so big is that I genuinely took the Government of Mexico for its word. I naively believed in the Salinas administration's reformist pretensions.

Yes, sir, I have had other experiences in Mexico, but the significant point about this is that I never believed that the government of Carlos Salinas, just when it is negotiating NAFTA, just when it has such a high international profile, just when it is doing its utmost to sell itself as a reform government, would behave in this way toward the suggestion that there was corruption.

When I say I genuinely mean, when I say I was sitting at home on the afternoon of February 3 thinking that the Mexican Embassy is going to call me and say thank you very much for helping us. Please, can you come and help us identify the crooks who are trying to destroy the image of our country and so on? I genuinely expected the Government of Mexico to give me a medal effectively, not to threaten to kidnap my children.

And the direct answer to your question, sir, is I have had other experiences, but this is the most dramatic not because of the light that it throws on the nature of public procurement in Mexico, I think, by and large, we all know that public procurement in Mexico is not completely straightforward, but rather than the light that it throws on the reality of the reformist pretensions of this government, they have appointed an Attorney General who is supposed to be the crown—the greatest achievement of the Salinas administration insofar as its reformist aspirations go.

Mr. Carpizo is supposed to be the symbol of the reformist intentions of the government. Yet, we have an Attorney General who participates actively in a conspiracy to pervert the course of justice. I can talk about that at length if you wish. We have him openly defaming my character, knowing fully well that the statement that he issued on May 4 was a complete lie.

I have documentary evidence to prove that he had a letter from the chairman of IBM which confirmed that what I was saying was—had been brought to the attention of IBM, yet he made out incredible amount of lies. The important thing about this case is if the Government of Mexico is able to force a company the size of IBM to, shall we say at the very least, I have never accused IBM of lying, but at the very least to think about balancing their interests, truth on the one hand and the safety of their business on the other.

I have an IBM officer on tape telling me—it was my custom and practice to tape my conversations with my clients, especially if the

nature of our discussions were very, very technical in order to be able to understand what they were saying, and I thank the Lord every day that I did.

A senior IBM officer told me that we have to balance what we need to achieve there against our business interests in Mexico. I am not accusing IBM of being dishonest and untruthful and so on. I would understand that they have a very, very large business down there, and because the business environment in Mexico is, by and large, a criminal environment, if you have to operate in a criminal environment, it is highly unlikely that you are going to be able to abide by the spirit and the letter of the law, and that is what is significant about this case, sir, but other experiences, yes, never as dramatic as this because I never believed that the previous governments were clean like this one pretends that it is, therefore I never exposed corruption.

The CHAIRMAN. Was yours a bidding process? Who were your competitors? I think you have mentioned the Thomson.

Mr. MOUSSAVI. There was a French company, Thomson, sir, the nationalized company, which is notorious for its strange and shady practices. It had similar experience in New Zealand. It had similar experiences in Australia. It was—its activities were the subject of a full congressional inquiry in Australia. It is a State enterprise and it is subsidized by the taxpayer.

IBM was able to reduce their price by something like 60 percent in something like 20 days. I am sorry, Thomson were, beg your pardon. IBM and I, we went in at around \$21 million. Thomson came in at \$33 million, and as soon as they realized that obviously we were doing better as well as others, they—I believe they brought a great deal of influence to bear to cancel the previous tender. I actually have a fax dated from Mr. Roger Boyd, a senior officer of IBM which says: "Dear Kaveh"—referring to me—"the opening of the bids was an interesting and enlightening and worrisome experience. I am now relatively certain that the previous tender was canceled by someone with influence who needed a way of reducing their price."

One of our competitors was a company like that. It basically lived off the bounty of the State. It could go in at any price. The other competitor was Alenia, the Italian company, whose executives are now in prison in Italy, precisely because of corruption in public procurement programs and so on.

Another competitor was a Japanese subsidiary of Toshiba, Siemens-Plessey of the United Kingdom, Great Britain, and Germany, Raytheon subsidiary in Canada, and Calmaquip, an associate of Westinghouse Corp., in Miami. These were our competitors.

The CHAIRMAN. This was for the installation of an air route traffic control system?

Mr. MOUSSAVI. That is right, sir. A system that is notorious for not working in Mexico, a fact that was attested to by the United States Air Force in a study that they did in 1988. They discovered that the Alenia radars supplied by the Italians and the Thomson computers do not work together, and they brought this to the attention of the Mexican Government to no avail.

The air traffic controllers themselves on repeated and numerous occasions have written to the Government of Mexico saying that

the air traffic control situation in Mexico is a calamity about to happen, precisely because the radars don't talk to the computers.

The CHAIRMAN. Excuse me if I interrupt you. Did you say earlier that the final contract was given to a Mexican—

Mr. MOUSSAVI. No, it was given to a consortium of the French company, Thomson, and the Italian company, Alenia.

The CHAIRMAN. I see.

Mr. MOUSSAVI. The same two companies who have been the repeated targets of accusations of incompetence in a system that, if I may just quote the head, the presidents of the Pilots Association of Mexico, Juan Humberto Cruz Albert, who has said the new equipment that the Mexican Government has bought from Thomson and Alenia is no more compatible than the old system. The air traffic controllers, he recently told Mexican journalists, have told us that the equipment is similar to that bought from the same companies in 1981.

At that time both companies promised the same efficiency, maintenance, and parts that they are promising today, but they didn't deliver. Last September Mexico's pilots complained officially that, and I quote, "The volume of aircraft in flight is such that security is constantly put at risk by near misses. If we add to that the constant failures of air-ground communication, we can see that the security situation has become critical." And yet the Government of Mexico prefers to buy the same system precisely because the nature of public procurement is as I suspected. It is corrupt, and they prefer to take a backhand and threaten the lives of American and Mexican citizens who fly to and from Mexico because some corrupt politician happens to be on the take.

Mr. WATT. Mr. Chairman, would you yield?

The CHAIRMAN. Mr. Watt, yes.

Mr. WATT. I was just going to comment, I think I will turn down all of the invitations to fly to Mexico that both the pro NAFTA and the anti-NAFTA forces are extending to me in light of this testimony.

Mr. MOUSSAVI. I recommend increased life insurance if you change your mind and need to go there.

Mr. WATT. Life insurance does not bring back life I have found.

The CHAIRMAN. Very true. Do you have any additional statement or questions?

Mr. WATT. No, Mr. Chairman, thank you very much.

The CHAIRMAN. Does any of the witnesses have any additional statement or question you might want to direct to the committee? Yes, Commissioner?

Ms. VOGEL. Mr. Chairman, with regard to some of the agriculture issues that I raised in response to Mr. Roth's questions, I do have a position paper that I would like to have introduced into the record.

The CHAIRMAN. Absolutely, without objection it will be introduced in the record at this point or following Mr. Roth's request. I believe he was the one that asked you, so I want to thank you.

Let me say on behalf of the committee what I said at the outset, we are very grateful to you. Some of you have traveled many miles to be here. In the case of Mr. Moussavi, why, we had a subpoena even last week, but I wanted to thank you also, Ms. Duncan.

If you didn't get any immediate questions, there will be some submitted in writing following this hearing, and hopefully you will receive those questions by the time you get a copy of the transcript of today's proceedings for your review and correction and so forth, but in the meanwhile please know how grateful we are to you.

You have been of extreme help to this committee to say the least, and I believe to the interested Congressmen, we will be circulating a draft summary of the net substance of what we have gained in these series of hearings by this committee to the rest of our colleagues in the House of Representatives. So rest assured that you have helped us very much, and perhaps in another context we will have reason to meet again, but thank you very much.

The committee will stand adjourned until further call of the Chair.

[Whereupon, at 12:30 p.m., the hearing was adjourned.]

A P P E N D I X

November 8, 1993

OPENING STATEMENT  
CHAIRMAN HENRY B. GONZALEZ  
November 8, 1993

The Committee meets today to continue its series of hearings on the North American Free Trade Agreement. The Committee's first hearing on NAFTA focused on the dangers posed by the agreement to the safety and soundness of U.S. banks and other financial service providers. At the second hearing on the agreement, we heard testimony from the administration on the terms of the agreement and the process by which NAFTA was negotiated.

The negotiating process itself raises serious concerns about the agreement. I would like to introduce into the record as part of my statement information on the process which I received from the Treasury Department. The letter identifies over 100 private sector firms and their representatives which were consulted on the financial services part of the agreement. The Department has informed us that these individuals were not just consulted, but were allowed to review drafts of the agreement while the negotiations were in progress. In light of the case of Mr. Robert Bostick, I am concerned about the possibility that one or more of these individuals and their firms may have sought to profit on the confidential information they received. As for the logistics of the meetings, I find it very symbolic that the agreement was negotiated in part at the Watergate Hotel.

This third hearing on NAFTA will examine the nature and scope of corruption in the Mexican political, regulatory, judicial and

banking systems. This is very relevant and important to the consideration of the agreement. American investors and businesspersons must be made fully aware of the pervasive abuses in Mexico's institutions, lest they end up broke or, worse, in jail. When representatives from the administration recently testified on NAFTA before the Committee, they would not even acknowledge these dangers or any other risks to American businesses. Given the Administration's silence on this issue, I am concerned that American businesses will interpret NAFTA as a green light with no dangers ahead.

Instead, I think our witness will illustrate that with or without NAFTA, doing business in Mexico is always like facing a yellow light, meaning proceed with caution and at your own risk.

Our first witness is the very conscientious Commissioner of Agriculture from the State of North Dakota, Ms. Sarah Vogel. She has been engaged in a effort to correct abuses by Mexican banks of an Agriculture Department loan program. Ironically, it is the same program which the government of Iraq used illegally to get funds through the Banca Nazionale del Lavoro for the purchase of military equipment. Accompanying her is our colleague from North Dakota, Congressman Earl Pomeroy, who will introduce her to the Committee.

Our next witness will be Mr. Kaveh Moussavi, formerly IBM Corporation's political representative in Mexico. He has an amazing, but all too common, story of bribery and extortion by

Mexican government officials in connection with IBM's attempt to win a contract to modernize the country's air traffic control system.

The next two witnesses, Mr. Alex Argueta and Ms. Lucia Duncan, will tell their stories of getting caught up in the Kafka-like world of Mexico's judicial and regulatory systems. Ms. Duncan is the coordinator of a group called American Investors in Mexico, consisting of individuals who are all trying to fight back against these abuses.

Finally, the Committee invited representatives of both the Justice Department and the Labor Department to testify on the case of Mr. Robert Bostick. Mr. Bostick was a high level Labor Department official who recently pled guilty to illegally seeking to profit from NAFTA while he was a negotiator for the agreement. The American public has a right to know if our country's interests were compromised during the negotiations as a result of Mr. Bostick's activities. We also asked the Justice Department to tell us of any other such investigations of individuals involved in the NAFTA negotiations. Both agencies refused to appear and testify, and Mr. Bostick's plea agreement has been sealed by the Court. Ironically, Mr. Bostick is scheduled to be sentenced on November 17, the day the House is scheduled to vote on the agreement. I would like to place several documents on the case in the record.

I thank the witnesses for appearing, and will now recognize Congressman Leach for an opening statement.



<b>Sector:</b>	Religious Services
<b>Sub-Sector:</b>	
<b>Industry Classification:</b>	CMAP 929001 Religious Services
<b>Type of Reservation:</b>	Local Presence (Article 1205) Senior Management and Boards of Directors (Article 1107)
<b>Level of Government:</b>	Federal
<b>Measures:</b>	<i>Ley de Asociaciones Religiosas y Culto Privado</i> , Título II, Capítulos I, II
<b>Description:</b>	<u>Cross-Border Services</u>  Religious associations must be associations constituted in accordance with the <i>Ley de Asociaciones Religiosas y Cultos Privados</i> .  <u>Investment</u>  Representatives of religious associations in Mexico must be Mexican nationals.
<b>Phase-Out:</b>	None

U.S. Department of Justice

United States Attorney

*District of Columbia*

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*Judiciary Center  
555 Fourth St. N.W.  
Washington, DC 20001*

FOR IMMEDIATE RELEASE  
AUGUST 20, 1993

## PRESS RELEASE

J. RAMSEY JOHNSON  
United States Attorney  
for the District of Columbia

United States Attorney J. Ramsey Johnson announced that Robert Bostick, the former Associate Deputy Under Secretary for International Labor Affairs at the United States Department of Labor pleaded guilty in United States District Court today to agreeing to accept ten percent of the net profits from a Mexican worker housing project to be constructed on the United States-Mexican border. Mr. Bostick entered into the agreement while he was a Department of Labor official with responsibilities that included working on the North American Free Trade Agreement for the Department of Labor. Mr. Bostick, 54, of Arlington, Virginia, pleaded guilty to a conspiracy to violate the federal Conflict of Interest statute.

A spokesperson for the United States Attorney noted, "Mr. Bostick pleaded guilty to agreeing to accept a percentage of the net profits from a project that was at one time anticipated to generate up to ten million dollars in net profits."

- 2 -

Mr. Bostick faces a maximum sentence of five years in prison and a fine of \$250,000.

Mr. Johnson praised the investigators from the Office of Inspector General, Department of Labor, who investigated the case. He also commended Assistant United States Attorney Robert R. Chapman, of the Public Corruption/Government Fraud Section, who prosecuted the case.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	CRIMINAL NO. 93-312
	:	
v.	:	VIOLATIONS:
	:	18 U.S.C. Section 371
ROBERT BOSTICK	:	(Conspiracy)
	:	18 U.S.C. Section 203(a)(1)(B)
	:	18 U.S.C. Section 216(a)(2)
	:	(Conflict of Interest)

INFORMATION

FILED

The United States Attorney informs the Court that:

CLERK  
DISTRICT

COUNT ONE

1. At all time material herein, the United States Department of Labor (DOL) was an agency of the United States.

2. At all times material herein, the defendant Robert Bostick, was the Associate Deputy Under Secretary for International Labor Affairs at the United States Department of Labor. His responsibilities included assisting in formulating international economic, trade, immigration and technical assistance policies affecting Latin America and Africa. As part of his responsibilities, the defendant Robert Bostick was involved in an effort to promote low-income housing subsidized by the Mexican government for low paid Mexican workers living along certain sections of the United States-Mexican border. Mr. Bostick's responsibilities included oversight for technical assistance programs concerned with Mexican labor standards and their

enforcement. Mr. Bostick's responsibilities also included working on the North American Free Trade Agreement (NAFTA) by: (1) assisting in the actual negotiations of NAFTA; (2) developing an adjustment assistance program and (3) managing a technical assistance program and cooperating with Mexico to help address concerns regarding Mexican labor standards and their enforcement.

3. From on or about November 1991, to on or about August 18, 1992, the defendant Robert Bostick communicated with United States public officials, Mexican public officials, World Bank officials, Mexican bank and housing officials and private investors about a low-cost Mexican worker housing project.

4. At all times material herein, Executive A was a principal in a real estate development company located in the District of Columbia.

5. At all times material herein, Executive B was a principal in a government relations and financial consulting company located in Mexico.

6. At all times materials herein, Executive C was a principal in a government relations and financial consulting company located in Mexico.

7. At all times materials herein, Executive D was a principal in a real estate company located in California.

#### THE CONSPIRACY AND ITS OBJECT

8. Beginning on or about July 22, 1992 and continuing until on or about August 18, 1992, within the District of Columbia, Mexico City, Mexico, and elsewhere, the defendant Robert Bostick,

together with Executive A, Executive B, Executive C, and Executive D did willfully, knowingly, and unlawfully conspire, confederate, combine and agree together and with each other and with other persons both known and unknown, to the United States Attorney to enter into a joint venture which was an offense against the United States, that is:

a) otherwise than as provided by law for the proper discharge of official duties, the defendant Robert Bostick, did knowingly, and willfully agree to receive and accept ten percent of the net profits from a Mexican worker housing project as compensation, from Executive A, Executive B, Executive C and Executive D for representational services to be rendered by Robert Bostick or another in relation to a particular matter, that is, a Mexican worker housing project in which the United States Department of Labor had a direct and substantial interest, at a time when the defendant was the Associate Deputy Undersecretary for International Labor Affairs at the United States Department of Labor. In violation of Title 18, United States Code, Sections, 203(a)(1)(B) and 216(a)(2) (Conflict of Interest)

GOALS OF THE CONSPIRACY

9. The goals of the conspiracy were for Robert Bostick to obtain ten percent of the net profits from a joint venture from Executive A, Executive B, Executive C and Executive D in return for his future actions in matters concerning a Mexican worker housing project.

MEANS OF THE CONSPIRACY

10. In order to accomplish the goals of the conspiracy, the defendant Robert Bostick together with Executive A, Executive B, Executive C and Executive D and other co-conspirators used the following means and methods, among others:

a) The defendant Robert Bostick would and did agree to work with the United States Government in Washington, D.C., the United States Embassy in Mexico City, Mexico, and the United States Consulate in Tijuana, Mexico, on a Mexican worker housing project.

b) Executive A, Executive B, Executive C and Executive D would and did agree to pay Robert Bostick ten percent of the net profits from a Mexican worker housing project.

c) The defendant Robert Bostick would and did direct that his interest in a Mexican worker housing project be held by an intermediary.

OVERT ACTS

11. To effect the object of the said conspiracy, the defendant Robert Bostick, together with Executive A, Executive B, Executive C and Executive D and other co-conspirators known and unknown to the United States Attorney committed the following overt acts, among others, in the District of Columbia and elsewhere:

1. On or about July 22, 1992, in Mexico City, Mexico, the defendant Robert Bostick agreed to work with the United States Government in Washington, D.C., the United States Embassy in Mexico City, Mexico, and the United States Consulate in Tijuana, Mexico,

on behalf of a joint venture to facilitate a Mexican worker housing project.

2. On or about July 22, 1992, in Mexico City, Mexico, the defendant Robert Bostick was offered ten percent of the net profits from a Mexican worker housing project by Executive A, Executive B, and Executive C and accepted the offer.

3. On or about July 22, 1992, in Mexico City, Mexico, the defendant Robert Bostick substituted the name of an intermediary for his own in a Memorandum of Agreement.

4. On or about July 22, 1992, in Mexico City, Mexico, the defendant Robert Bostick met with Executive A, Executive B, Executive C and Executive D, reviewed and initialed a Memorandum of Agreement that set out the provisions referred to in Overt Acts 1, 2 and 3. The Memorandum of Agreement provided for the development, construction and sale of in excess of 6,000 condominium apartment homes in Mexicali, Mexico.

5. On or about July 26, 1992, in Mexico City, Mexico, the defendant Robert Bostick had a telephone conversation with an intermediary who was in Capital Heights, Maryland.

6. On or about July 26, 1992, within the District of Columbia, the intermediary referred to in Overt Acts 3 and 5, signed two copies of the Memorandum of Agreement referred to in Overt Act 4, at the home of Executive A.

7. On or about July 26, 1992, within the State of Maryland, the intermediary left one copy of the Memorandum of Agreement



referred to in Overt Act 6 at the home of a friend of the defendant Robert Bostick.

8. On or about July 27, 1992, within the District of Columbia, the defendant Robert Bostick submitted a travel voucher to the United States Department of Labor for a trip to Mexico City, Mexico, referred to in Overt Acts 1, 2, 3, 4 and 5.

9. On or about July 29, 1992, within the District of Columbia, the defendant Robert Bostick provided a status report on a Mexican worker housing project to the Deputy Under Secretary for International Labor Affairs at the United States Department of Labor.

10. On or about early August 1992, within the District of Columbia, the defendant Robert Bostick requested authorization from the United States Department of Labor to travel to Mexicali, Mexico, between on or about August 30, 1992 and September 5, 1992 to participate in negotiations regarding a Mexican worker housing project.

11. On or about August 10, 1992, within the District of Columbia, the defendant Robert Bostick, had a telephone conversation with Executive A and Executive B.

12. On or about August 11, 1992, within the District of Columbia, the defendant Robert Bostick received correspondence from a Mexican housing official.

13. On or about August 11, 1992, within the District of Columbia, the defendant Robert Bostick sent the correspondence referred to in Overt Act 12 to Executive A.

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14. On or about August 18, 1992, within the District of Columbia, the defendant Robert Bostick had a conversation with Executive A.

(In Violation of 18 United States Code, Section 371)

Respectfully submitted,

J. RAMSEY JOHNSON  
United States Attorney

August 16, 1993  
Date

By:

Robert R. Chapman  
ROBERT R. CHAPMAN  
Assistant United States Attorney  
Bar Number: 60228  
555 4th Street, N.W., Room 5118  
Washington, D.C. 20001  
(202) 514-7788



DEPARTMENT OF THE TREASURY  
WASHINGTON

October 25, 1993

The Honorable Henry B. Gonzalez  
Chairman  
Committee on Banking, Finance  
and Urban Affairs  
U.S. House of Representatives  
Washington, DC 20515-6050

Mr. Llewellyn Pascoe  
Room 5037 MT  
Department of Treasury

RECEIVED

OCT 29 1993

Dear Mr. Chairman:

OFFICE OF THE ASSISTANT SECRETARY FOR INTERNATIONAL AFFAIRS

I am pleased to respond to your letter of October 13, requesting additional information relative to the testimony I gave to the Committee on Banking, Finance and Urban Affairs on September 28, concerning the financial services chapter of the North American Free Trade Agreement (NAFTA).

Enclosed is a list of the Federal entities which participated in the negotiations of the financial services chapter of NAFTA. State and local governments did not participate in the negotiations. We did, however, consult with the Department of Banking of the State of Texas as well as the Conference of State Bank Regulators and the National Association of Insurance Commissioners.

Also attached is a list of private sector organizations with which we consulted during the negotiations.

Treasury and/or Commerce officials participated in all the meetings of the SPAC and ISAC-13 held during the course of the negotiations to brief them on ongoing developments and solicit their views on outstanding issues.

The other private sector groups were consulted on an informal basis, usually between each meeting of the working group. We held one meeting with the president of the Texas Bankers Association and the Deputy Commissioner of the Department of Banking for the state of Texas. We held one round table session with representatives of Texas banks in the Rio Grande valley.

In response to your third request, I am attaching a list of the trilateral meetings held to negotiate the financial services chapter of the NAFTA. The U.S. delegation to these negotiating sessions was led by either the then-Assistant Secretary of the Treasury, Olin Wethington, or myself in conjunction with Ms. Linda Powers, who was Deputy Assistant Secretary of the Commerce Department for Service Industries and Finance. The Canadian delegation was led by Assistant Deputy Minister of Finance,

- 2 -

Nicholas Le Pan or Frank Swedlove, Assistant Director, Financial Institutions Division, Finance Department. The Mexican delegation was led by the Under Secretary of Finance and Public Credit, Guillermo Ortiz, or by Dr. Raul Ramos of the Secretariat for Commerce or by Lic. Marco Provencio, Director General for International Affairs, Secretariat of Finance and Public Credit.

I hope this information answers your questions. Please let me know if I can be of further assistance.

Sincerely,



Barry S. Newman  
Deputy Assistant Secretary  
International Monetary & Financial Policy

HENRY B. GONZALEZ TEXAS CHAIRMAN  
 STEPHEN L. WALSH NORTH CAROLINA  
 JOHN J. WALSH NEW YORK  
 BRUCE I. VENTO MINNESOTA  
 CHARLES J. SCHWARTZ NEW YORK  
 BARRY FRANK MASSACHUSETTS  
 PAUL E. SANDBERG PENNSYLVANIA  
 JOSEPH P. BROWDER MISSISSIPPI  
 FLOYD H. PLATT NEW YORK  
 WESLEY SPRUIELL MARYLAND  
 MARSHALL MATTHEW CALIFORNIA  
 LARRY LAMARCO OHIO  
 BILL GUTER TEXAS  
 JIM RABONNOLI FLORIDA  
 HERBERT C. BLENKINSHIP MISSOURI  
 CAROLYN B. MALONEY NEW YORK  
 PETER DEUTSON FLORIDA  
 LOUIE V. CUTLER MISSISSIPPI  
 ROBERT L. BURNER ALABAMA  
 LUCILLE ROYBAL-ALLARD CALIFORNIA  
 THOMAS W. SHERRETT MISSOURI  
 ELIZABETH FURBER OREGON  
 STEPHEN W. HELLMUTH NEW YORK  
 ALBERT R. WYMAN MARYLAND  
 CLUD PELINE LOUISIANA  
 MELVIN WATTS NORTH CAROLINA  
 MAURICE HENRY NEW YORK  
 CALVIN W. BOOLEY CALIFORNIA  
 BOB FLURE MISSISSIPPI  
 BUC FREEDMANT, OHIO

U.S. HOUSE OF REPRESENTATIVES  
 COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS  
 ONE HUNDRED THIRD CONGRESS  
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 WASHINGTON, DC 20515-8050

October 13, 1993

JAMES H. LEACH IOWA  
 BILL MITCHELL MICHIGAN  
 FRANK ROUSEAU NEW JERSEY  
 DONALD BENTON ARIZONA  
 THOMAS R. PICKENS ARIZONA  
 TOMMY ROTH MISSOURI  
 ALBERT A. BONDARUK CALIFORNIA  
 RICHARD H. SARGENT ILLINOIS  
 JIM PHILLIPS OREGON  
 CRAIG THOMAS MISSOURI  
 SAM BROWNBACK TEXAS  
 DEBORAH STROTT OHIO  
 JOHN LINDER GEORGIA  
 JOE MOULDER MISSISSIPPI  
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 WES WATKINSON CALIFORNIA  
 MICHAEL CASTLE DELAWARE  
 PETER KING NEW YORK  
 BERNARD SANDERS VERMONT

(202) 225-2927

Mr. Barry F. Newman  
 Deputy Assistant Secretary  
 International Monetary Affairs  
 Department of Treasury  
 1500 Pennsylvania Avenue, N.W.  
 Washington, D.C. 20220

Dear Mr. Newman:

Thank you for your recent testimony before the Banking Committee on the North American Free Trade Agreement. The Committee is in need of additional specific information relative to your testimony. Accordingly, please provide the Committee with the following information relative to the financial services provisions of the agreement:

1. A list of every Federal, state or local governmental entity which participated in negotiations or meetings;
2. A list of every group, association or organization which was consulted or briefed on the negotiations, including a list of the membership of each such group, association or organization, the name of any firm, company or person that received individual consultations or briefings, and the frequency of all such consultations or briefings; and
3. A list of every meeting or negotiating session between the parties, the precise location of the meeting or negotiating session, and the attendees from all three countries.

Please provide this information by October 20, 1993. Your prompt attention to this request is appreciated.

Sincerely,

*Henry B. Gonzalez*  
 Henry B. Gonzalez  
 Chairman

FEDERAL ENTITIES  
WHICH PARTICIPATED IN THE NEGOTIATION OF THE  
FINANCIAL SERVICES CHAPTER OF THE NAFTA

Department of the Treasury  
Department of Commerce  
Department of State  
Office of the U.S. Trade Representative  
Office of the Comptroller of the Currency  
Securities and Exchange Commission  
Board of Governors of the Federal Reserve System  
Commodity Futures Trading Commission

GROUPS CONSULTED DURING NEGOTIATION OF THE  
FINANCIAL SERVICES CHAPTER OF NAFTA

Private Sector Advisory Committees for Trade Negotiations

Services Policy Advisory Committee (SPAC)

Industry Sector Advisory Committee for Services (ISAC-13)

Other Private Sector Groups Consulted

Coalition of Service Industries, Financial Services Group  
(CSI, FSG)

Bankers Association for Foreign Trade (BAFT)

Texas Bankers Association

Securities Industry Association (SIA)

Investment Company Institute (ICI)

American Financial Services Association (AFSA)

October 19, 1993

ATTACHED ARE LISTS OF THE MEMBERSHIP OF ADVISORY COMMITTEES AND COMPANIES AND INDIVIDUALS THAT REPRESENTED VARIOUS ORGANIZATIONS OF FINANCIAL SERVICES COMPANIES WITH AN INTEREST IN THE FINANCIAL SERVICES CHAPTER OF THE NAFTA



Office of Private Sector Liaison  
 Office of the United States Trade Representative  
 Private Sector Advisory Committee  
 MEMBERSHIP REPORT BY COMMITTEE  
 SPAC-Office of Private Sector Liaison

Mr. Harold L. Adams  
 Chairman  
 RTKL Associates Inc.  
 Commerce Place  
 One South Street  
 Baltimore, MD 21202-0000 ( )  
 (410) 528-8600 (410) 385-2455

Mr. Jason A. Berman  
 President  
 Recording Industry Association of  
 1020 19th Street, N.W.  
 Suite 200  
 Washington, DC 20036-0000 (1)  
 (202) 775-0101 (202) 775-7253

Mr. John H. Adams  
 Executive Director  
 Natural Resources Defense Council  
 40 West 20th Street  
 New York, NY 10011-0000 ( )  
 (212) 727-2700 (212) 727-1773

Mr. John E. Berndt  
 President  
 AT&T Communications  
 295 North Maple Avenue  
 Room 1240N2  
 Basking Rldge, NJ 07920-0000 (12)  
 (908) 221-8801 (908) 221-4668

Mr. Lester M. Alberthal, Jr.  
 Chairman of the Board, President and  
 Electronic Data Systems Corporation  
 7171 Forest Lane  
 Suite A700  
 Dallas, TX 75230-0000 ( )  
 (214) 490-2100 (214) 661-6043

Mr. Wayne S. Bishop  
 Partner  
 Ackerson & Bishop  
 1275 Pennsylvania Avenue, N.W.  
 Suite 1100  
 Washington, DC 20005-0000 (1)  
 (202) 637-0319 (202) 628-0242

Mr. Morton Bahr  
 President  
 Room 1102  
 Communications Workers of America  
 501 3rd Street, N.W.  
 Washington, DC 20001-2797 (1)  
 (202) 434-1100 (202) 434-1139

Mr. Phillip S. Bradley  
 Chairman of the Board  
 World Fuel Service, Incorporated  
 700 Royal South Poinciana Blvd.  
 Suite 800  
 Miami Springs, FL 33166-0000 ( )  
 (305) 883-8554 (305) 887-2642

Mr. Sam Barshop  
 Chairman of the Board and President  
 La Quinta Motor Inns, Inc.  
 10010 San Pedro  
 San Antonio, TX 78216-0000 (20)  
 (210) 366-6056 (210) 366-6016

Mr. Lewis Coleman  
 Vice-Chairman  
 Bank of America  
 555 California Street  
 San Francisco, CA 94104-0000 ( )  
 (415) 622-5783 (415) 398-826

Office of Private Sector Liaison  
Office of the United States Trade Representative  
Private Sector Advisory Committees  
MEMBERSHIP REPORT BY COMMITTEE  
SPAC-Office of Private Sector Liaison

Mr. John M. Dangard  
President  
Futures Industry Association  
2001 Pennsylvania Avenue, N.W.  
Suite 600  
Washington, DC 20006-1807 (1)  
(202) 466-5460 (202) 296-3184

Mr. W. Grant Gregory  
Chairman  
Gregory & Hoene Meyer, Inc.  
375 Park Avenue  
Suite 307  
New York, NY 10152-0000 (1)  
(212) 758-7300 (212) 758-1399

Ms. Patricia de Stacey Harrison  
President  
E. Bruce Harrison Company  
1440 New York Avenue  
Suite 300  
Washington, DC 20005-0000 (1)  
(202) 572-1200 (202) 639-8685

Hon. Alan Holmer  
Sidley & Austin  
1722 I Street, N.W.  
Washington, DC 20006-0000 (1)  
(202) 736-8034 (202) 736-8711

Mr. Kenneth M. Duberstein  
Chairman and Chief Executive Office  
The Duberstein Group, Inc.  
2100 Pennsylvania Avenue, NW  
Suite 350  
Washington, DC 20037-0000 (1)  
(202) 728-1100 (202) 728-1123

Mr. Cordell W. Hull  
Executive Vice President and Director  
Bechtel Group Inc.  
Fifty Beale Street, 23rd Fl.  
San Francisco, CA 94105-0000 (5)  
(415) 768-5727 (415) 768-9571

Dr. Isaiah Frank  
Director of International Economics  
The Johns Hopkins University  
School of Advanced Int'l Studies  
1740 Massachusetts Avenue, N.W.  
Washington, DC 20036-0000 (1)  
(202) 663-5685 (202) 663-5683

Mr. Yong C. Kim  
Chairman and Chief Executive Office  
Y.Y.K. Enterprises, Inc.  
1020 44th Avenue  
Oakland, CA 94601-0000 (1)  
(510) 532-2330 (510) 532-3020

Mr. Harry L. Freeman  
ISTI  
1129 20th Street, N.W.  
Suite 800  
Washington, DC 20036-0000 (1)  
(301) 986-5299 (301) 951-3641

Mr. Drew Lewis  
Chairman, President and Chief Executive  
Union Pacific Corporation  
Eighth and Eaton Avenues  
Bethlehem, PA 18018-0000 (1)  
(215) 861-3333 (215) 861-339

Office of Private Sector Liaison  
Office of the United States Trade Representative  
Private Sector Advisory Committees  
MEMBERSHIP REPORT BY COMMITTEE  
SPAC-Office of Private Sector Liaison

Ms. Barbara L. Lindemann  
Seyfarth, Shaw, Fairweather & Gerald  
2029 Century Park East - Suite 3300  
Los Angeles, CA 90067-0000 (23)  
(310) 277-7200 (310) 201-5219

Mr. Thomas J. Pritzker  
President  
Hyatt Corporation  
200 W. Madison - 38th Fl.  
Chicago, IL 60606-0000 (7)  
(312) 750-8101 (312) 920-2395

Mr. Robert F. McDermott  
Chairman  
United Services Automobile Associat  
USAA Building  
9800 Fredericksburg  
San Antonio, TX 78288-0000 ()  
(210) 498-4050 (210) 498-0400

Mr. Robert A. Ravitz  
Executive Vice President  
Grey Advertising Inc.  
777 Third Avenue  
New York, NY 10017-0000 (15)  
(212) 546-2000 (212) 546-1495

Mr. Henry L. Michel  
Chairman  
Parsons Brinckerhoff, Inc.  
One Penn Plaza  
New York, NY 10119-0000 (17)  
(212) 465-5002 (212) 465-5333

Mr. John S. Reed  
Chairman  
Citicorp  
399 Park Avenue  
New York, NY 10043-0000 (16)  
(212) 559-2732 (212) 559-5138

Mr. R. Eric Miller  
Chairman and Chief Executive Office  
Miller-Kerr, Inc.  
P.O. Box 1665  
Valdosta, GA 31603-1665 ()  
(912) 244-4902 (912) 244-2922

Mr. Ed L. Romero  
President and Founder  
Advanced Sciences, Incorporated  
6739 Academy NE  
Albuquerque, NM 87110-0000 ()  
(505) 823-6801 (505) 823-682

Mr. James R. Paul  
President and Chief Executive Office  
The Coastal Corporation  
9 Greenway Plaza  
Houston, TX 77046-0000 (22)  
(713) 877-6913 (713) 877-3375

Mr. Jerry D. Rucker  
Dooley, Rucker, Maris and Foxman  
3102 Oak Lawn Avenue  
The Centrum Suite 1000, LB150  
Dallas, TX 75219-0000 (5)  
(214) 443-0000 (214) 443-031

Office of Private Sector Liaison  
 Office of the United States Trade Representative  
 Private Sector Advisory Committees  
 MEMBERSHIP REPORT BY COMMITTEE  
 SPAC-Office of Private Sector Liaison

Mr. Donald J. Schneider  
 President  
 Schneider National, Inc.  
 P.O. Box 2545  
 Green Bay, WI 54306-0000 (1)  
 (414) 592-3900 (414) 592-3063

Mr. John J. Sweeney  
 President  
 AFL-CIO  
 Service Employees Int'l Union  
 1313 L Street, N.W.  
 Washington, DC 20005-0000 (1)  
 (202) 898-3200 (202) 898-3402

Mr. Robert E. Slattery  
 President  
 The Rockport Company  
 220 Donald J. Lynch Blvd.  
 Marlboro, MA 01752-0000 (1)  
 (508) 485-2090 (508) 485-4922

Mr. Frank G. Walls  
 President and Chief Operating Offi:  
 Walt Disney Company  
 500 S. Buena Vista Street  
 Burbank, CA 91521-0000 (22)  
 (818) 560-5060 (818) 567-446:

Mr. Frederick W. Smith  
 Chairman, President and Chief Execu  
 Federal Express Company  
 2005 Corporate Avenue  
 Memphis, TN 38132-0000 (9)  
 (901) 395-3377 (901) 398-1111

Mr. John C. Whitehead  
 Chairman  
 AEA Investors Inc.  
 65 East 55th Street  
 New York, NY 10022-0000 (15)  
 (212) 755-3131 (212) 751-592

Mr. John W. Snow  
 Chairman, President and Chief Execu  
 CSX Corporation  
 One James Center  
 Richmond, VA 23219-0000 (3)  
 (804) 782-1434 (804) 782-6734

Mr. Robert C. Winters  
 Chairman and Chief Executive Offi  
 The Prudential Insurance Company  
 751 Broad Street  
 Newark, NJ 07107-3777 (10)  
 (201) 802-7878 (201) 622-472

Mr. Matthew J. Stover  
 President & CEO  
 NYNEX  
 AGS Computers, Inc.  
 1113 Westchester Avenue  
 White Plains, NY 10604-0000 (1)  
 (914) 644-6460 (914) 644-7649

**INDUSTRY SECTOR ADVISORY COMMITTEE ON SERVICES  
FOR TRADE POLICY MATTERS**

**MEMBERS**

(as of April 1993)

Mr. Fritz E. Attaway  
Vice President & Counsel  
Motion Picture Association of America  
1600 Eye Street, N.W.  
Washington, D.C. 20006  
TEL (202) 293-1966  
FAX (202) 293-7674

Ms. Kim M. AuBuchon  
District Manager  
American Telephone and Telegraph  
1120 20th Street, N.W., Suite 1000  
Washington, D.C. 20036  
TEL (202) 457-2233  
FAX (202) 457-2571

Ms. Marilyn Bockman  
Senior Vice President  
American Association of Advertising Agencies  
666 Third Avenue  
New York, NY 10017  
TEL (212) 682-2500  
FAX (212) 682-8136

Mr. William F. Canis  
Vice President  
American Express Co.  
American Express Tower, 48th Fl.  
New York, NY 10285-4800  
TEL (212) 640-5599  
FAX (212) 619-8470

Ms. Mary Anne Chalker  
President  
LFC Insurance Brokers and Agents  
113 North San Vicente Blvd.  
Beverly Hills, CA 90211-2329  
TEL (213)-655-9999  
FAX (213)-655-0578

Mr. Gordon J. Cloney  
President  
International Insurance Council  
1212 New York Avenue, N.W., Suite 250  
Washington, D.C. 20005  
TEL (202) 682-2345  
FAX (202) 682-4187

Ms. Linda B. Darr  
Director, Office of International Affairs  
American Trucking Associations, Inc.  
2200 Mill Road  
Alexandria, Virginia 22314  
TEL (703) 838-7902

Mr. James H. Davies  
President  
Davies and Associates  
80 Floral Avenue  
Murray Hill, NJ 07974  
TEL (908) 464-8100  
FAX (908) 464-3683

Mr. Joseph Farrell III  
President and CEO  
The American Waterways Operators  
1600 Wilson Boulevard, Suite 1000  
Arlington, VA 22209  
TEL (703) 841-9300  
FAX (703) 841-0389

Mr. Peter J. Finnerty  
Vice President, Public Affairs  
Sea-Land Service, Inc.  
1331 Pennsylvania Avenue, N.W., Suite 560  
Washington, D.C. 20004  
TEL (202) 783-1117  
FAX (202) 783-5929

Mr. Julian H. Gingold  
Senior Vice President, Investments  
Dean Witter Reynolds, Inc.  
1345 Avenue of Americas  
New York, NY 10105-0070  
TEL (212) 903-7601  
FAX (212) 903-7701

Mr. F. William Hawley  
Director, International Government Relations  
Citicorp  
1101 Pennsylvania Avenue, N.W., Suite 1000  
Washington, D.C. 20004  
TEL (202) 879-6859  
FAX (202) 783-4460

Mr. Charles P. Heeter, Jr.  
Principal-Office of Federal Services  
Arthur Andersen & Company  
1666 K Street, N.W., 8th Floor  
Washington, D.C. 20006  
TEL (202) 862-3127  
FAX (202) 785-4965

COMMITTEE CHAIR

Mr. L. Oakley Johnson  
V. P., International & Corp. Affairs  
American International Group, Inc.  
1455 Pennsylvania Avenue, N.W., Suite 900  
Washington, D.C. 20004  
TEL (202) 783-5690  
FAX (202) 737-6811

COMMITTEE VICE CHAIR

**Ms. Phyllis Kaminsky**  
President  
Kaminsky Associates  
7839 Whiterim Terrace  
Potomac, MD 20854  
TEL (301) 983-0785  
FAX (301) 983-5076

**Mr. Arthur W. Kelly**  
Manager of Marketing  
The M. W. Kellogg Company  
P.O. Box 4557  
Houston, TX 77210-4557  
TEL (713) 753-2244  
FAX (713) 753-6609

**Mr. James E. Landry**  
President  
Air Transport Association of America  
1301 Pennsylvania Avenue, N.W., 12th Floor  
Washington, D.C. 20004  
TEL (202) 626-4168  
FAX (202) 626-4181

**Mr. Fred J. Martin, Jr.**  
Senior V.P. & Director, Government Relations  
Bank of America, Dept. #3117  
P.O. Box 37000  
San Francisco, CA 94137  
TEL (415) 953-3952  
FAX (415) 622-8581

**Ms. Gloria Messinger**  
Managing Director  
American Society of Composers, Authors & Publishers  
ASCAP Building, One Lincoln Plaza  
New York, NY 10023  
TEL (212) 621-8222  
FAX (212) 721-0955



Mr. Carl A. Modecki  
Executive Director  
National Association of Insurance Brokers  
1401 New York Avenue, N.W., Suite 720  
Washington, D.C. 20005  
TEL (202) 628-6700  
FAX (202) 628-6707

Mr. Stephen P. Murphy  
Senior Vice President  
Yellow Freight Systems, Inc.  
529 14th Street, N.W., Suite 961  
Washington, D.C. 20045-0001  
TEL (202) 662-8805  
FAX (202) 662-8807

Mr. John Newcomb  
V. P., General Council & Secy.  
Maritrans GP, Inc.  
Three Parkway, Suite 1400  
Philadelphia, PA 19102  
TEL (215) 864-1200  
FAX (215) 864-1213

Mr. Franklin W. Nutter  
President  
Reinsurance Association of America  
1819 L Street, N.W., 7th Floor  
Washington, D.C. 20036  
TEL (202) 638-3690  
FAX (202) 638-0936

Mr. John T. O'Rourke  
Partner  
Fontheim & O'Rourke  
1129 Twentieth Street, N.W., Suite 500  
Washington, D.C. 20036  
TEL (202) 429-2217  
FAX (202) 293-0147

Mr. Henry G. Parker III  
International Insurance Advisor  
Chubb & Son, Inc.  
P. O. Box 1615  
Warren, NJ 07061-1617  
TEL (908) 580-3612  
FAX (908) 580-2025

Mr. Robert C. Pozen  
General Counsel, Managing Director  
Fidelity Investments  
82 Devonshire Street  
Boston, Massachusetts 02109  
TEL (617) 570-7703  
FAX (617) 570-6262

Mr. G. Frank Purvis, Jr.  
Chairman of the Board  
Pan-American Life Insurance Co.  
601 Poydras Street  
New Orleans, LA 70130  
TEL (504) 566-3795  
FAX (504) 566-3914

Mr. Roderic W. Rahe, Jr.  
Assistant to the President  
Parson Brinckerhoff International  
One Penn Plaza, 5th Floor  
New York, NY 10119  
TEL (212) 465-5027  
FAX (212) 465-5028

Mr. Jonas Rosenfield, Jr.  
President  
American Film Marketing Association  
12424 Wilshire Boulevard, #600  
Los Angeles, CA 90025  
TEL (310) 447-1555  
FAX (310) 447-1666

Mr. Art Sackler  
Director, Public Policy Development  
Time-Warner  
1050 Connecticut Avenue N.W., Suite 850  
Washington, D.C. 20036  
TEL (202) 457-8582  
FAX (202) 457-8861

Mr. Jeffrey L. Seltzer  
Managing Director  
Lehman Brothers  
200 Vesey Street, 12th Floor  
New York, NY 10285  
TEL (212) 298-3948  
FAX (212) 619-6875

Mr. Warner R. Sinback  
Manager, Telecom. Affairs  
General Electric Co. & Information Services  
401 North Washington Street  
Rockville, MD 20850  
TEL (301) 340-4326  
FAX (301) 340-4013

Mr. Carlos C. Villarreal, P.E.  
Executive Vice President, Operations  
Wilbur Smith and Associates  
2921 Telestar Court  
Falls Church, Virginia 22042-1297  
TEL (703) 573-3850  
FAX (703) 573-3854

Mr. Roger B. Vincent  
President  
Springwell Corporation  
230 Park Avenue  
New York, NY 10169  
TEL (212) 867-0080  
FAX (212) 867-0334

Mr. Richard S. Ward  
Senior Vice President & General Counsel  
ITT Corporation  
1330 Avenue of the Americas  
New York, New York 10019  
TEL (212) 258-1327  
FAX (212) 258-1463

Mr. Roger Whyte  
President & Chief Executive Officer  
A.T. Kearney, Inc.  
1341 G Street, N.W.  
Washington, D.C. 20005  
TEL (202) 638-3535  
FAX (202) 638-3536

Ms. Margaret L. Wigglesworth  
Executive Director  
Coalition of Service Industries  
1201 Connecticut Ave., N.W., Suite 550  
Washington, D.C. 20036  
TEL (202) 775-1723  
FAX (202) 785-2617

Designated Federal Officer

Fred Elliott  
U.S. Department of Commerce  
International Trade Administration  
Office of Service Industries, Room H-1124  
Washington, D.C. 20230  
TEL (202)-482-1134  
FAX (202)-482-2669

## BANKERS' ASSOCIATION FOR FOREIGN TRADE

## 1993-94 TASK FORCE ON NORTH AMERICAN FREE TRADE AGREEMENT

**Bankers Trust Co.**

**Nell A. Allen**  
 Managing Director  
 Bankers Trust Company  
 280 Park Avenue  
 12th Floor, East  
 New York, NY 10017  
 Ph: 212-454-4813  
 Fax: 212-454-4246

**Bank of Boston**

**Mr. Henry Frothingham**  
 Director, Intl. Capital Markets  
 Bank of Boston  
 100 Federal Street  
 Boston, MA 02108  
 Ph: 617-434-8203  
 Fax: 617-434-0889

**Chase Manhattan Bank**

**Nicholas P. Kourides**  
 Vice President & Senior Associate  
 Counsel  
 Chase Manhattan Bank, NA  
 One Chase Manhattan Plaza  
 New York, NY 10081  
 Ph: 212-552-1604  
 Fax: 212-552-5231

**Chemical Banking Corp.**

**Mr. John R. Price, Jr.**  
 Managing Director  
 Chemical Banking Corp.  
 270 Park Avenue  
 New York, NY 10017  
 Ph: 212-270-7112  
 Fax: 212-270-5158

**Mr. Peter Russell**

Vice President  
 Chemical Banking Corp.  
 270 Park Avenue  
 New York, NY 10017  
 Ph: 212-270-7050  
 Fax: 212-270-5158

**Citicorp/Citibank**

**Mr. F. William Hawley**  
 Director-Intl Gov't Relations  
 Citicorp/Citibank  
 1101 Pennsylvania Avenue  
 Suite 1000  
 Washington, D.C. 20004  
 Ph: 202-879-6879  
 Fax: 202-783-4460

**Comerica Bank**

**Mr. Robert Powell**  
 Vice President, International  
 Comerica Bank N.A.  
 100 Renaissance Center  
 Detroit, Michigan 48243-1097  
 Ph: 313-222-3136  
 Fax: 313-259-0776

**Morgan Guaranty Trust Co.**

**Mr. Edmund H. Sutton**  
 Senior Vice President  
 Morgan Guaranty Trust Company  
 of New York  
 60 Wall Street, 48th Floor  
 New York, NY 10280  
 Ph: 212-648-3751  
 Fax: 212-837-5031

**NationsBank**

**Mr. J. Mark Paden**  
International Division Executive,  
Senior Vice President  
NationsBank  
NationsBank Corporate Center,  
100 N. Tryon Street, 8th Floor  
Charlotte, NC 28255  
Ph: 704-386-8970  
Fax: 704-386-8447

**Mr. Roberto Sanchez**

Vice President  
NationsBank  
901 Main Street  
P.O. Box 830304, 11th Fl.  
Dallas, Texas 75283-0304  
Ph: 214-508-3083  
Fax: 214-508-2410

## American Financial Services Association

## NAFTA TASK FORCE

NAME	ORGANIZATION	TELEPHONE	FAX
Orit Frenkel	GE	202 637-4273	202 637-4300
Art Hall	GMAC	313 556-2654	313 974-4450
Robert McKew	AFSA	202 296-5544	202 223-0321
Kelly McNamara	Sears	202 639-3966	737-8050
Tony Morales	Security Pacific	619 549-7465	619 549-7447
Valerie Morse	Beneficial Mgmt. Corp.	202 646-1260	202 646-0351
Ray Nied	GE Capital	203 357-6354	203 357-6712
Karen Pagonis	Beneficial Mgmt. Corp.	908 781-3674	908 781-3580
Alan Ronquillo	Chrysler	313 948-3062	313 948-3138
Robert P. Schuiz	Ford Credit	313 322-7355	313 337-1160
Mark Sullivan	(for Household)	202 452-7373	202 452-7333
Jeff Tassej	AFSA	202 296-5544	202 223-0321
Gordon Thomas	AVCO Fin. Svcs./Textron	202 289-5805	202 789-1857
Helen Wiederhorn	Ford Motor (Assoc.)	202 962-5393	202 962-5457
Dick Wagner	GMAC	313 974-1770	313 974-1496
Steve Wagner	Norvest Financial	515 243-2131	



**CSI FINANCIAL SERVICES GROUP**  
**Membership**

**American Bankers Association**  
**American Council of Life Insurance**  
**American Express Company**  
**American Financial Services Association**  
**American International Group**  
**AT&T**  
**Bank of America**  
**Bankers' Association for Foreign Trade (BAFT)**  
**Beneficial Management Corp.**  
**Chemical Banking Corp.**  
**Chicago Mercantile Exchange**  
**The Chubb Corporation**  
**CIGNA Corp.**  
**Citicorp/Citibank N.A.**  
**Consumer Credit Insurance Association**  
**Dean Witter Reynolds**  
**Financial Services Council**  
**Fidelity Investments**  
**Ford Financial Services Group**  
**GE Capital**  
**Goldman Sachs & Company**  
**International Insurance Council**  
**Investment Company Institute**  
**J.P. Morgan**  
**Lehman Brothers**  
**Merrill Lynch & Co.**  
**Morgan Stanley & Co., Incorporated**  
**National Association of Insurance Brokers**  
**NationsBank Corporation**  
**Securities Industry Association**  
**Salomon, Inc.**  
**US Council for International Business (Services Subcommittee)**

*Coalition of Service Industries, Inc.*  
*1201 Connecticut Avenue N.W., Suite 550 Washington, D.C. 20036 (202) 775-1723*

*Executive Director - Margaret Wigglesworth*



INVESTMENT COMPANY INSTITUTE

Catherine L. Heron  
Vice President - Tax and Pension

Angela C. Goelzer  
Associate Counsel - International

CONFERENCE OF STATE BANK REGULATORS

Robert A. Richard  
Vice President and Director - Regulatory Services

Texas Bankers Association

Robert E. Harris  
President

SECURITIES INDUSTRY ASSOCIATION  
AD HOC COMMITTEE ON MEXICO

GE/GE Financial Services

Salomon Brothers

Goldman, Sachs and Co.

Fidelity Investments

Merril Lynch, Pierce, Fenner & Smith Incorporated

Lehman Brothers Inc.

Morgan Stanley & Co. Incorporated

Baring Securities, Inc.

Donaldson, Lufkin & Jenrette, Inc.

Arnhold and S. Bleichroeder, Inc.

Bear, Stearns & Co. Inc.

MEETINGS  
 FINANCIAL SERVICES WORKING GROUP  
 NAFTA  
 MARCH, 1991-SEPTEMBER, 1992

MARCH 7, 1991	WASHINGTON
JULY 3, 1991	WASHINGTON
JULY 22-23, 1991	OTTAWA
SEPTEMBER 5, 1991	MEXICO CITY
OCTOBER 7, 1991	WASHINGTON
NOVEMBER 18, 1991	WASHINGTON
DECEMBER 12-13, 1991	MEECH LAKE
JANUARY 8, 1992	GEORGETOWN
JANUARY 30-31, 1992	OTTAWA
FEBRUARY 18-21, 1992	DALLAS
MARCH 11-12, 1992	MEXICO CITY
MARCH 24-25, 1992	WASHINGTON
APRIL 29-30, 1992	MEXICO CITY
MAY 21-23, 1992	WASHINGTON
JUNE 2-5, 1992	CRYSTAL CITY
JUNE 17-21, 1992	WASHINGTON
JUNE 24-26, 1992	WASHINGTON
JULY 9-10, 1992	WASHINGTON
JULY 21-27, 1992	WASHINGTON
JULY 30-AUGUST 12, 1992	WASHINGTON
AUGUST 31-SEPT 6, 1992	WASHINGTON

WATERGATE  
HOTEL

**Statement of**  
**The Honorable John J. LaFalce**  
**Committee on Banking, Finance and Urban Affairs**  
**Hearing on the Mexican Political, Regulatory, Judicial,**  
**and Banking Systems**

November 8, 1993

Mr. Chairman, I am pleased that you have asked the Members of this Committee to delve into the much-publicized abuses that appear to be inherent in the Mexican political, regulatory, judicial, and banking systems. These are critical considerations in evaluating whether the North American Free Trade Agreement, or NAFTA, will benefit U.S. workers, business, and all of our citizens.

These considerations are central to analyzing whether NAFTA will function as its U.S. negotiators intended. It goes without saying that enforcement of the core tenets of NAFTA--such as rules of origin for products entering the United States--depends on whether it is managed and administered honestly, or whether corruption and bribery distort and disrupt its operations.

Since February, the Small Business Committee, which I chair, has on four occasions explored the business environment in Mexico that small business will encounter as it attempts to trade with or invest in Mexico. What the Committee has discovered to date is disturbing. The Committee has received credible testimony from Mexican and American academics, business consultants, human

rights activists, and the Catholic Church. Witnesses have depicted a society in which the rule of law does not always govern and in which political, legal, and human rights frequently are abused.

On October 27, Mr. Kaveh Moussavi appeared before our Committee and gave powerful, compelling testimony. His report, which I expect he will repeat here this morning, should leave no doubt that corruption and bribery occur in Mexico, in this instance in the context of government procurement.

Mr. Moussavi's courage to come forward to tell the truth to the U.S. Congress and American people should not be underestimated. His life has been threatened; his daughter's life has been threatened; and his family receives round-the-clock protection from the British government.

The reports that Mr. Moussavi and others bring to the Congress are not abstract concerns for American business. It has been suggested that the disregard of the rule of law that apparently too often occurs in Mexico may also be infecting the business of doing business.

Mr. Chairman, thank you for convening this important hearing this morning. I look forward to hearing the testimony and questioning the witnesses.

CAROLYN B. MALONEY  
14TH DISTRICT, NEW YORK

COMMITTEE ON BANKING, FINANCE  
AND URBAN AFFAIRS

COMMITTEE ON  
GOVERNMENT OPERATIONS

CONGRESSIONAL CAUCUS  
ON WOMEN'S ISSUES  
EXECUTIVE COMMITTEE

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**House of Representatives**  
Washington, DC 20515-3214

WASHINGTON OFFICE  
1504 LONGWORTH BUILDING  
WASHINGTON, DC 20515-3214  
(202) 225-7844

OFFICE OFFICES

□ 550 THIRD AVENUE  
13TH FLOOR  
NEW YORK, NY 10022  
(212) 622-4831

○ 25-11 ASTORIA BLVD  
BRONX, NY 11102  
(718) 822-1804

□ 610 LORENA STREET  
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(718) 249-1280

**OPENING STATEMENT**  
**Committee on Banking, Finance & Urban Affairs**

**Hearing on Abuses within the Mexican Political, Regulatory and Judicial Systems**  
**November 8, 1993**

Thank you Mr. Chairman. I appreciate the Chairman's efforts to give the Committee members important information about Mexico in time for our consideration prior to the upcoming NAFTA vote.

I have very serious concerns about the impact of NAFTA upon our economy. One of my biggest concerns is the possibility that labor wages in Mexico are kept artificially low. The causes of this suppression of wages stems from human rights abuses within the Mexican labor force, as well as a failure by the Government to effectively enforce Mexico's environmental and health and safety laws.

Several experts have posited that because of the artificial constraints on higher wages that normal market forces will not be able to bring about the increases in wages that will level the playing field between the US and Mexico.

If Mexico continues to maintain a competitive advantage in wages, the implications for US jobs are ominous.

Again, my thanks to Chairman Gonzalez for scheduling these important and timely hearings.

TESTIMONY OF  
SARAH VOGEL  
COMMISSIONER OF AGRICULTURE

BEFORE THE  
UNITED STATES  
HOUSE OF REPRESENTATIVES  
COMMITTEE ON BANKING, FINANCE, AND URBAN AFFAIRS

NOVEMBER 8, 1993

Chairman Gonzalez and members of the Committee, I am indeed pleased to be able to speak to you today on a serious problem with respect to the GSM-102 export credit guarantee program in Mexico and what I believe to be a serious misuse of the program by Mexican bankers. As you know, the GSM-102 program is very important to U.S. farmers and their Mexican customers. The integrity of the program is also very important to the U.S. taxpayers because billions of dollars of guarantees are outstanding which we will have to honor in the event of any defaults.

I am testifying today in a dual capacity -- as an Agriculture Commissioner and as a U.S. banker. Along with the Governor and Attorney General, I am a member of the three person Industrial Commission of North Dakota, which supervises the largest bank in the state -- the Bank of North Dakota. The Bank of North Dakota is the only state-owned bank in the United States. Established in 1919, its goal is to "foster business, industry and agriculture" in the State of North Dakota.

In my capacity as Commissioner of Agriculture of North Dakota, I am obviously interested in the successful execution of USDA export programs. North Dakota is the number one producer of a variety of crops that are export dependent: durum wheat, hard red spring wheat, barley, sunflowers, dry edible beans, and others. I know federal resources for agriculture are scarce and must be used in a sensible, effective manner to achieve the maximum benefit. I have worked very hard to help hard-pressed United States farmers, by defending them against unjust foreclosures, by ensuring fair regulatory treatment, by fighting for farm programs that will help family farmers survive and prosper, and by promoting exports through activities of my Marketing Department and in my capacity as a board member and officer of the Mid-America International Agri-Trade Council (MIATCO). The farm crisis is not over -- we still have a thousand new clients in my department's agriculture mediation service each year.

In my capacity as a board member of the Bank of North Dakota, I helped to start a program designed to assist North Dakota producers by purchasing loans guaranteed under the GSM-102 program. All of the loans we purchased from the originating U.S. bank were at a lower than market rate because we wanted to facilitate the export of North Dakota commodities. The bulk of the loans, which totalled around \$5,000,000, were to facilitate the export of pinto beans to Mexico. We agreed to be repaid over three years. We did not suffer any defaults, but it does not appear that the program operated in Mexico in the manner that we intended.

Let me first explain how the GSM-102 program is supposed to work.



The process starts with a potential U.S. exporter of eligible agricultural commodities and a potential Mexican buyer of those commodities. Because of credit risks, the U.S. exporter is unwilling to ship to the Mexican buyer unless there is immediate payment. However, the Mexican buyer is unable to pay immediately and requests extended payment terms of up to three years. In order to resolve this impasse, the two parties decide to use the GSM-102 program.

The Mexican buyer requests an irrevocable foreign bank letter of credit that commits the foreign bank to pay the exporter over a term of from six months to three years. This irrevocable letter of credit is generally issued on behalf of the buyer with a U.S. bank confirming the credit quality of the foreign bank issuing the letter of credit. The interest rate in the letter of credit is generally based on an international index, the London Interbank Offering Rate (LIBOR) plus a small spread. The usual rates are around 7 to 9 percent. The U.S. exporter applies to the CCC, pays a fee to the CCC for the guarantee (the longer the term, the higher the fee) and is accepted. The guarantee is for 98% of principal plus eligible interest earnings based on a maximum periodically announced by the CCC (as of July 24, 1992 CCC announced that the eligible guaranteed interest rate would be 2.8 percent).

The exporter may, and usually does, assign the right to the payment of proceeds under the letter of credit to the confirming U.S. bank which would then disburse funds to the exporter. The Mexican bank in the meantime would issue a "related obligation" to the U.S. bank on deferred payment terms consistent with deferred payment terms of the Mexican buyer.

In the event of default, the CCC would pay the U.S. banker 98% of the principal and the eligible interest.

USDA heavily promotes the use of the GSM-102 program in Mexico. For example, the March 1991 issue of *AgExporter*, a magazine published by USDA/FAS, contained an article entitled "Credit Guarantee Programs Help Open Doors in Mexican Marketplace". The article stresses that while Mexico's large external debt sometimes make this market more "risky" than the private U.S. banking community would like, exporters can find help from the U.S. government with short term credit guarantees, which cover loans of six months to three years. This article is attached as Exhibit A.

According to the FAS' Commitment Report for FY 1993, the efforts to promote the program have been successful. The major products sold under the GSM-102 program in Mexico in 1993 were oilseeds (\$426 million), coarse grains (\$334.4 million), wheat (\$111.8 million), protein meals (\$59.2 million) and meat offals (\$87 million). I have attached the relevant pages of the Report as Exhibit B.

The program is not to be used as a substitute for cash sales. See, 7 CFR 1493.6(a)(2): "The programs [GSM-102 and GSM-103] operate in cases where credit is necessary to increase or maintain U.S. exports and where private U.S. financial institutions would be unwilling to provide financing without CCC's guarantee. The programs are operated in a manner intended not to interfere with markets for cash sales."

Now I will tell you how the program is actually working and how I learned about it.

In September, I attended the National Association of State Departments of Agriculture (NASDA) annual meeting where I participated in the World Trade Subcommittee. At that meeting, a proposed resolution was presented by the State of Missouri. I have attached a complete copy of the proposed resolution as Exhibit A to my testimony. In summary, the Missouri document stated that although low interest loans and credit guarantees are being issued for a three year repayment period, the Mexican buyers are in fact allowed only 180 days to repay the debt. The document further stated that instead of forwarding the payment to the U.S. bank which is accruing interest at the low LIBOR-plus-spread rate, the Mexican bank keeps the payment until the scheduled installment payments come due and lends or invests the balance in the Mexican economy at interest rates of 25 to 30 percent.

The document went on to say that this is a result of an "unwritten agreement" among Mexican bankers and is "simply the cost of doing business in Mexico and insuring current levels of grain exports are maintained." Missouri argued, however, that if Mexican banks would allow importers extended credit terms as intended by the GSM-102 program that grain producers in the United States would have more buyers and more sales.

No one at the World Trade Subcommittee meeting was independently aware of these practices, and we were puzzled and confused. Rather than taking action on the proposed resolution, we asked a representative of the Foreign Agriculture Service who happened to be at the meeting and who was with the Market Promotion Program to find out if this was the case and report back to me, in my capacity of Chair of the Grains and Oilseeds Subcommittee of the U.S./Canada Agriculture Accord.

On October 22, I received a letter from the Foreign Agriculture Service of the USDA responding to the issue first pointed out by Missouri. To my complete surprise, the FAS acknowledged that Mexican banks were not passing on longer credit terms to importers under the GSM-102 program and that the FAS was already aware of the issue based on recent staff visits to Mexico. To my further surprise, the FAS letter also stated that the FAS did not intend to make any changes to the operation of the program.

The complete text of the FAS letter is as follows:

Dear Ms Vogel:

Ms. Suzanne Hala of our agency has asked me to reply directly to you regarding an issue you raised with her at the recent NASDA convention in Waterville, New Hampshire. At that time, you forwarded the attached comments from Missouri regarding USDA's Export Credit Guarantee program for Mexico.

We share your desire to see an increase in U.S. grain exports to Mexico and have taken note of your concern that Mexican banks are not passing on longer credit terms to importers under the GSM-102 program. Mexican importers also made us aware of this issue during recent staff visits to Mexico.

There are several reasons, however, why we believe that exerting the type pressure you suggest might be counter-productive. First, our ability to expose CCC to more than \$1 billion of Mexican debt annually depends on a back-up guarantee, called a Credit Guarantee Assurance, issued by the Government of Mexico (GOM). That

guarantee puts the backing of the GOM behind the Mexican banks which agree to borrow from U.S. banks financing the program's exports. U.S. Government intervention into Mexico's internal activities might cause the GOM, which is already reluctant to guarantee their private banks, not to give the guarantee at all, particularly under the current climate of bank privatization. Without the GOM guarantee, we would be forced to operate the program strictly on the strength of the individual participating Mexican banks, which would result in a significantly smaller program.

Second, in our management of the program, we have been careful not to take any actions that would shift the burden of the foreign exchange risk that is usually factored into the loan agreement between the importer and the foreign bank. As the program currently operates in Mexico, the foreign exchange risk is taken almost totally by the Mexican banks. Changes in the credit terms extended to importers might result in Mexican banks passing on the cost of the additional risk to importers in the form of even higher interest rates.

Third, we are reluctant to make any changes in the GSM-102 program that do not clearly lead to the

program fulfilling its two main purposes: 1) to aid in the expansion of U.S. agricultural exports, and 2) to compete against foreign agricultural exports (see attached copy of Federal Register Vol. 56 No.109 Subpart A). [56 Fed. Reg. 25999, June 6, 1991]

And finally, in FY 1993, USDA announced \$1.460 billion in GSM 102/3 credit guarantees to Mexico. Of that total, \$1.346 billion of sales were registered under the program. As the program is currently operated, over 92 percent of the guarantees made available are being used. Thus, the program has been fulfilling its purpose as defined by law.

We believe that under the current Mexican bank privatization climate it would be unwise for us to make major changes in how we operate the Mexico GSM-102 program. We do not plan to make any major program changes until we can see the full impact of the privatization process on the Mexican banking sector.

We thank you for your interest in the GSM-102 program. We will continue to monitor the program closely with your views in mind.

Sincerely,  
/S/  
Kerry Reynolds  
Director  
Program Development Division

I read this letter late on Friday, and spent most of Saturday and Sunday in the law library and reviewing what materials I had regarding the GSM-102 program in Mexico. Early the next week, I sent a report to NASDA and to Missouri. However, I want to stress that I am testifying only on my own behalf today.

Before analyzing the FAS letter, I will first share with the Committee some of the key facts and law regarding the operation of the GSM-102 program.

#### MEXICO'S USE OF THE GSM-102 PROGRAM

First, even though the available GSM-102 credit terms go from six months to three years, the way the program works in Mexico is that buyers are all provided with three year terms, with annual payments, except for forest products which have a 720 day term, with two half payments.  
(Source: Armando Falcon, Committee staff member, based on an

interview with the FAS.)

It is significant that the fee structure for the issuance of guarantees rises sharply with the length of the guarantee. The lowest fees apply to the six month term and the highest fees are charged on the three year term with an annual payment. On a six month loan, the fee is 15.3 cents per \$100 of guarantee. On a three year loan with a three annual installments, the fee is 66.3 cents per \$100 of guarantee. (Source: FAS Program Announcement, GSM-92-6, July 24, 1992) The difference of 51 cents per \$100 is a significant cost to U.S. exporters whose customers do not receive the extended term. For example, the extra cost on the \$1.341 billion issued in 1993 amounts to \$6,839,100. On a \$1,000,000 sale, the extra expense would be \$5100 up front.

Second, Mexico is by far the largest user of the GSM-102 program in the world. In 1993, USDA allocated \$1.450 billion to Mexico (of this amount, \$1.321.2 billion was used). Source: USDA, Commitment Report for Fiscal Year 1993, Oct. 1993, p. 6) This allocation represented 29 percent of the \$5 billion for the entire GSM-102 program. Similarly large allocations were made in fiscal years 1992 and 1991 of \$1.225 billion.

Assuming that one-third of the 1991 principal is outstanding, two-thirds of the 1992 principal is outstanding, and all of the 1993 principal is outstanding, it may be estimated that the United States has approximately \$2.546 billion in outstanding guarantees relying on repayment from Mexican buyers and their banks. (The FAS should have the exact amount of outstanding guarantees readily available to this Committee because Congress has required the FAS to have a "centralized system to permit the Foreign Agriculture Service to provide the history and current status of any proposal." 7 U.S.C. 5663(d)(2).)

Third, sales guaranteed by the GSM-102 program constitute a large percentage of our sales of commodities to Mexico. According to the U.S. Bureau of the Census Trade Data report, bulk and intermediate agriculture commodity sales to Mexico totalled \$2.02 billion in calendar year 1991 and \$2.51 billion in calendar year 1992. In other words, approximately 50 to 60 percent of our recent sales to Mexico could not have occurred without GSM-102 program guarantees. (This is not an exact estimate because the GSM program operates on a fiscal year, cannot be used for all bulk and intermediate products, and a small portion of the program can be used for consumer oriented products, such as almonds, table eggs, and fruit. FAS analysts would be able to provide the exact percentages of GSM-102 supported sales for each commodity and overall.)

The high percentage of sales that would not occur but for the GSM-102 program and the \$1 billion guarantee from the Mexican

Government back to the Mexican banks carries serious implications for the NAFTA debate. Increased opportunities for sales of agriculture products is frequently given as a reason to support NAFTA. If it is the case that many of our present sales could not occur but for the GSM-102 program guarantee and the Government of Mexico guarantee of the banks participating in the GSM-102 program, it is likely that at least in the near future any overall growth in actual sales would probably require even more USDA and Government of Mexico guarantees. On the U.S. side, any increases for Mexico would require reallocation from other countries' shares, or an increase in the available GSM-102 authority. If Mexico is already reluctant to shore up the privatized banks, it would seem unlikely that it will extend further credit in addition to the \$1 billion already committed.

#### LEGAL SAFEGUARDS ON THE GSM-102 PROGRAM

In addition to these facts, it is also necessary to review some of the legal safeguards that Congress imposed on the GSM-102 program in the wake of the devastating abuse of the program in connection with military purchases by Iraq using the GSM-102 program and the billions of unsound loans made to Iraq in connection with the Banca Nazionale de Lavoro scandal. Even before the full extent of the scandal was known, Congress in the 1990 Food, Agriculture, Conservation and Trade Act (the 1990 Farm Bill) sought to impose tough new requirements to prevent any future misuse of the program.

As stated in the Senate Report on the Farm Bill:

The implementation of several of the most successful trade programs has recently come under fire. The Office of Inspector General, USDA, has issued a report critical of the Export Enhancement Program. The General Accounting Office has issued reports critical of that program as well. The GAO has also been critical of the operation of the Targeted Export Program, the Export Credit Guarantee Program, and the management of the Foreign Agriculture Service, in general.

Although this criticism does not require a dismantling of these programs, it does indicate a need for a clearer statement of Congressional intent and purpose.

This bill, therefore --

...

(4) establishes clear, concise guidelines for the implementation and evaluation of commercial trade programs. S.Rep. 101-357, 1990 U.S. Code Cong. & Adm. News, p. 4844.

Among the new requirements added in 1990 were a new emphasis that the overall goal was to "increase opportunities for United States farms and agricultural enterprises", 7 USC 5601, as well as new sections to prohibit the use of the programs for foreign aid, foreign policy or debt rescheduling purposes, to prohibit corrupt payments, to reduce likelihood of default, to impose tough new sanctions and other provisions to ensure integrity and honesty. Some of the specific provisions are:

7 USC 5622(e) Restrictions on use of credit guarantees.

Export credit guarantees authorized by this section shall not be used for foreign aid, foreign policy, or debt rescheduling purposes.

7 USC 5622(f) Restrictions

The Commodity Credit Corporation shall not make credit guarantees available in connection with sales of agricultural commodities to any country that the Secretary determines cannot adequately service the debt associated with such sale.

7 USC 5661. Program controls for export programs.

(a) Arrival certification

With respect to commodities or other assistance provided, or for which financing or credit guarantees are made available, under the programs authorized in sections 5621, 5622 [the GSM-102/103 programs], and 5651 of this title, the Commodity Credit Corporation shall --

...  
 (2) obtain certification from the seller or exporter of record of such commodities, that there were no corrupt payments or extra sales services, or other items extraneous to the transaction provided, financed, or guaranteed in connection with the transaction, and that the transaction complied with applicable United States law.

...  
 (c) Good faith

The failure of an exporter, seller or other person to comply with the provisions of this section shall not affect the validity of any credit guarantee or other obligation of the Commodity Credit Corporation under the programs under this chapter with respect to any exporter, seller, or person who had no knowledge of such failure to comply at the time such exporter, seller or person was assigned the credit guarantee or at the time the Corporation entered into such obligation.

Section 5662. Compliance provisions.

(1) In general

In the administration of the programs established under sections 5621, 5622, 5623 and 5651 of this title the Secretary shall require by regulation each exporter or other participant under the program to maintain all records concerning a program transaction for a period of not to exceed 5 years after completion of the program transaction, and to permit to have the Secretary to have full and complete access, for such 5-year period, to such records.

(2) Nonprogram transactions

The Secretary may require by regulation an exporter or other participant in the programs to make records available to the Secretary with respect to nonprogram transactions if such records would pertain directly to the review of program-related transactions undertaken by such exporter or participant, as determined by the Secretary.

(3) Confidentiality

The personally identifiable information contained in reports ... may be withheld in accordance with section 552(b)(4) of Title 5. ... Nothing in this subsection shall be construed to authorize the withholding of information from Congress.

(b) Violation

If any exporter, assignee, or other participant has engaged in fraud with respect to the programs authorized under this chapter, or has otherwise violated the requirements under this chapter, the Commodity Credit Corporation may --

(1) hold such exporter, assignee, or participant liable for any and all losses to the Corporation resulting from such fraud or violation;

(2) require a refund of any assistance provided to such exporter, assignee, or participant, plus interest, as determined by the Secretary; and

(3) collect liquidated damages from such exporter, assignee, or participant in an amount determined appropriate by the Secretary.

The provisions of this subsection shall be without prejudice to any other remedy that is available under any other provision of law.

(c) Suspension and debarment

The Commodity Credit Corporation may suspend or debar for 1 or more years any exporter, assignee, or other participant ... if the Corporation determines, after opportunity for a hearing, that such exporter, assignee or other participant has violated the terms and conditions of the program or of this chapter



and that the violations are of such a nature as to warrant suspension or debarment.

(d) False certification

The provisions of section 1001 of Title 18 shall apply to any false certifications issued under this chapter.

Section 5663. Departmental administrative system.

(a) In general

With respect to each commercial export promotion program of the Department of Agriculture or the Commodity Credit Corporation, the Secretary shall --

- (1) specify by regulation the criteria used to evaluate and approve proposals for that program;
- (2) establish a centralized system to permit the Foreign Agriculture Service to provide the history and current status of any proposal;
- (3) provide for regular audits of program transactions to determine compliance with program objectives and requirements; and
- (4) establish criteria to evaluate loans eligible for guarantees by the Commodity Credit Corporation, so as to ensure that the Corporation does not assume undue risk in providing such guarantees.

Interim final regulations were issued in June, 1991 to incorporate the new provisions of the law. For the most part, the regulations follow the provisions of the amendments. See 7 CFR Part 1493, 56 Fed.Reg. 25998 (June 6, 1991).

#### ANALYSIS OF THE FAS LETTER

The first reason provided by FAS for keeping the Mexico GSM-102 program unchanged starts with the statement that if the operation of the program were changed, the U.S. taxpayer would be unable to guarantee more than \$1 billion of Mexican debt because the Mexican government "might" withdraw its back-up Credit Guarantee Assurance.

No explanation is provided as to why the U.S. government should prefer to guarantee more than \$1 billion annually of Mexican debt, rather than less than \$1 billion.

Moreover, the response begs the question as to why the FAS does not insist on a six month guarantee if the actual terms are six months. Issuing a six month guarantee to back a six month loan would sharply reduce the credit risk and exposure of the United States to default by the Mexican buyers and their banks. One of the directives Congress gave in the 1990 FACT Act is that the program be operated "so as to ensure that the Corporation [the CCC]

does not assume undue risk in providing such guarantees." 7 USC 56629(d)(4). It certainly seems to me that the CCC assumes undue risk when its guarantee extends two and a half years after the underlying loan is repaid.

In my opinion, the credit risk could be very substantial. Mexico, after nationalizing its banks in 1982, recently decided to privatize them. In June, 1991, the first of the 18 banks was sold by the federal government and the final bank was sold in July, 1992. These banks sold for more than was expected and it is a legitimate question as to how soundly capitalized they are and how strongly managed. This is implicitly acknowledged by the FAS in that it admits that without the \$1 billion dollar guarantee from the government of Mexico "we would be forced to operate the program strictly on the strength of the individual participating Mexican banks, which would result in a significantly smaller program." (For another discussion about the risks in Mexican banking under the privatized system, see "Mexico's Bank Privatization Gamble" by Scott B. MacDonald, reprinted in the Congressional Record at the request of Chairman Gonzalez, February 22, 1993, H 743. The author is an official in the Office of the Comptroller of the Currency, expressing his personal views.)

Another way to reduce risk would be to examine whether some of the sales should more properly be cash sales. The regulations are quite clear that the GSM program is not intended to become a substitute for cash transactions. See, 7 CFR 1493.6(a)(2): "The programs operate in cases where credit is necessary to increase or maintain U.S. exports and where private U.S. financial institutions would be unwilling to provide financing without CCC's guarantee. The programs are operated in a manner intended not to interfere with markets for cash sales. ..." If the Mexican buyers are repaying within six months, it may be quite possible that some buyers are capable of paying cash.

It is startling to me that FAS deems a requirement that three year payment terms be honored as an "intervention into Mexico's internal activities". Certainly requiring adherence to U.S. law and policy on a U.S. program involving exposure of the U.S. government to billions of dollars of potential loss is not an "intervention into Mexico's internal activities."

In fact, failure to address this issue flies in the face of Congressional directive to reduce "undue risk."

FAS is also disregarding the fact that the applications for guarantee must contain the "term length for the credit being extended, the intervals between principal payments for each shipment to be made under the export sale, and the estimated principal payment due dates and amounts due." 7- CFR 1493.40(a)(15). While the U.S. sellers and their bankers may be unaware of the fact that the stated three year loans are in fact

six month loans, it is hard to understand why FAS would ignore the Congressional directives to take firm enforcement action on false statements.

The second reason given by FAS is its concern that Mexican banks might raise their interest rates to Mexican importers because of foreign exchange risks. FAS more properly should be concerned about the exposure of the CCC to an extra two and a half years of credit risk. In essence the FAS is stating that the Mexican buyer would prefer a six month extension of credit rather than a three year loan at a potentially higher rate. This choice might more properly be left to the buyer, as the program offers six month to three year options. Furthermore, if the foreign exchange risk is so serious, the administration should be more forthcoming about this concern in connection with the NAFTA debate.

The third reason proffered by FAS is that it wishes to make no change that would not achieve the two main purposes of the GSM-102 program -- aiding in the expansion of U.S. agriculture exports, and competing against foreign agriculture exports. This "reason" begs the question. It also ignores the request of the Missouri Department of Agriculture which stated:

[I]f the CCC in concert with the other United States agricultural officials applied pressure on the Mexican banks to loosen their unwritten agreement and allow importers extended credit, it would benefit the grain producers in the United States. Grain producers would benefit as more Mexican livestock producers would be induced to import grain directly, as opposed to the current channels.

Moreover, these potential Mexican importers are seeking opportunities to purchase from smaller elevators and shippers that are capable of exporting, but not currently involved in Mexico. But before these parties actually make commitments, they want to have access to longer credit terms than the original intent of the GSM-102 program was to provide. (See Exhibit 1 for full text)

It is not disputed that Mexico is allowing its buyers only six months to repay. However, the intent of the GSM-102 program is to add to existing cash sales by allowing repayment terms of up to three years. It seems very possible that some of the present buyers who are paying within six months may in reality be capable of cash purchases. It is also likely that many potential Mexican buyers who do need the three year repayment terms are de facto excluded from the program.

In any event, FAS has missed the point that, in addition to the goal of expanding sales and competing with other countries,

Congress has also requested that the program be run in accordance with the directives that it operate to benefit the U.S. farmer and exporter and their foreign customers, in an honest manner and without unnecessary risk to the U.S. taxpayer.

The fourth reason proffered by FAS is a non-sequitur: because the program uses 92% of the available money, it is fulfilling its purposes.

The concluding paragraph of the FAS letter, in my opinion, gets to the heart of the matter:

We believe that under the current Mexican bank privatization climate it would be unwise for us to make major changes in how we operate the Mexico GSM-102 program. We do not plan to make any major program changes until we can see the full impact of the privatization (sic) process on the Mexican banking sector.

Nowhere in the legislative history of the GSM-102 program does assisting, shoring up or enriching the private banking system of Mexico appear as a goal of the program.

In fact, the opposite is true: Congress clearly stated that the CCC was not to run the program for foreign aid, foreign policy or debt restructuring purposes. 7 USC 5622(e) Allowing Mexican banks to keep and profitably invest billions of dollars intended to be applied to U.S. guaranteed loans for up to two and a half years after the buyer made payment to the Mexican bank is wrong. There is no justification for such abuse of the program.

It is "black letter law" that payment of a debt extinguishes the guarantee. As stated at 38 Am Jur 2d, Guaranty, Section 78, Satisfaction of principal obligation, "If there is no debt or principal obligation the payment of which is guaranteed, there can be no contract of guaranty, and hence, if the obligation of the debtor has been paid or otherwise satisfied, the guarantor's obligation is terminated." Moreover, it is also "black letter law" that release of security by a creditor will discharge the guarantor. As stated at 38 Am Jur 2d, Guaranty, Section 84, "Release of security", "Where the creditor, having had other security for payment of the debtor's obligation, releases or diverts that security, the guarantor is generally discharged to the extent of the value of the collateral released or diverted." However, if the guarantor has consented to the release or diversion of the security, he is not released. ID.

The FAS even though it is aware of the fact the Mexican buyers have provided full payment to their Mexican banks within six months is allowing the Mexican bank to adhere to the three annual payment

schedule. This acquiescence exposes not only the CCC to unnecessary risk of default, but also the U.S. banker which retains risk for 2 percent of the principal amount and whatever portion of the interest that is in excess of the eligible interest rate allowed by CCC.

The FAS is also allowing the recently privatized Mexican banks to make a lot of money at U.S. taxpayers' expense.

In essence, the FAS is allowing Mexican banks to use "arbitrage" on a massive scale. On a \$1 million loan, for example, the Mexican bank would be repaid by the Mexican buyer the equivalent of \$1 million after six months. For the next six months, it could lend \$1 million at 25 to 30 percent on home, car, or business loans in Mexico. After one year, it would make a payment of \$333,333 in principal and interest at the low LIBOR based rate to the U.S. bank. It could lend the remaining \$666,666 for another year at 25 to 30 percent (or the current Mexican interest rate.) After the second year, it would make another payment of \$333,333 and related LIBOR based interest. It could then invest the remaining \$333,333 for a final year at 25 to 30 percent (or the current Mexican interest rate) before it made the final payment.

I fail to see how this scheme to enrich the Mexican bankers is different in kind or different in spirit from the extra sales services or corrupt payments that were endemic in the operation of the GSM-102 program in Iraq.

The irony is that the 1990 law and 1991 regulation require the exporter to certify "that there were no corrupt payments or extra sales services, or other items extraneous to the transaction provided, financed, or guaranteed in connection with the transaction, and that the transaction complied with applicable United States law." 7 USC 5661(a)(2); 7 CFR 1493.50(b). In this instance, however, the exporter may be completely unaware of the Mexican banks' early payment requirement, while the officials of the FAS and CCC are fully aware of these practices but choose to do nothing. It is of course possible, and perhaps even probable, that some of the large U.S. exporters and their bankers are fully aware of the Mexican bankers' early payment requirements. If so, they are probably also aware of the fact that the FAS and CCC condone the practice.

I cannot help but speculate that FAS' zeal to defend what I believe are indefensible practices by Mexican banks is more closely related to promotion of NAFTA and President Salina's economic reforms, than a desire to stimulate exports to Mexico of U.S. agriculture commodities. It further appears that the GSM-102 program is being run to assist the economic needs of Mexico and to provide very thinly veiled help to pay Mexico's external debt that was recently restructured under the Brady Plan.

This "kid glove" treatment of Mexican banks is in stark contrast to USDA's treatment of U.S. farmers and agriculture lenders. Last year, the U.S. provided \$1.341 billion in GSM-102 guarantees which primarily benefitted 17 Mexican banks, while it provided only \$1.43 billion in FMHA guaranteed operating loans to all U.S. farmers through U.S. banks. We allowed only \$235 million in low cost "interest assist" operating loan guarantees to all United States farmers through U.S. banks. Moreover, while we offer 98 percent guarantees on uncollateralized debts by Mexican banks, we offer only 90 percent guarantees to American banks if they are fully collateralized. On a FMHA guaranteed loan, the American banker that receives a payment from an American farmer must apply the payment first to the guaranteed portion of the loan, and then to the non-guaranteed portion of the loan. The penalties for fraud, dishonesty, default, or misapplication of funds for American bankers and farmers are harsh and they are enforced. A review of the Office of Inspector General files or United States Attorneys files in any state will confirm that fact.

Moreover, when we consider the Omnibus Budget Reconciliation Act (OBRA) cost estimates, we spend more on GSM-102 export credit guarantee programs than we do on American farmers. The OBRA cost of the GSM-102 program is annually around \$156 million (Source: USDA Budget Summary, 1992). In dismal contrast, we spend only \$18 million on guaranteed operating loans to American farmers and only \$19 million on interest assist guaranteed operating loans. It seems to me that our priorities are wrong. I'm not saying that support for our export credit guarantee programs should be lessened, but I am saying that if we devote such a large share of them to exports we must ensure that they are actually being used for proper purposes. Our farmers and our citizens deserve no less.

As I see my North Dakota farmers facing the threat of loss of their homes, their farms and their future, due to repeated years of drought, flood, low prices and the pressures of unfair Canadian sales of durum and wheat, I am dismayed. As I see cuts in worthwhile domestic agriculture programs because we have to save money, I am dismayed. But I am outraged that scarce resources are used to prop up Mexican banks.

In conclusion, I urge this Committee to explore these key questions:

\* whether U.S. exporters should be given a refund on the fees that they have paid to enable their Mexican customers to enjoy the benefits of three year credit terms that they were unable to receive?

\* whether Mexican buyers who have paid within six months should have been deemed ineligible for the GSM-102 program because they were capable of cash purchases?

\*whether some potential Mexican buyers have been deterred from purchases of U.S. farm products because they in fact need extended credit terms of up to three years?

\*whether the guarantees of the CCC should under U.S. law be deemed extinguished by virtue of the fact that they underlying debt obligation was paid by the Mexican buyer? (It is important in this regard to recall that the guarantee cannot be invalidated "with respect to any exporter, seller, or person who had no knowledge of such failure to comply at the time such exporter, seller or person was assigned the credit guarantee or at the time the Corporation entered into such obligation. 7 USC 5661(c).)

\*whether the practice of extending three year loan guarantees through Mexican banks that require six month or less repayment terms of their buyers should be continued?

I have appreciated the opportunity to be with you today. I would be pleased to answer any questions you may have.

## Credit Guarantee Programs Help Open Doors in Mexican Marketplace

AgExporter March 1991 13

## EXHIBIT A

By Bobby G. Richey and Lynne Reich

Mexico's large external debt sometimes makes this market more "risky" than the private U.S. banking community would like. But U.S. exporters with an eye on the Mexican marketplace can often find credit help available from the U.S. government.

Because Mexico offers such good long-term growth potential for U.S. agricultural exporters, the country is the largest beneficiary of USDA credit guarantee programs. In fiscal year 1990, USDA allocated over \$1.5 billion to underwrite private bank credits extended to Mexican importers of U.S. food and farm products. This was the biggest guarantee total for any country in the world.

### Two Programs Available

USDA operates two separate credit guarantee programs in Mexico. Short-term credit guarantees, which cover loans with terms of six months to three years, are available under the GSM-102 program.

This program underwrites letters of credit issued by Mexican banks to pay for imports from the United States. USDA itself is not the lender—it merely provides backup guarantees for the U.S. exporter and the private U.S. banking community in case of a default on a loan. However, such protection helps U.S. exporters and banks to be more flexible and competitive when exploring new sales opportunities in Mexico.

During fiscal year 1991, USDA has allocated \$1.225 billion to underwrite short-term credits for selected U.S. products sold to Mexico.

The products covered include: corn (yellow and/or white and bulk popcorn); coarse grains (barley for feed and malting, sorghum and oats); pulses (dry edible beans, peas and lentils); wheat; rice; barley malt; oilseeds (soybean, cottonseed, peanut, flaxseed and sunflowerseed); protein meals (soybean, corn gluten, meat and bone, cottonseed and sunflowerseed); vegetable oils (cottonseed, corn, peanut, soybean, linseed and sunflowerseed); tallow, greases and lard; solid wood products (plywood, lumber and railroad ties); wood

pulp and wood chips; frozen or chilled meat (beef, pork, poultry and offals); hides and skins; and planting seeds.

U.S. exporters, private Mexican buyers or the Mexican government who are interested in participating in the program should submit requests to USDA for guarantee coverage. All requests for credit guarantees must specify, if available, the Mexican bank which will issue the necessary letter of credit and the quantity, value and export period for the commodity.

The guarantee coverage becomes effective only after the U.S. exporter has registered a sale with USDA's Foreign Agricultural Service and has shipped under an irrevocable letter of credit.

USDA also operates another program that provides credit guarantees for sales to Mexico for terms of over three to seven years. Known as GSM-103, this program encourages exports of products with longer economic lifetimes, such as breeding livestock. USDA is considering a GSM-103 program for sales of U.S. breeder livestock in fiscal year 1991.

### Broadening Credit Coverage

Until recently, USDA credit guarantee programs have focused on sales of bulk agricultural commodities. However, there is interest in expanding and increasing coverage for high-value products. Since 1988, meats, table eggs, hides and skins and wood products have been added to the credit lines.

U.S. exporters who have identified a particular high-value market in Mexico but need to arrange credit to finalize the sale should contact the Agricultural Section at the U.S. Embassy in Mexico City. If the proposed sale would help develop a long-standing commercial relationship, the Agricultural Section will try to assist exporters whenever possible.

Exporters who want general information on how FAS' credit guarantee programs work may call or write

CCC Operations Division  
Foreign Agricultural Service  
U.S. Department of Agriculture  
Room 4503 South Building  
Washington, DC 20250-1300  
Tel. (202) 447-8211. ■

Richey is a U.S. agricultural attache in Mexico City; Reich is an agricultural specialist with the Program Development Division, FAS.

Short-Term Guarantees Available in 17 Product Groupings	
Commodity Group	\$ Million
Corn	350.0
Coarse grains	250.0
Oilseeds	180.0
Wheat	70.0
Protein meals	60.0
Tallow, greases, lard	50.0
Rice	45.0
Wood pulp and chips	55.8
Solid wood products	32.5
Pulses	30.0
Vegetable oils	20.0
Frozen or chilled meat	15.0
Barley malt	15.0
Hides and skins	10.0
Table eggs	5.0
Nonfat dry milk	1.0
Planting seeds	1.0
<b>Total</b>	<b>1,175.0</b>

Additional operational details for the remaining 850 million will be issued later in



## EXHIBIT B

CCC Guarantee Program: Payment Guarantee Commitments by Country for GSM-102

September 30, 1993

Page 6

Country / Commodity (Credit Period - Mos.)	Announced Allocations FY 1993	Exporter Applications Received	Balance	Final Shipment Date 3/	Coverage of Add'l Costs (C&F&/or C/I)
-- coverage in millions of dollars --					
<b>Malaysia</b>	30.00	0.00	30.00		
Cotton (36)	5.00	0.00	5.00	11/30/93	
Feed Grains* (Incl. Malting Barley) (36)	5.00	0.00	5.00	11/30/93	
Oilseeds (36)	10.00	0.00	10.00	11/30/93	
Protein Meals (36)	2.00	0.00	2.00	11/30/93	
Wheat (36)	5.00	0.00	5.00	11/30/93	
Undesignated	3.00	0.00	3.00		
<b>Mexico</b>	1,450.00	1,341.20	108.80		
Almonds (36)	1.00	0.30	0.70	11/30/93	
Barley Malt (36)	23.00	21.40	1.60	11/30/93	
Breeder Materials (Embryos and Semen) (36)	0.50	0.00	0.50	11/30/93	
Coarse Grains (Barley, Sorghum and Oats -- Incl. Malting Barley) (36)	350.00	334.40	15.60	11/30/93	
Corn (Yellow and/or White and Bulk Popcorn) (36)	34.00	29.10	4.90	11/30/93	
Corn Products (Incl. Hominy Feed and Distillers Dried Grain - 100% Corn) (36)	1.00	0.00	1.00	11/30/93	
Cotton (36)	45.00	45.00	0.00	11/30/93	
Eggs, Table (36)	4.00	1.80	2.20	11/30/93	
Fruits, Fresh (Apples, Pears, Plums, Peaches, Nectarines, Strawberries) (36)	2.00	1.00	1.00	11/30/93	
Hides and Skins (36)	6.00	2.80	3.40	11/30/93	
Hops (36)	10.00	2.30	7.70	11/30/93	

\* Includes both white and yellow corn.

## CCC Guarantee Program: Payment Guarantee Commitments by Country for GSM-102

September 30, 1993

Page 7

Country / Commodity (Credit Period - Mos.)	Announced Allocations FY 1993	Exporter Applications Received	Balance	Final Shipment Date 3/	Coverage of Add'l Costs (C&F&/or CIF)
-- coverage in millions of dollars --					
<b>Mexico (Cont.)</b>					
Meat, Frozen or Chilled (Sheep, Incl. Mutton and Lamb, Beef, Pork, Poultry, Offals) (36)	90.00	87.00	3.00	11/30/93	
Milk, U.S. (Fluid or Dry - Non-Fat or Whole and U.S. Dry Whey) (36)	2.50	0.30	2.20	11/30/93	
Oilseeds (36)	426.00	426.00	0.00	11/30/93	
Planting Seeds (36)	2.00	0.30	1.70	11/30/93	
Protein Meals (36)	100.00	99.20	0.80	11/30/93	
Pulses (Dry Beans, Peas, Lentils) (36)	2.00	0.40	1.60	11/30/93	
Rice (36)	20.00	16.10	3.90	11/30/93	
Soybean Protein Products (36)	1.00	0.00	1.00	11/30/93	
Tallow, Greases and/or Lard (36)	25.00	23.70	1.30	11/30/93	
Veg. Oils (36)	80.00	73.10	6.90	11/30/93	
Wheat (36)	158.50	111.80	46.70	11/30/93	
Wood Products, Solid (Plywood, Lumber, Railroad Ties and Utility Poles - Incl. Telephone Poles; 720-Days)	30.00	28.90	1.10	11/30/93	
Wood Pulp and/or Wood Chips (720-Days)	36.50	36.50	0.00	11/30/93	
	8.00	0.00	8.00		
<b>Namibia</b>					
Feed Grains* (Incl. Mating Brierly) (36)	4.00	0.00	4.00	11/30/93	
Livestock, Breeder (Incl. Semen and Embryos) (36)	1.50	0.00	1.50	11/30/93	Freight
Planting Seeds (36)	0.50	0.00	0.50	11/30/93	

\* includes both white and yellow corn.

EXHIBIT C

MEL CARMANAH  
GOVERNORSTATE OF MISSOURI  
JEFFERSON CITYJOHN L. BAUNDERS  
DIRECTOR

## Commodity Credit Corporation's GSM 102 Program in Mexico

The Commodity Credit Corporation (CCC) administers the GSM 102 program. This program provides loan guarantees to the banks of United States grain exporters.

The program allows importers of grain in Mexico, with passed through credit to Mexican banks, to make purchases at much lower interest rates than the prevailing costs of such loans. Currently bank interest rates in Mexico are between 25-30% while grain importers who are able to access the GSM 102 program, through U.S. grain exporters, are only charged 7-9%.

While the GSM 102 program certainly provides lucrative opportunities to some Mexican grain importers, the true intended benefits of the program are not reaching all of the potential grain importers. As the program is implemented in Mexico the CCC provides the loan guarantee for between 1-3 years, yet Mexican importers receive no more than 180 days credit from their lending institutions. This 180 day payment period is the result of unwritten agreements among Mexican bankers.

From the CCC's viewpoint it acknowledges that the full benefit of the GSM 102 program is not reaching all potential Mexican grain importers. The extended benefit the Mexican banks receive from an additional six months to two years they are allowed to hold guaranteed funds and reloan at interest rates of 25-30% is simply the cost of doing business in Mexico and insuring current levels of grain exports are maintained.

However, if the CCC in concert with the other United States agricultural officials applied pressure on the Mexican banks to loosen their unwritten agreement and allow importers extended credit, it would benefit the grain producers in the United States. Grain producers would benefit as more Mexican livestock producers would be induced to import grain directly, as opposed to the current channels.

Moreover, these potential Mexican importers are seeking opportunities to purchase from smaller elevators and shippers that are capable of exporting, but not currently involved in Mexico. But before these parties actually make commitments, they want to have access to longer credit terms that the original intent of the GSM 102 program was to provide.

*AgriMissouri*

DIVISION OF MARKET DEVELOPMENT  
P.O. Box 630 Jefferson City, MO 64102-0630  
\*WX 916-7802452 (ATTN: MGDADMIN/DEV) \*  
FAX: (314) 781-1548

Telephone: 314-781-1813

1818 Missouri Boulevard



United States  
Department of  
Agriculture

Foreign  
Agricultural  
Service

Washington, D.C.  
20250



EXHIBIT D

OCT 20 1993

Ms. Sarah Vogel  
Commissioner  
North Dakota Department  
of Agriculture  
600 East Boulevard, 6th Floor  
State Capitol  
Bismarck, ND 58505-0020

Dear Ms. Vogel:

Ms. Suzanne Hale of our agency has asked me to reply directly to you regarding an issue you raised with her at the recent NASDA Convention in Waterville, New Hampshire. At that time, you forwarded the attached comments from Missouri regarding USDA's Export Credit Guarantee program for Mexico.

We share your desire to see an increase in U.S. grain exports to Mexico and have taken note of your concern that Mexican banks are not passing on longer credit terms to importers under the GSM-102 program. Mexican importers also made us aware of this issue during recent staff visits to Mexico.

There are several reasons, however, why we believe that exerting the type pressure you suggest might be counterproductive. First, our ability to expose CCC to more than \$1 billion of Mexican debt annually depends on a back-up guarantee, called a Credit Guarantee Assurance, issued by the Government of Mexico (GOM). That guarantee puts the backing of the GOM behind the Mexican banks which agree to borrow from U.S. banks financing the program's exports. U.S. Government intervention into Mexico's internal activities might cause the GOM, which is already reluctant to guarantee their private banks, not to give the guarantee at all, particularly under the current climate of bank privatization. Without the GOM guarantee, we would be forced to operate the program strictly on the strength of the individual participating Mexican banks, which would result in a significantly smaller program.

Second, in our management of the program, we have been careful not to take any actions that would shift the burden of the foreign exchange risk that is usually factored into the loan agreement between the importer and the foreign bank. As the program currently operates in Mexico, the foreign exchange risk is taken almost totally by the Mexican banks. Changes in the credit terms extended to importers might result in Mexican banks passing on the cost of the additional risk to importers in the form of even higher interest rates.

Third, we are reluctant to make any changes in the GSM-102 program that do not clearly lead to the program fulfilling its two main purposes: 1) to aid in the expansion of U.S. agricultural exports, and 2) to compete against foreign agricultural exports (see attached copy of Federal Register Vol. 56 No. 165-- Subpart A). These objectives are the driving forces behind GSM-102 programming decisions.

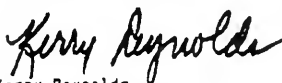
-2-

And finally, in FY 1993, USDA announced \$1.450 billion in GSM-102/3 credit guarantees to Mexico. Of that total, \$1.346 billion of sales were registered under the program. As the program is currently operated, over 92 percent of the guarantees made available are being used. Thus, the program has been fulfilling its purpose as defined by law.

We believe that under the current Mexican bank privatization climate it would be unwise for us to make major changes in how we operate the Mexico GSM-102 program. We do not plan to make any major program changes until we can see the full impact of the privatization process on the Mexican banking sector.

We thank you for your interest in the GSM-102 program. We will continue to monitor the program closely with your views in mind.

Sincerely,



Kerry Reynolds  
Director  
Program Development Division

November 7, 1993

The Honorable  
Henry B. Gonzalez  
Chairman  
Committee on Banking  
2129 Rayburn House Office  
Building  
Washington DC 20515

Dear Chairman Gonzalez:

I acknowledge receipt of your letter inviting me to testify before your committee tomorrow, November 8, 1993. I also acknowledge the fact that the committee has issued a subpoena compelling me to appear before your panel.

As you know, I am under legal constraints as to what I may say about my experiences unless and until I am before your committee. Therefore in response to your request for a written statement I ask that you accept my October 15, 1993 letter to President Bill Clinton. I may supplement this document with other materials at the time of my appearance.

Yours very sincerely,

Kaveh Moussavi

*Kaveh Moussavi*

October 15, 1993

The President  
The White House  
1600 Pennsylvania Avenue, N.W.  
Washington, DC 20500

My dear Mr. President,

I am writing about your government's important and ongoing efforts with respect to the North American Free Trade Agreement. Until February of this year, I was IBM Corporation's political agent in Mexico and have considerable exposure to the realities of doing business in that country.

The NAFTA has been held forth as a way of bringing Canada, the U.S. and Mexico closer together by uniting the three markets in a "free trade" zone. However, my experience in Mexico over the past several years gives me great doubts as to whether Mexico's current government is capable or willing to abide by the most basic rules of civilized behavior, much less adhere to the many legal and political requirements set forth in the NAFTA.

I have represented American and other foreign companies in Mexico and other developing countries for many years. This experience leads me to draw your attention to important issues with respect to public procurement that have a direct bearing on whether Mexico can or will live up to its commitments within the broader framework of the NAFTA. I speak in particular about the bidding process which Mexico began last August in order to upgrade that country's air traffic control system. The urgency of the task was underlined by the fact that in Mexico City alone the volume of daily traffic has grown, from less than 100 landings per day in 1988 to the present level of over 500 landings per day.

In November of last year, after the first round of bids for the new equipment had been submitted by a number of foreign companies, I was approached by three individuals who, without a shadow of a doubt, had extremely close connections to the Ministry of Communications and Transport (SENEAM)

The President  
October 15, 1993  
Page 3

and asked me to pay a \$1 million bribe in order to assure that IBM would win the contract. The men specifically asked that I make a "donation" to the Solidarity or *Pronasol* public works program started by President Carlos Salinas three years before.

I refused the request and ten days later, the Mexican government suddenly and without a meaningful explanation cancelled the tender on the grounds that none of the companies participating had met the necessary technical specifications. A few days later, the Mexican government invited these very same companies to submit new bids for the same project!

The terms and the specifications of the new tender were so dramatically changed that IBM and I had very little doubt that the earlier tender had been cancelled by someone with great political influence who needed a way of reducing their prices to win the deal. There was no question that enormous influence peddling, favoritism and unfair rigging of bids had taken place against my client. This was the explicitly stated opinion of IBM officers who were with me on the scene at the time of the tender.

The contract was awarded to Thomson of France and Alenia of Italy, the traditional winners of the air traffic control contracts in Mexico. Since the contract was awarded it has emerged that Thomson in a matter of days reduced their price by over 50 percent. The Thomson bid for providing computer systems was reduced from \$33 million in November of 1992 to only \$13.2 million in December 1992. As for Alenia a number of its most senior executives subsequently were arrested in Italy on corruption charges involving public contracts -- but, of course, no arrests have occurred in Mexico.

The five losing bidders in the tender for the new air traffic control system were my client, IBM; the Canadian division of Raytheon; Calmaquip Engineering Corp. of Miami, a subsidiary of Westinghouse Corporation; Siemens-Plessey of the UK; and Nissho Iwai Corp. of Japan.

In January, all five companies filed written protests with the Mexican government, saying that the bidding had been mishandled and that their bids had fully met all the required technical specifications. The embassies of the U.S., the UK, and Japan also protested to the Mexican government. The Canadian Trade Minister, Mr. Michael Wilson, formally wrote to then-Transportation and Communications Minister Andres Caso Lombardo, complaining about irregularities in the tender. Based upon my intimate personal knowledge of the bids, I can say that most of the losing proposals submitted were superior to that of the Thomson-Alenia package in technical and financial terms.



The President  
October 15, 1993  
Page 4

Recognizing that the protests had all been brushed aside and that there would be no meaningful investigation by the Government of Mexico, IBM and I decided to go public with our concerns. Apart from the irregularities of the tender, we were anxious about safety aspects of the award and the potential danger to the traveling public.

With the support of IBM, early in 1993 I briefed the *Financial Times* of London and described the events surrounding the bidding for the new air traffic control system for Mexico. This led to the publication of a number of stories on this episode, starting on February 3, 1993. Copies of this and other relevant articles are attached to this letter.

After the publication of the first story, officials of the Mexican government began an extremely hostile public campaign in an attempt to discredit me, the victim of the attempt at bribery! My sole "offense" had been to report an attempted bribe and raise serious questions about the process for procuring a new computer and radar system vital for protecting the safety of tens of thousands of people who travel through Mexican airspace. And yet senior officials of the Mexican government, including then-Minister of SENEAM Andres Caso Lombardo, preferred to attack me on television and in the press, threatening me, the victim, with dire consequences, rather than conduct an investigation into the affair.

In May of this year, I received a copy of a letter dated March 17, 1993 from the technical assessment group inside SENEAM to President Carlos Salinas. The letter made a number of important points:

❖ The letter confirmed suspicions in the air traffic control industry that the Thomson-Alenia system does not function properly and poses a serious hazard to safety. In fact, the system now in use in Mexico City, was also built by an earlier Thomson-Alenia consortium and is said by air traffic controllers, engineers, pilots and others in the field to be operating poorly and at a level comparable to equipment used in the 1960s. The original letter from SENEAM, which is attached to this letter, notes that "the control system installed by Thomson, at the same time that the processing systems were installed, has caused grave problems of operation and compatibility with the other control centers and sub-centers" around Mexico. This fact was also documented by the USAF in 1988.

❖ The SENEAM letter suggested that officials of Thomson and Alenia had made payments and had provided other favors to officials responsible for selecting the air traffic control system. Specifically, it noted the names of several officials in SENEAM that had allegedly been paid in order to ensure that the Thomson-Alenia system was selected. "Awarding the contracts to Alenia and

The President  
October 15, 1993  
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Thomson stemmed from reasons that are far from being either ethical or based on technical justifications," the letter noted. The letter noted that the technical specifications once thought to be of such great importance in winning the tender had been systematically compromised, after-the-fact, in order to accommodate the inferior technical capabilities of the Thomson-Alenia system.

As of the date of this letter there is no indication of a meaningful investigation by the Mexican government into this tawdry and potentially dangerous affair. While SENEAM Minister Caso Lombardo was removed from office shortly after the first stories about this incident appeared in the foreign press he is not under investigation and, indeed, was nominated to become Mexico's ambassador to the UK. Had it not been for the fact that I have filed a defamation action against Caso Lombardo in a UK court and the support for my position by the British Government I am quite sure that he would have been well rewarded by President Salinas in the form of an Ambassadorship in the UK.

Not even the Attorney General of Mexico, Jorge Carpizo MacGregor, who was copied on the March 17 letter from SENEAM, has taken the slightest step to investigate this matter. I also wrote to him and to the new Minister of SENEAM in April requesting an investigation. I have not even received so much as an acknowledgment of my letters. Back in June of this year, with the help of Scotland Yard, I produced and provided the Attorney General composite pictures of the men who attempted to extort a bribe from me. To this day, the pictures have not been released to the press. The excuse offered by the Government of Mexico for the failure to publicize the pictures is that they do not want the men to flee.

My experience working for IBM and other companies in Mexico was unusual because, unlike other foreign businessmen who are victimized by corruption, I decided to protest and do so publicly. My reward for doing the right thing has been a continuous torrent of calumny and libel by officials of the Mexican government and their servants in the government-controlled media. Were it not for the courageous actions of a handful of journalists and business associates in Mexico and the U.S., the details of this case would be buried under a deliberate cover-up by the government of Carlos Salinas de Gortari, much like hundreds of other similar cases.

Apart from the sustained campaign of libel and character assassination engaged in by the Government of Mexico, I have also had to suffer death threats against me and my family. In my own country I have had to obtain special police protection. The government of Mexico has threatened journalists who have tried to interview me. Consular officials of the Mexican government have, in fact,

The President  
October 15, 1993  
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intervened to directly intimidate journalists from Mexico, at least one of whom subsequently lost her job as a result of taking interest in my case. All of these incidents have been brought to the attention of the appropriate UK authorities.

Recognizing that I would not be silenced with threats, the Government of Mexico tried to buy my silence by offering to help me win any other tender that I happened to be involved with in Mexico. In mid-May, a senior official of the Mexican Foreign Ministry, Mr. Eduardo Ibarrola, came to see me in the UK and presented an explicit proposal to bribe me in this manner.

I rejected the attempt to buy my silence with the contempt that it deserved and demanded that the Government of Mexico accept full responsibility for this affair. Specifically, I gave Ibarrola my terms for an acceptable settlement, including (1) a full and public apology by the Mexican Government for its handling of this affair and (2) a full investigation of my allegations. This entire episode was the subject of an extensive expose in the prestigious Mexico City weekly *Proceso*. A copy of the article is appended herewith.

Mr. President, when it comes to public procurement, Mexico is, in my considered and widely-based experience of the Third World, truly one of the most corrupt of such countries. Unlike the forms of protectionism practiced by the European countries and Japan, which generally seek to protect local suppliers and jobs, Mexico's conduct of government procurement is geared almost exclusively towards generating wealth for senior government officials. Indeed, the standard mode of operation in Mexico for public-sector procurement is a microcosm of the system as a whole.

Foreign companies operating in Mexico almost invariably are required to acquiesce in a certain amount of corruption in order to be considered for eligibility for a government contract or tender. Doing business in Mexico requires that foreign companies maintain systems of informal connections, communications and under-the-table deals and payoffs arranged between suppliers and high-level government functionaries, whose sole purpose is to maximize their self-enrichment during the six-year term of each Mexican administration.

While corruption is not an unknown phenomenon in other countries, in Mexico it takes on proportions that make it very difficult for U.S. companies to operate within the norms of U.S. commercial practice in general, and the requirements of the Foreign Corrupt Practices Act in particular. Only in unusual cases are Mexican officials suspect of corruption ever investigated and only in exceptional circumstances are any of them brought to justice. Indeed, as this case illustrates, officials who are in one way or another implicated in a corruption scandal, far from being punished are often rewarded."

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The case I denounced in Mexico was small relative to the totality of public sector purchases in Mexico last year, but I can assure you that this case is only an example of how operations are carried out by other state-sector monopolies, which in turn often benefit from subsidized loans from U. S. agencies such as the Export-Import Bank and the Commodity Credit Corporation of the US Department of Agriculture. Since my case broke onto the scene in February, I have received literally dozens of phone calls and unsolicited documents from other people, many of them Americans who have also experienced serious problems with corruption in Mexico.

I urge your government to ask some very hard questions before proceeding with this trade agreement. For example:

❖ Can American companies do business in Mexico's public sector without paying bribes, directly or indirectly through their agents and front men, to government officials? For example, a case cited by opposition party leader and Mexican Senator Porfirio Muñoz Ledo involves Caso Lombardo himself. The former SENEAM Minister has been a public servant all of his life. Senator Muñoz Ledo asked how it was possible that Caso Lombardo owns vast amounts of real estate in Mexico, including a ranch which boasts an airfield that dwarfs many facilities owned by the most wealthy individuals in the U.S. He reportedly has been involved recently in a number of very large multi-million dollar commercial investments in several border states including Coahuila and Nuevo Leon. Working on the modest salary of a public official, the opposition leader wanted to know where he obtained such wealth in order to purchase these properties?

❖ In a case where the corruption present in a public procurement process in Mexico has led to the selection of air traffic control equipment that is clearly inferior and in the considered opinion of many people directly involved in such matters is a threat to public safety, can the U.S. government stand idly by? Is your government willing to speak out on the issue of public safety in the skies over Mexico?

Mr. President, I urge you and your staff to take a hard look at the public procurement system in Mexico and the numerous complaints of smaller American businesses that are trying to sell their products in Mexico honestly and without recourse to bribery and corruption. The public procurement section in the NAFTA does nothing to protect American exporters of capital equipment and services against the invisible chain of secret deals and shady relationships which currently governs the system.

The current state of affairs in Mexico will only change when the Mexican government adheres to rules like those followed in the OECD countries, which universally give suppliers and common citizens legal recourse against corruption

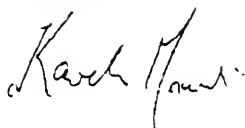
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in government. But before even such remedies will be effective, basic changes must occur in the structure and behavior of the Mexican government itself -- changes that can only come about through the increased government accountability that comes from free and fair elections. The vast gulf that exists between the free trade rhetoric of the Salinas regime with respect to public sector procurement and the crude reality facing many American companies is also present between the Mexican people and their own government.

I wish to ask for your help in protecting American companies from what is an extremely corrupt business environment in Mexico. I am asking your help to protect the many thousands of Mexican, American and other travelers who move through the skies over Mexico each year. I am of course at your disposal should you wish to discuss any aspect of this case or my other experiences in Mexico over the past decade.

I await your reply.

Yours very sincerely,



Kaveh Moussavi

Enclosures

cc: Messrs Rubin, Lake, Berger (w/attachments)

## TESTIMONY

**TO:** House Committee on Banking, Finance and Urban Affairs  
United States House of Representatives

**FROM:** R. Alejandro Argueta Moz (Alex Argueta)

**DATE:** November 8, 1993

**RE:** Mary and Alex Argueta/Banco Mexicano, S.A./Republic of México

I have been invited to testify about my experiences with the Mexican banking and judicial systems. I have accepted this invitation because those who are contemplating doing business in Mexico need to be aware of the very significant differences between Mexico and the United States in these areas, and the devastating consequences that can flow from those differences, and because I believe that the issues raised by my experience are relevant to the NAFTA debate. I am not here, however, to argue for or against NAFTA itself.

I would like to start my testimony by entering into the record a copy of an article that appeared on March 26, 1993 in the Mexico City newspaper, *El Financiero*. This article concerns the initiation by the Procuraduria General de la Republica (the "PGR"), the Mexican attorney general's office, of an investigation into the manner in which Mexican banks and agents of the PGR have systematically colluded to use the Mexican judicial system to violate the human rights of the banks' clients and deprive them of their assets. The article aptly describes the tactics used -- including the outright fabrication of preliminary investigations and kidnapping -- as "gangster" tactics. Those whose rights were violated included not only Mexican nationals, but also foreign businessmen doing business in Mexico, like me.

As a result of being victimized in this way by Banco Mexicano Somex (now privatized and renamed "Banco Mexicano") and the Mexican government, my wife and I have suffered great and irreparable harm. I brought my business to Banco Mexicano, allowed the bank to control all aspects of our relationship, and honored all of my commitments under our loan agreement. For that, I was rewarded by being surprised and detained on false pretenses in the middle of the night in a Mexico City hotel, held incommunicado in the custody of Mexican federal agents for almost two days, threatened by those agents with bodily harm, publicly defamed and humiliated, locked up for over a year on false charges, and deprived of assets worth somewhere in the neighborhood of twenty million dollars.

Compounding my pain is the treatment I have received from the Mexican government and Banco Mexicano since my release. Though I have on numerous occasions tried to engage those entities in a discussion of what happened to me and to seek fair compensation, I have been absolutely stonewalled. In this regard it is important to note in particular that despite the fact that the Mexican authorities supposedly pursuing the colluding PGR agents and Mexican bank officials know of me and of what happened to me, and know that what happened to me is precisely what they are claiming to be investigating, not one official of the Mexican government has ever contacted me in order to solicit my cooperation in the investigation or to discuss compensation to me for the wrongs in which the government has effectively admitted it participated. What happened to me and the Mexican government's continuing, aggressive lack of interest in what happened to me highlights not only the status of human rights in Mexico *today*, but also the very direct and personal impact that the human rights failures of that country can and have had on foreign investors smaller than IBM who have taken up the Salinas challenge and tried to do business there.

My case should alert each of you to the possibility that any reliance by this government upon the Mexican government's good intentions may be tragically misplaced. If you go forward with MAFFIA in whole or in part on the basis of mere assurances of good conduct on the part of the Mexican government without going further, without demanding that the value of those assurances be proven in advance by positive action in concrete cases such as mine, you are likely to be setting many of your constituents up for experiences like mine. Before you give your constituents the green light to plunge into the Mexican marketplace, it seems to me you should want to verify that they can do so safely.

That being said, the following describes in detail the circumstances of my and my family's ordeal.

In 1980, I and a number of business associates formed a corporation that purchased and placed in a Mexican bank trust as required by Mexican law 215 improved lots in the San Carlos Country Club, in San Carlos, Sonora. When in 1988 the Sonoran government announced the creation of a tourism development megaproject called "El Soldado de Cortez" and solicited support for it from area investors, I responded by arranging to buy out my former partners, who had no further interest in their Mexican investment, and to promote sales of the lots.

For a number of reasons, including its size and the fact that I knew it had branches in both Guadalajara, the situs of the trust that owned the San Carlos lots, and New York City, I turned to Banco Mexicano for financing. After the property had been appraised by the bank's appraisers at between U.S. \$6,000,000 and \$7,000,000, the bank agreed to lend my

corporation U.S. \$2,000,000 for the acquisition of the lots. All facts relevant to the property and the contemplated transactions were presented to the bank. The bank and its attorneys, in conjunction with a Mexican notary and attorneys for Banco Internacional, the trustee of the trust that holds legal title to the property, prepared all of the documentation relating to the loan (hereinafter referred to as the "San Carlos Loan"). I was not represented by counsel in this transaction and had no hand in drafting any of the loan documentation.

As agreed by the parties and set forth in the loan agreement, the loan was to be disbursed in one lump sum, had a term of six months (renewable once for an additional term of six months at my option) and was secured by 199 of the San Carlos lots. The loan proceeds were to be paid directly into the bank account my corporation established at the bank's New York branch.

The bank never honored the terms of the loan agreement. Instead of disbursing the loan amount in one lump sum, the New York branch disbursed it in smaller increments over time, requiring that individual promissory notes be signed for each disbursement. Furthermore, the notes that were presented were not six month notes, as contemplated by the loan agreement, but were notes written for shorter terms of 60 or 90 days. When I questioned this, I received assurances from bank officials in Mexico and New York that the short-term notes would be duly renewed upon expiration so that I would get the full six months to which I was entitled, and would also get, at my option, the additional six month renewal to which I was also entitled.

After having bought out my partners with the proceeds of the San Carlos Loan and taken steps to promote the lots, I, with the encouragement of the State of Sonora's Department of Tourism, undertook to create an international destination golf resort in San Carlos. My plans contemplated the further development of the lots, and the acquisition of an existing golf course, an existing hotel, the golf course lodge and various other properties, such as a club house, associated with the golf course. I sought to obtain the necessary financing under the auspices of FONATUR, a tourism development agency of the Mexican federal government, and by early August of 1990, I had obtained FONATUR's approval of the project. I had also secured binding options to purchase all the properties necessary to the project, and had arranged to have Trust House Forte (i.e., Travelodge) provide management for the project. With all of these elements in hand, I had secured everything I needed to bring to fruition a project that by FONATUR's calculations would upon execution of final documents be immediately worth U.S. \$23,000,000.00.

While I was working to put together this project (hereinafter referred to as "the Development Project"); the short-term notes issued by the bank in connection with the San



Carlos Loan were coming due. Despite the bank's earlier assurances that the notes would be renewed promptly upon request so that the terms of the original loan agreement would be fulfilled, I encountered great difficulty in getting the bank to actually renew them as promised and in getting the bank to give me other crucial pieces of information relating to the San Carlos Loan. My calls were not returned, my requests for information were not answered, my visits were not acknowledged.

During the period of my development of the Development Project, I was also involved with a number of other investors in starting a new and potentially very profitable agro-industry in Mexico. This project (the "Papain Project") involved the cultivation of papaya and, by use of state of the art technology imported from Belgium, the subsequent extraction from the papaya of an enzyme important to many industries, particularly the cosmetics and beer industries. After exhaustive evaluation, Banco Mexicano, Bancomext and Banque Generale (a Belgian bank) agreed to provide the necessary funding. Orsomet, the division of Banco Mexicano that evaluated the project for the bank, suggested that the bank invest directly in the project in exchange for an equity interest. This idea was not, however, acceptable to me and my partners, and, ultimately, the bank authorized a line of credit in the amount of U.S. \$5,930,000 in favor of Papaina de Occidente, S.A. de C.U., the Mexican corporation formed by me and my partners to bring the Papain Project to fruition. In order to give the bank greater comfort and oversight abilities in connection with this loan, one of my partners offered to allow the director of the bank's Guadalajara office, Carlos Antonio Verdugo Orozco, to sit on the corporation's board of directors. Mr. Verdugo obtained the approval of his superiors at the bank and was duly placed on the board. He had no equity interest in the corporation and received no salary, honorarium or other financial compensation.

Not long after having granted the line of credit to Papaina de Occidente, the bank began to renege on that loan agreement, withholding from Papaina de Occidente crucial operating funds, thereby threatening the company's future. At roughly the same time, the bank started to obstruct my attempts to clarify the status of the San Carlos Loan, as described above.

Exasperated by the bank's failure to respond to my many inquiries regarding the San Carlos Loan and concerned about the bank's failure to deliver funds as promised under the loan to Papaina de Occidente, I notified the bank in writing that on August 19, 1990 I would be in their corporate headquarters in Mexico City in order to get the information I sought, to address any questions they might have, and, if there were any problems, to resolve them. I also wished to further confirm to the bank that FONATUR had approved the financing with which I would repay

the San Carlos Loan and to make arrangements for the actual pay-off. It is significant to note that at those meetings in Mexico City, Francisco Germán Moreno, a senior officer at the bank, told me, in the presence of witnesses, that the Papain Project would soon "belong to the bank." I did not know what he meant by that, but chose not to pursue it at the time. As it turned out, I found out soon enough.

Early the next morning, at approximately 1:00 A.M., four agents of the PGR entered my room and ordered me to go with them in order to clear up a matter relating to a Ford Taurus automobile. Having flown to Mexico City, I knew nothing of any Ford Taurus automobile, but, having little choice in the matter, went along with them. I was taken to the offices of the PGR and left there for many hours without any further information as to why I was being detained and without being allowed to call anyone.

It wasn't until almost noon that the Director de Aprehensiones arrived and began to question me regarding my relationship with Mr. Verdugo, the bank official who sat on the board of Papaina de Occidente. The Director ordered me to call Mr. Verdugo in Guadalajara to tell him that I would be flying there to see him on the first available flight that day. I did as I was told and was then told that matters "had been cleared up" and that I would be released as soon as necessary paperwork had been completed.

At approximately 5:00 P.M., Mr. Verdugo was brought to the PGR's offices under guard. Two hours later, the Director de Aprehensiones held a press conference at which he paraded Mr. Verdugo and me before the press and claimed that we were responsible for a number of fraudulent transactions. Neither Mr. Verdugo nor I was allowed to speak to the media. It was apparent at this point that contrary to the Director's earlier statement to me, matters had not been "cleared up" and my release was not to be soon forthcoming.

Later that evening, Mr. Verdugo and I, who had been left together in a room in the offices of the PGR, were told we would have to answer some questions. I was the first one to be taken out of the room and into a neighboring building for questioning. As the questioning began, I started to ask questions of the officials asking me questions, whereupon the questioning ceased and I was promptly returned to the room in the PGR's offices. Mr. Verdugo was then taken from the seat next to me and led into a small room on the other side of the room in which I was sitting. The agents taking Mr. Verdugo into the room closed the door behind them. I could see that after closing the door they turned off the lights in the room. The next thing I heard were Mr. Verdugo's cries of pain and other sounds indicating that Mr. Verdugo was being severely beaten. After a brief time, Mr. Verdugo was brought out of the room appearing disheveled and terribly shaken. Mr. Verdugo was then taken (presumably to the

other building) for further interrogation. Mr. Verdugo has since confirmed that he was indeed beaten.

Later, at approximately midnight, a federal agent I had seen several times during the previous hours took me into the room in which Mr. Verdugo had been beaten. The agent told me that he had been ordered to beat me so that I would answer questions in the "proper" way. Then, using a classic "good cop, bad cop" strategy, the agent went on to say that he felt I was innocent and that I looked like a decent person. The agent said that he would not beat me if I would simply agree to look distressed and shaken up when we left the room. I agreed and did so. The agent also advised me on the manner in which I should respond to the questions that were to follow. The agent then took me to the building next door, where I underwent interrogation by several persons, including lawyers from the law firm hired by the bank to prepare its charges against me. I answered all questions posed to me in the manner in which I had been instructed by the "good cop". I was then returned to the offices of the PGR where Mr. Verdugo and I slept the few remaining hours of the night on the floor.

The next day was spent in a small cell block in the offices of the PGR, and then, on Saturday, August 25, 1990, I was moved to what was to become my home for the next sixteen months, the Reclusorio Preventivo Norte, a notorious prison facility.

I was ultimately charged with defrauding the bank by virtue of not having given the bank a valid security interest in the San Carlos lots and in having misdirected loan proceeds by using them to acquire the San Carlos lots. These charges were patently false. As stated above, it was the bank's own attorneys, in conjunction with the notary public and the trustee bank's attorneys, who prepared all the documentation relating to the security interest. I had nothing to do with creating the security interest and as far as I was concerned, that interest was valid when given. The trustee bank's attorney has testified that it was valid. Furthermore, the loan proceeds were used precisely in the manner I represented to the bank they would be used. Bank documents in my possession clearly indicate that the purpose of the loan was to acquire the San Carlos lots and that is the purpose to which the funds were put. Mexican attorneys not associated with the bank who have reviewed the facts in the case agree that the bank's accusations were totally unjustified and its actions illegal.

The bank wasted no time in taking advantage of my incarceration. Shortly after my detention, I was contacted by the majority owner of Papaina de Occidente, and told that the bank was exerting heavy pressure on him to divest me of my interest in the Papain Project and to take the bank on as an equity holder. He reported to me that the bank was continuing to refuse to advance the operating capital promised under its

loan agreement with Papaina de Occidente, and that if they continued to do so (as they were threatening), the project would be irreparably harmed and ultimately lost. I refused to acquiesce in my own divestiture, but, shortly thereafter, Papaina de Occidente was fraudulently and illegally dissolved, and its assets transferred (without any compensation to me) into a new corporation, Ultrapapaina S.A. de C.U., owned in substantial part by Banco Mexicano.

In addition to losing my ownership interest in the Papain Project, my imprisonment also resulted in the loss of the Development Project. Unable to complete the remaining formalities necessary to effect the project, I could do nothing but watch my funding disappear, my options expire. Not only did this mean that I lost the very substantial profit inherent in the project, it also meant that I lost the means by which I had planned to pay off the San Carlos loan. Most, if not all, of the pieces of my Development Project have now been picked up by Grupo Situr, one of Mexico's largest resort developers.

The course of my case through the Mexican justice system was not smooth, even by Mexican standards. The case was passed back and forth between six different judges apparently anxious to have nothing to do with it. At one point my case was passed off to a judge who, after receiving evidence and considering the question before her for seven months, finally decided that she could not pursue the matter further because of her longstanding (but apparently newly discovered) friendship with my defense attorney. Informed sources indicate that the reason for the many procedural irregularities in my case and the consequent inability of my defense counsel to obtain my liberty, was that the bank (which, again, was owned by the Mexican government at the time) was exerting great pressure on the judges to keep me in prison. It is the opinion of many that the reason the case was passed from judge to judge was that while the evidence and the law were such that no judge could rule for the bank, no judge could afford to rule against it.

Finally, isolated, frustrated and frightened, with no end in sight to my incarceration, I signed an agreement modifying the terms of the San Carlos Loan, whereupon the bank "pardoned" me and dropped all charges. Incredibly, the bank has tried to construe my acceptance of the pardon as an admission of guilt -- despite the fact that the formal acceptance of pardon submitted to the court by my attorney very specifically stated that my acceptance of the pardon was not such an admission, that I continued to maintain my total innocence. Having signed the loan modification, I was released from prison and allowed to return to the United States in the spring of 1992.

The abuses did not stop upon my leaving Mexico. After returning to Tucson and starting the difficult process of trying to rebuild my life, I retained a Mexico City attorney

experienced in banking matters to review the case and to recommend what, if anything, might be done in Mexico to obtain redress. After determining that I had, indeed, been seriously wronged, that attorney undertook to contact both the bank and Mexico's Ministry of Finance to initiate discussions on this subject. The bank, however, sought to hide behind its recent privatization, indicating that it had no interest in such discussions since the wrongs had taken place while the bank was owned by the government. The representative of the Ministry of Finance (I believe it was the then head of the Department of Banking of the Ministry of Finance) took another tack. He became quite antagonistic, made it absolutely clear that he had no interest in hearing anything we might have to say and strongly intimated that if our attorney continued to help us our attorney's firm would never work for any banks again. In Mexico, such a threat is absolutely credible, and, as our attorney's firm's practice was almost entirely devoted to representing banks, our attorney withdrew from his representation of us because of it.

Notwithstanding the Mexican government's intimidation of our attorney, we have continued to make additional direct and indirect attempts to engage the government in discussions of this matter, only to be absolutely stonewalled. Not only has no one expressed any interest in compensating me for my losses or even in looking into the matter of the bank's and the PGR's wrongdoing, no one has even bothered to try to tell us that we are wrong or to try to deflect our attention to some other "more appropriate" forum. In fact, no one says anything at all. Not President Salinas, not the Minister of Finance, Mr. Aspe, not the Minister of Commerce, Mr. Serra, not the Attorney General, Mr. Carpizo.

The bank, too, has absolutely stonewalled us. The fact is, though the bank's current owners would like to claim that because of their ownership things have changed, it is clear that they have not. The bank has acted since acquiring new ownership no better than it did when owned by the government. After my release from prison, it withheld from me for months funds that were delivered to it in trust for me. It misrepresented to its external auditors the interest rate accruing on the modified loan. It has ignored so many written and oral requests during the last eight months for information regarding the balance owing on the modified loan that one can only conclude that it is intentionally withholding that information from me. The lack of this information has seriously hampered my efforts to sell my San Carlos property, which still secures the modified loan and which may become subject to foreclosure by the bank in December if I am unable to find a buyer before then.

In addition, it appears to be the actual intent of the bank to do everything in its power to cause me to lose the San Carlos lots, my last significant asset. Its continuing refusal to give me the most basic information regarding my loan account

has seriously hampered my efforts to sell that property in order to pay off the modified loan coming due in December. I have also been informed that the reason Grupo Situr abruptly dropped its efforts to purchase the San Carlos lots from me last year is that the bank went to Grupo Situr behind my back to arrange to finance Grupo Situr's acquisition of my lots *after* the bank forecloses on them. I assume it is the existence of this arrangement between the bank and one of its most substantial customers that has led the bank to tell a number of people interested in buying the lots or the bank's loan that *the property has already been sold.*

So now, after having failed to obtain even partial compensation for the losses I have suffered, I am facing yet another loss to Banco Mexicano that would not have occurred but for the bank's wrongful conduct. What can I do? Where can I go for help? Every approach made by me or made on my behalf to the bank and the Mexican government has been met with either intimidation or total silence. Major national newspapers and magazines, including the *Wall Street Journal*, the *Washington Post* and *Newsweek*, have examined my story and reported on it at length, but still I am willfully ignored. Where is the fairness to foreign investors we have been told we can expect? Where is the commitment to civil rights, the commitment to redressing the wrongs of the past and to preventing the wrongs of the future that Jorge Carpizo is supposed to have infused into Mexican justice? Sadly, from here on the ground, in the realm of real cases, they are nowhere to be seen. And if they cannot be seen here, just prior to the vote on NAFTA, how can we have any confidence that they will be seen here or anywhere else later on?

The facts of my case are shocking and well documented. The Mexican government has in effect admitted its complicity and the amount and quality of the attention given to my case by the press has been substantial. The NAFTA vote is nine days away and this panel has a real interest in seeing concrete evidence of the Mexican government's willingness to act in accordance with its pleasing rhetoric of fairness and reform. If, given all this, the Mexican government still feels it can simply ignore my claims, leaving me to twist slowly in the wind, what chance is there that I will be the last to be so treated?

AMERICAN INVESTORS IN MEXICO  
SPEECH TO  
U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON BANKING, FINANCE, AND URBAN AFFAIRS

GOOD MORNING -

MY NAME IS LUCIA DUNCAN. I CURRENTLY RESIDE IN LAS VEGAS, NEVADA. I'M THE COORDINATOR FOR AMERICAN INVESTORS IN MEXICO.

THANK YOU FOR INVITING ME TO SPEAK BEFORE THIS COMMITTEE REGARDING SOME OF THE PROBLEMS THAT I, AND SOME OF MY ACQUAINTANCES HAVE EXPERIENCED AS A RESULT OF OWNING PROPERTY IN MEXICO.

I AM OF MEXICAN ANCESTRY SPEAK SPANISH AND HAVE LIVED IN MEXICO FOR MANY YEARS, BOTH AS A CHILD AND ADULT. THEREFORE, MEXICO HAS ALWAYS BEEN MY FAVORITE COUNTRY TO VISIT.

MY HUSBAND AND I BOTH SHARE A GREAT LOVE FOR THE MEXICAN CULTURE, MUSIC, FOOD AND LIFE-STYLE. WE ALSO HAVE A VERY SPECIAL ADMIRATION FOR THE PEOPLE. MEXICANS, FROM THE RICH TO THE VERY POOR, EXHIBIT A CERTAIN CLASS, STYLE AND GRACIOUSNESS.

SEVERAL YEARS AGO, AFTER TRAVELLING EXTENSIVELY IN MEXICO, WE FINALLY REALIZED OUR DREAM OF OWNING PROPERTY THERE.

AFTER A LOT OF COMPARISON SHOPPING, WE PURCHASED A CONDO IN THE BAJA PENINSULA. ALMOST IMMEDIATELY, WE ENCOUNTERED A BARRAGE OF PROBLEMS, AND I'M VERY HAPPY TO BE ABLE TO SAY THAT THEY WERE NOT DEVASTATING PROBLEMS.

OUR FIRST PROBLEM CAME UP SHORTLY AFTER WE PURCHASED OUR UNIT. WE OFFERED IT AS A VACATION WEDDING GIFT TO SOME FRIENDS. WHEN THEY ARRIVED AT OUR CONDO ON THEIR HONEYMOON THEY WERE INFORMED BY THE STAFF THAT OUR ROOM WAS NOT AVAILABLE AND THEY WANTED TO RENT OUR FRIENDS ANOTHER UNIT.

THIS WAS ONLY THE FIRST OF MANY SIMILAR PROBLEMS. FRANKLY THEY BEGAN TO TAKE THEIR TOLL. IN SPITE OF OUR NUMEROUS COMPLAINTS, THE PROBLEMS CONTINUED FOR ABOUT TWO YEARS UNTIL WE RETAINED AN ATTORNEY TO CORRECT THEM.

RECENTLY WE HAD ANOTHER PROBLEM WITH OUR MANAGEMENT COMPANY INVOLVING MISMANAGEMENT OF FUNDS. THIS TIME WE WERE ABLE TO FILE A COMPLAINT WITH THE NEWLY FORMED CONSUMER PROTECTION AGENCY. FILING THIS COMPLAINT INVOLVED OVERCOMING MANY HURDLES, ONE OF WHICH WAS THE NEED TO RE SUBMIT THE COMPLAINT IN SPANISH. IT WAS EXTREMELY DIFFICULT AND FRUSTRATING AND IT TOOK SEVERAL MONTHS TO EVENTUALLY RESOLVE OUR PROBLEM. I FEEL THAT I SUCCEEDED ONLY BECAUSE I'M FAMILIAR WITH THE MEXICAN CUSTOMS, WAS ABLE TO TRANSLATE MY

MEXICO SPEECH:

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LETTERS INTO SPANISH AND BECAUSE I WAS WILLING AND ABLE TO SPEND THE TIME NECESSARY TO SEE IT THROUGH. I'M VERY CONCERNED THAT OTHER U.S. INVESTORS IN SIMILAR CIRCUMSTANCES DO NOT HAVE THOSE RESOURCES AVAILABLE TO THEM.

I CAN SEE HOW EASY IT WOULD BE FOR THESE INVESTORS TO EVENTUALLY LOSE THEIR INVESTMENT THEIR TIME AND THEIR HEALTH. I'M VERY CONCERNED ABOUT THIS. THAT IS THE REASON I'VE COME HERE TODAY.

THE PROBLEMS I JUST DISCUSSED WERE REAL PROBLEMS THAT TOOK A SIGNIFICANT AMOUNT OF TIME, EFFORT AND MONEY TO CORRECT, AND I BELIEVE THAT THEY ARE TYPICAL OF THE PROBLEMS FACED BY MANY INVESTORS IN MEXICO TODAY. HOWEVER, ALTHOUGH MY PROBLEMS WERE SIGNIFICANT TO ME THEY WERE NOTHING COMPARED TO SOME TRUE "HORROR STORIES" FACED BY OTHER UNITED STATES CITIZENS WHO HAVE INVESTED IN MEXICO.

ONE SERIOUS PROBLEM THAT I AM PERSONALLY AWARE RELATES TO LAND CONTROLLED BY THE EJIDO. THE EJIDOS ARE BASICALLY LOCAL INDIANS THAT HAVE BEEN GRANTED THE RIGHT TO OCCUPY AND USE CERTAIN PROPERTY UNDER CURRENT MEXICAN LAW. THEY HAVE THE RIGHT TO LEASE THE PROPERTY TO OTHERS ON A RELATIVELY SHORT-TERM BASIS, BUT CANNOT TRANSFER TITLE. IN ADDITION, THE LESSEES RIGHT TO EXTEND THE LEASE AND TO CONTINUE OCCUPYING THE LAND, EVEN AFTER CONSTRUCTING SUBSTANTIAL IMPROVEMENTS IS BASICALLY AT THE WHIM OF THE EJIDO.

WHILE IN MEXICO WE MET AN AMERICAN WHO HAD ACQUIRED PROPERTY FROM THE EJIDOS, AT LEAST HE THOUGHT HE HAD. THIS PROPERTY CONSISTED OF A GUTTED, ABANDONED STRUCTURE THAT WAS BUILT OVER 40 YEARS PRIOR. THIS GENTLEMAN INVESTED 10 YEARS OF HIS LIFE AND VIRTUALLY ALL OF HIS ASSETS TO CREATE A CHARMING AND ECONOMICALLY SUCCESSFUL HOTEL WITH AN ADDITIONAL 34 CUSTOM HOMES. AN INVESTMENT REPRESENTING MILLIONS OF DOLLARS FOR HIM AND THE AMERICAN FAMILIES WHO INVESTED IN THESE HOMES. NOW THAT THE HOTEL IS COMPLETED AND SUCCESSFUL, A LOCAL BUSINESSMAN AND THE EJIDO HAVE DECIDED THEY WANT THE LAND BACK, INCLUDING THE HOTEL AND THE HOMES. OF COURSE THEY WANT IT FOR FREE. THIS POOR MAN HAS EXHAUSTED HIS HEALTH AND HIS WEALTH IN FIGHTING THIS CONFISCATION OF PROPERTY. IN SPITE OF HIS EFFORTS, AND IN SPITE OF THE OBVIOUS INJUSTICE OF THIS SITUATION, IT IS VERY POSSIBLE THAT HE WILL LOSE EVERYTHING HE HAS WORKED FOR.

ANOTHER CASE THAT I BROUGHT WITH ME TODAY, INVOLVES A GROUP OF APPROXIMATELY 150 INVESTORS, WHO PURCHASED HOTEL SUITES IN PUERTO VALLARTA. AFTER INVESTING APPROXIMATELY \$8,000,000. THEY FOUND THE MEXICAN MANAGEMENT GROUP WAS TIME-SHARING THEIR UNITS. SEVEN STRUGGLING YEARS LATER THEY STILL CAN'T FIND ANYONE IN THE U.S. TO LISTEN TO THEIR PROBLEMS OR OFFER ANY REAL HELP EXCEPT TO PUT THE PERSON THAT IS DIRECTLY



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RESPONSIBLE FOR THEIR PROBLEMS IN CHARGE. AS ONE OF THE HOMEOWNERS SUCCINCTLY PUT IT, "PUTTING THIS PERSON IN CHARGE OF OUR PROBLEMS WAS LIKE PUTTING THE FOX IN CHARGE OF THE CHICKEN COOP." ONE OF THE MEMBERS WAS ORDERED OUT AT GUNPOINT FROM ONE HOMEOWNERS MEETING.

MOST OF THE CASES I'M FAMILIAR WITH INVOLVE INDIVIDUALS PURCHASING VACATION PLACES IN MEXICO BUT IT ALSO INCLUDES BUSINESSMEN SUCH AS THE WELL PUBLICIZED CASE OF JACK ANDREWS AND HIS PARTNER WHO AFTER PROTESTING TO A BREACH OF CONTRACT BY THE MEXICAN COFFEE INSTITUTE FOUND THEMSELVES BEING PURSUED BY GUNMEN IN A HIGH-SPEED AUTO CHASE. THEIR CASE WAS HEARD IN U.S. DISTRICT COURT AND THEY WERE AWARDED A JUDGEMENT OF FOUR MILLION DOLLARS. A JUDGEMENT WHICH, IN SPITE OF THEIR EFFORTS, THEY HAVE BEEN UNABLE TO COLLECT. IN MR. ANDREW'S OPINION AND I QUOTE. "IF YOU'RE NOT GENERAL MOTORS, THEY'LL BURY YOU."

ANOTHER AMAZING JUDGEMENT INVOLVES MR. BILL FLANAGAN. A HOUSTON BUSINESSMAN WHO WAS AWARDED JUDGEMENTS AGAINST PEMEX AND OTHERS, TOTALING OVER 450 MILLION DOLLARS. MR. FLANAGAN HAS SPENT MANY YEARS OF HIS LIFE INVOLVED IN THIS DISPUTE AND IN SPITE OF THE VALIDITY OF HIS CLAIMS HE HAS BEEN UNABLE TO COLLECT THE MONEY DUE HIM.

WHAT DO YOU SAY TO ALL THESE INDIVIDUALS WHO HAVE SPENT MANY YEARS OF THEIR LIVES STRUGGLING WITH THESE INJUSTICES? DO YOU ENCOURAGE THEM TO STRUGGLE ON, OR DO YOU ASK THEM TO JUST BECOME APATHETIC. I DON'T KNOW.

I DON'T KNOW WHETHER NAFTA WILL BENEFIT THIS COUNTRY OR NOT. BUT I AM CONCERNED THAT IF THE NAFTA AGREEMENT IS RATIFIED AMERICANS WILL GO TO MEXICO AND PURCHASE PROPERTY THINKING THAT THEY HAVE THE SAME LEGAL RIGHTS AS THEY DO IN THE U.S. THEY DON'T. EVEN IF THE LAWS ARE INSTITUTED ON A NATIONAL BASIS HOW CAN YOU ENSURE THAT THE LOCAL GOVERNMENTS WILL HAVE THE MEANS OR THE WILL TO ENFORCE THEM.

I KEEP ON HEARING CONCERNS ABOUT THE LOSS OF JOBS FROM THE U.S. INTO MEXICO IF NAFTA PASSES. MY CONCERN IS THAT THERE COULD POTENTIALLY BE A GREAT SHIFT IN THE U.S. ASSETS WITH AMERICAN INVESTORS HAVING LITTLE OR NOTHING TO SHOW FOR IT. AS AN AMERICAN, I'M NATURALLY CONCERNED ABOUT THIS.

I KNOW THAT MEXICO HAS A WONDERFUL IDYLIC IMAGE. FOR THE MOST PART IT IS JUSTIFIED. BUT WHAT MOST PEOPLE WILL NOT BE ABLE TO SEE UNTIL IT'S TOO LATE, IS THAT THE REALITY OF DOING BUSINESS IN MEXICO CAN BE QUITE DIFFERENT FROM THE WONDERFUL QUALITIES THAT MEXICO HAS TO OFFER US AS VISITORS.

AMERICAN CITIZENS SHOULD NOT AVOID MEXICO, BUT THEY NEED TO BE AWARE OF POTENTIAL PROBLEMS. THERE NEEDS TO BE SOME SAFEGUARDS AND GUARANTEES INSTITUTED IN THE NAFTA AGREEMENT

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TO PROTECT NOT ONLY THESE FRUSTRATED, CONFUSED AND ANGRY INVESTORS, BUT EQUALLY IMPORTANT TO PROTECT THE ONES TO FOLLOW.

AS A FINAL NOTE I WISH TO ADD THAT SINCE THE U.S.-MEXICO RELATIONSHIP DOESN'T EXACTLY APPEAR TO BE "MADE IN HEAVEN" PERHAPS WE SHOULD REQUIRE NAFTA TO BE A WELL THOUGHT OUT PRE-NUPTIAL AGREEMENT.

THANK YCU.

LUCIA DUNCAN, COORDINATOR  
AIIM (AMERICAN INVESTORS IN MEXICO)  
1350 E. FLAMINGO #557  
LAS VEGAS, NV 89119



## Foro Permanente de Productores Rurales del Estado de Sonora

CHIHUAHUA No.2411 • TELS. 6-16-03 - 3-34-81 - 3-20-35 y 4-48-40

PERMANENT FORUM OF RURAL PRODUCERS OF SONORA

Ciudad Obregon, Sonora, Nov. 5, 1993

Honorable Henry B. Gonzalez, Chairman  
Committee On Banking, Finance, and Urban Affairs  
U.S. House of Representatives  
One Hundred Third Congress  
2128 Rayburn House Office Building  
Washington, D.C.

Honorable Representative Henry Gonzalez:

We want to inform the Committee over which you honorably preside, about the grave situation in which the Mexican economy finds itself, particularly the sector which we represent, the agricultural producers of our country.

Throughout this year, especially since August, there have been mobilizations of thousands of Mexican farmers, unprecedented since the Great Depression, to halt the wave of foreclosures of which we have been victims. We Mexican growers have reached the conclusion that there is a deliberate plan, originating with the major financial interests headquartered in London and Wall Street, to eliminate 60 percent or more of Mexican farm families. This conclusion has been systematically confirmed to us by government and private banking officials in various meetings held with groups of farmers to try to reach a settlement with regard to the sector's arrears.

To demonstrate these assertions, we would like to begin with an analysis of the Mexican foreign debt which, in our opinion, is the keystone of the problem--along with the fever to "privatize" the public sector, to create derivative markets through the North American Free Trade Agreement, and the revamping of the country's financial system. Figuring in all of this are new financial arrangements between the Bank of Mexico and the United States Federal Reserve, which would eliminate both Mexican and American national sovereignty by fostering a gigantic and unregulated market of dollar-denominated credit outside the control of either government.

It is officially recognized that Mexico's foreign debt

today is some \$121 billion, representing an incredible increase of \$27 billion in the past four years, since the end of 1989. This figure by itself demonstrates the failure of the "Brady Plan" to reduce the foreign debt, which in 1990 had been nominally cut by \$6 billion, to \$93 billion.

Mexico's massive indebtedness belies the statement made by President Carlos Salinas de Gortari in mid-1992 that "Mexico is going through a process of debt reduction" with the Brady Plan restructuring.

Let's take a look at the 'debt reduction process' which has paradoxically led to the swelling of the Mexican foreign debt. In 1980, Mexico's foreign debt was \$57.4 billion. Between 1980 and 1989, \$96 billion were paid to service that debt--but by 1990 the debt had risen to \$99.734 billion. Pure banking usury. What Mexico paid during that period totaled more than 163% of our 1980 foreign debt, and nearly 100% of our 1990 foreign debt.

In February of 1990, a \$48.231 billion debt-restructuring package was signed under the Brady Plan, enabling Mexico to "save" the fabulous amount of \$1.5 billion in interest payments. Presumably the U.S. Treasury Department has in its coffers slightly more than \$7 billion, which were deposited in a single check by the Mexican government. That money is gaining a fixed interest rate over a 20-year period (through 2010), when the restructuring will be completed and Mexico will supposedly be freed of this debt burden. German, Japan and the International Monetary Fund lent the \$7 billion, which Mexico handed over to the U.S. in 1990. This is on top of the \$12 billion in debt service which Mexico was paying every year up to the Brady restructuring. This \$7 billion loan was paid off by Mexico in mid-1993, with the proceeds of several state-owned companies that were sold off.

The growth of the foreign debt over the past four years, since the Brady Plan, is not linked to the growth of the domestic economy in any way. On the contrary, Mexico today is undergoing a severe, and some say irreversible, economic depression, although the analysts prefer the term "deceleration" of the economy. The Gross National Product is barely increasing; employment and wages are plunging, while interest rates remain at 34%. Under these conditions, approving NAFTA would mean the complete disappearance of entire sectors of the Mexican economy.

The only thing that has thus far kept these onerous debt payments from causing a financial collapse has been international interest rates, which are relatively low at present; should these rise, Mexico will find itself in total financial catastrophe. According to World Bank figures in late 1992, nearly \$25 billion of that debt is short-term and could

be defaulted on at any time. The amount of short-term debt is very significant, especially when compared to what it was in 1989 --\$8 billion-- when the Brady Plan was signed. Since the Brady Plan went into effect, Mexico has paid \$7 billion a year in debt service, a total of \$28 billion--precisely the amount by which the debt has risen in that same period.

What's more, \$20 billion of the total foreign debt corresponds to the obligations of recently-privatized banks, which have imposed an enormous debt service burden on a banking system already in bankruptcy by all traditional technical norms. According to figures presented by various analysts, an extremely high percentage of all of the loans outstanding in the Mexican banking system--approximately 6.7%--is officially considered in arrears, and some estimate that the real figure could be as high as 20% to 30%. The non-performing loans in the agricultural sector alone rose to \$8.95 billion (27.75 billion new pesos) in June, a 14% increase in only two months--yielding an annualized 119% increase in non-performing loans. Such non-performing loans could reach \$25.5 billion within a year, against a GNP of less than \$300 billion.

And these are just the figures for the agricultural sector, without counting the billions of dollars of unpayable debt of Mexican industry which--especially with regard to small and medium-sized companies--has been devastated by a flood of cheap imported consumer goods, together with a highly restrictive credit policy based on high interest rates. The current interest rate on standard commercial and agricultural loans has reached an astronomical 34%, compared to an inflation rate of 9.6%, while the interest rates the banks garner from Treasury certificates is between 13% and 14%.

The banks need this usurious 20% spread to cover their own debts. When debtors cannot pay, the common practice has been to refinance the principal and capitalize the arrears by adding them to original principal at the same high interest rate. This internal debt bubble has grown in the same way as the foreign debt, and demands interest payments that have grown to several times the original principal.

As if this weren't enough, the government's policy on agricultural imports has given the <coup de grace> to our farm sector. Food imports were \$3.0 billion in 1988, and \$4.0 billion in 1989. In 1990, they reached \$4.8 billion, more than three times the \$1.5 billion "savings" in interest payments Mexico supposedly obtained with the Brady debt restructuring.

In sum, the disastrous shape of Mexico's agricultural and industrial sectors is reflected in a debt that cannot--and should not--be paid. We farmers don't have the capacity to pay this debt, much of which originated in the 1987-88 period when

interest rates were 200 percent! As we said personally to President Salinas de Gortari when we met with him on Aug. 19 of this year, "If a serious review of the origin of this debt is conducted, we will find that approximately 80% of it is illegitimate, given that its growth is due to factors that had nothing to do with the producers; that money never came in as fresh credit into the agricultural sector."

#### CONSEQUENCES OF THE LOST DECADE FOR MEXICO'S FARMING: GENOCIDE

Mexico's agricultural sector suffered the biggest impact under the schema of prioritizing payment of the foreign debt. Public expenditures for rural development declined by 52.1% from 1981 to 1986. Similarly, in 1986, 52.6% of the national budget was earmarked for servicing the public debt, while only 3.5% was spent on rural development.

This policy towards agriculture encouraged a process of falling parity prices relative to the national index of prices charged to the consumer, with the price of wheat and soya falling by more than 25%, and the price of beans and corn, by more than 20%. At the same time, there has been an exponential increase in the prices of needed farm inputs, which grew disproportionately in relation to parity prices. For example, while the price of corn rose 6.6 fold between 1982 and 1992, the price of diesel fuel during the same period rose 296.6 fold.

The cost of agricultural machinery has also risen constantly. A comparison of the equivalences of basic grains needed to acquire a tractor reveals that while in 1982, it required 32 tons of beans, or 85 tons of corn, or 119 tons of wheat; by 1988, 71 tons of beans, 182 tons of corn or 150 tons of wheat were required to buy the same tractor.

The same thing occurred with the cancellation of subsidies for fertilizer. In the period from December 1984 to December 1987 alone, the cost of ammonium sulfates rose by 1,477 per cent, and ammonia by 1,494 per cent. This meant an increase in the price of fertilizers of three orders of magnitude relative to parity prices.

The same panorama can be seen in a more dramatic way in the case of agriculture based upon pump irrigation, where because subsidies on electrical energy use have been increasingly cut, costs have risen substantially, making this form of agriculture completely unprofitable under existing parity prices. This has led to important extensions of land being left fallow, and even in the cases in which farmers have switched to new crops, this has still produced bankruptcies. In the state of Sonora, this has been the case in the Guaymas and Empalme valleys, and the coast of Hermosillo, Caborca and

Sonoyta. In Mexico as a whole, there are a million hectares of pump irrigated land which are in the same situation.

The production of cotton, for example, has been seriously affected by the same policies. In the 1992-1993 cycle, Mexico imported around 600,000 bales of cotton at a cost of approximately 180 million dollars, to the detriment of our already deteriorated balance of trade. These bales were imported despite the fact that the country has an installed infrastructure of 200 cotton gins with the capacity to process 1.6 million bales a season.

With respect to milk production, Mexico has become the largest importer of powdered milk in the world, to the grave detriment of national producers: in the south of Sonora alone, where there were once up to 20,000 dairy cows, today there are only 4,500 cows left; that is, a 77.5% reduction in the dairy herd.

The raising of beef cattle, both by intensive and extensive methods, suffers the brutal impact of massive importation of meat, which severely affects the internal market.

In this context it is as absurd as it is unjust to claim that the agricultural crisis is because our producers are inefficient. As it is also absurd to demand productivity and efficiency, when the State does not fulfill its responsibility to create the conditions under which this occurs.

Honorable Representative Henry B. Gonzalez: As we said before, we have reached the conclusion that there exists a deliberate plan to eliminate 60% or more of the Mexican families dedicated to agriculture.

This conclusion was confirmed on August 20, in an article which appeared in the Sonora newspaper, El Imparcial, in which government and private banking officials stated that the government will provide the resources to restructure the debts in arrears for only 30 percent of the farmers. This conclusion was also confirmed by the statement of U.S. Attorney General Janet Reno to the Los Angeles Times on Oct. 22 [attached] that the U.S. will reinforce its measures to close the U.S.-Mexican border because President Carlos Salinas de Gortari's reforms for the farm sector will force 'many' farmers to leave this activity, and it is expected that this will significantly increase the immigration to the United States of Mexicans seeking a decent way to live.

A recent package of measures named 'Procampo' [meaning Pro-Farm] confirmed this view even more, because under this government program parity prices for several basic products are reduced, with total deregulation for these prices to be

implemented by 1995, affecting principally the most technologically-intensive producers. The genocide of which Mexico is already a victim is such, that in Mexico, the farmers baptized this program as "Procamposanto" [which means "Pro-Cemetery."]

The bankruptcy of Mexican agriculture is considered a necessary step for attaching it to the stock market exchanges, "stock marketization," as was brazenly revealed by the president of the Mexican Banking Association, Hector Hernandez, during the first meeting of this association held in Puerto Vallarta, Jalisco at the beginning of September, in which he urged the government to reform the relevant laws so as to accelerate foreclosure proceedings against the farmers in order to proceed to "stock marketization." We believe that this means that we are entering a new phase of looting of our economy to pay the foreign debt, with new financial mechanisms which will destroy even more the physical economy of our country, at the same time that they serve as a lever to impose this same mechanism upon all Latin America in an attempt to prolong the existence of a speculative bubble which threatens to raze the very bases of Judeo-Christian civilization.

It is for this reason that we permit ourselves to lengthen this document to call attention to the new mechanisms of looting, with the hope that good sense can return to reign in the nation which was formerly the most powerful on earth, before the exploding of this bubble destroys all of us, rich and poor, alike.

#### WITH OR WITHOUT NAFTA, NEW FINANCIAL ARRANGEMENTS BETWEEN MEXICO AND THE UNITED STATES.

While its difficult to establish precisely what has been agreed upon implicitly, privately, or secretly in the negotiations on credits, finance, securities' operations and financial derivatives that have been taking place between important U.S. financial sectors and the government of Mexico, it is possible to identify the main new mechanisms to create a gigantic dollar-denominated capital market outside the control of the United States or even Mexico. These agreements are to be implemented with or without NAFTA.

On Oct. 27, the head of the Bank of Mexico, Miguel Mancera Aguayo, in a speech in Mexico City to the XVIII annual conference of the International Organization of Securities Commissions (IOCC), attacked "users of credit for being sometimes imprudent and dishonest," a clear reference to the problem of the gigantic number of farmers and businessmen in arrears. On the other side, he announced that Mexico's Department of the Treasury and the Bank of Mexico are working



in coordination with the Basle Committee, the International Organization of Securities Commissions and the European Economic Committee to design a scheme "with new technology" to "daily evaluate assets and liabilities, in order to determine credit risks and fluctuations at a low cost" for financial brokers. This could be a tremendous opening to introduce the so-called "derivative instruments" on a large scale. Mancera said that "the authorities should facilitate and promote the establishment of credit information companies and securities' rating companies." [See attached article from El Universal]

Even more important in this regard are the facilities that Mexico is introducing in the capital markets through reforms in the tax codes, besides any financial accord adopted in the framework of the North American Free Trade Agreement, which set the groundwork for the introduction into Mexico of the practice of issuing tax-exempt derivative instruments.

The draft of the Income Tax Law that was released to the media by the national Department of the Treasury on October 26, states:

1) "The reduction, for two years, from 15% to 4.9% of the withholding tax that must be retained for credit operations with foreign banks and the foreign subsidiaries of Mexican banks, will be extended to bonds issued by Mexican companies in foreign currency to reduce the costs of obtaining financing." Such a measure virtually deregulates private foreign indebtedness and facilitates the dollarization of Mexico's economy on a grand scale, while the amount of national currency in circulation is kept restricted.

According to statements made by President Carlos Salinas de Gortari himself, the amount of national currency in circulation is less than the dollar-denominated currency in the national reserves. That's coherent with the decision of the Bank of Mexico to condition the issuance of national currency to the amount of dollars in reserve, setting the basis for making the dollar the legal currency on Mexican territory.

That was excellent news for the foreign banks and the Federal Reserve System of the United States, and their plans to transform Mexico into a subsidiary for their fraudulent issuances. Chase Manhattan Bank and brokerage firms such as Merrill Lynch, Baring and Goldman Sachs immediately expressed their satisfaction and let it be known that the measure is complimentary with that of maintaining the peso-dollar parity exchange, and with leaving the Bank of Mexico on the sidelines regarding the the new directives.

2) One of the key elements of the tax reforms centers on

financial activities, where all sort of operations are being considered, including those involving derivatives. Tax exemptions are provided "for derivative transactions if they are carried out through authorized exchanges or highly securitized markets, as determined by the Department of the Treasury and Public Credit".

These facilities were implicitly referred to by Secretary of the Treasury and Public Credit Pedro Aspe in his speech on October 26, during the first day of the IOSC conference. "It is important to develop a long-term capital market to support projects of long maturation, such as those intended to improve the country's infrastructure," Aspe stated. [See attached article from El Financiero]

The efforts in this regard of the U.S. financial firm Lehman Brothers in 1991 and 1992, which proved unsuccessful, are well known. These were to issue dollar-denominated bonds against the future income generated by the Mexico City-Toluca toll road, and sell them to foreign interests. According to private sources, Lehman Brothers and Credit Suisse-First Boston are currently engaged in negotiations with the Mexican government to issue the same type of dollar-denominated bonds against future income from tolls on 100 privatized kilometers on the Mexico City-Cuernavaca super-highway, one of the most densely travelled roads in the country. These dollar-denominated bonds could be used for many other public services once they are privatized.

The Mexican government already has undertaken to grant 15-year concessions on some of these. There were attempts by concessionaires to recoup their investment in 4 or or 5 years by charging tolls that were 3 and even 4 times higher than the U.S. average. But that resulted in failure when it triggered massive protests throughout the country, because it flagrantly violated the right to passage consecrated in the Constitution, to construct toll roads without building a parallel toll-free federal highway. To refinance the failed project, the government is now offering concessions for 20 or 30 years.

Secretary Aspe's announcement paved the way for the introduction of foreign concessionaires not only to the building and administration of highways, but also to supply water services to Mexico City, to airports and maritime harbors, the latter in the process of being privatized. This will be a huge market of dollar-denominated financial derivatives, which would be backed by the Mexican government.

According to our sources, the U.S. investment firms, Goldman Sachs, Bear Stearns, Credit Suisse-First Boston and Lehman Brothers; London's S.G. Warburg and Montagu; the French Credit Lyonnais and Banque Paribas, and the Hong Kong and Shanghai Bank are all seeking accords along those lines with the Mexican government.

In the aforementioned speech to the IOOC, Secretary Aspe announced that "the negotiations on the financial chapter of the Free Trade Agreement state the conditions in which the opening of the financial markets will take place, through the presence of the institutions of the three signatory countries....The array of these initiatives aims at encouraging the internationalization of the sector." He mentioned that the government is now working on updating regulations and reforming the laws governing credit, insurance, and auxiliary credit and stock exchange institutions, to allow an opening to the outside and for the internationalization of the sector.

The internationalization of financial operations and the protection of derivative instruments makes clear that Mexico will be used to protect, and then extend to the rest of Latin America, a deregulated capitals market, denominated primarily in dollars.

During the Oct. 26-28 ISOC conference in Mexico, Douglas Campbell, head of the financial firm Campbell Company Inc., stated that a "dramatic boom" in the levels of capitalization of emerging world markets is expected, in which Latin America participation is key. "The capitalization of those markets has increased from \$7.5 billion to \$50 billion between 1990 and 1993, and it is expected that it will increase from \$50 billion to \$330 billion in the course of the next three years." Campbell emphasized that a significant portion of those funds would be channeled primarily into emerging markets that are expanding, specifically to those showing the greatest range of fluctuations. "These factors are especially important for Mexico, since this country has the largest expanding market in the world.... Mexico finds itself in the lead, with a growth potential that could attract foreign investment of up to \$75 billion between 1993 and 1996," he insisted.

At that same meeting, Arthur Levitt, chairman of the U.S. Securities and Exchange Commission, said that "Mexico has had a marvelous investment policy and if the Treaty passes, access to investment and cooperation between the United States and Mexico will be better, more effective."

For his part, Secretary Aspe reported: "Foreign investment entering the country through the stock market has surpassed \$17 billion since 1989, and the selling of debt by Mexican companies on the international markets brought in an additional \$15 billion between 1991 and 1993."

SECURITIZATION OF THE DEBT AND A HEMISPHERIC FEDERAL RESERVE

Meanwhile, what's to happen with Mexico's bankrupt farmers, industrialists and shop keepers? The strategy was defined during a series of financial seminars recently held in Mexico.

The Autonomous Technological Institute of Mexico (ITAM), operating center for Bank of Mexico head Miguel Mancera, held a seminar on "Savings and Credit in Rural and Semi-Urban Areas." On the pretext of encouraging "internal savings," the discussion on financial modernization centered on what to do with farm debt arrears. One of the speakers, World Bank economist Delbert Fitchett, declared categorically that "government offers of debt forgiveness to the farmers should only be made as a temporary emergency measure." Fitchett concluded that "banks should avail themselves of credit unions and cooperatives, insurance and pension funds for loans to farmers, besides encouraging the securitization of those same loans on the secondary markets."

Meanwhile, on Sept. 27 and 28, the <Grupo Fomento de la Cultura> held a seminar titled: "Securitization of Credit: a new financial technology." The purpose of the seminar was to analyze "the application of a new financial technology that would allow the efficient securitization of mortgage, credit card, auto loans, accounts receivable, etc."

Recent agreements between the banks and Mexico's Department of the Treasury to restructure farm arrears have laid the groundwork for facilitating the securitization of that debt, without having to address the macroeconomic policies that produced the sector's bankruptcy in the first place.

The culmination of this process was most clearly expressed last July 10 by International Monetary Fund economist Guillermo Calvo, who said at a financial seminar in Bogota, Colombia, that "Latin America's central banks should make arrangements with the U.S. Federal Reserve to be able to control dollar flows and to have an efficient banking system.... It is growing increasingly difficult for the banks to control inflation and liquidity. We should realize that we are in a dollar area and that our economies have been dollarized." In a private conversation afterwards, Calvo stated that "with NAFTA there already exists a Federal Reserve line of credit of \$5 billion for the Bank of Mexico, a 'swap' credit, and the idea is to generalize this throughout Latin America."

The idea presented by Guillermo Calvo is that Latin America's central banks be enabled to make dollar-denominated loans both in the originating country and abroad. "Banks that do not have the backing of the Federal Reserve can only lend on terms precisely equal to that which they have on deposit.

If the deposits are for three months, the bank cannot lend for six months." As an example, Calvo mentioned that in the United States, if a bank has a temporary shortage of funds it can obtain a loan from the Federal Reserve without paying a rediscount fee. The central banks of Latin America could do the same thing if they had agreements with the Federal Reserve to obtain such credits and, with that, to support the banking system. Such loans to a central bank could return as dollar loans to U.S. commercial banks.

What is certain is that this whole affair would mean dollars flowing out of the United States through Mexican banks, and in turn, through the banks of other countries, over which the U.S. government, and the House Banking Committee would have no control. At the same time, such practices imply that Mexico would find itself reduced to a colonial extension of United States financial interests.

Thank you very much.

Alberto Viqueira



México, D.F., a 10 de julio de 1992

SECRETARIA DE TURISMO

SR. LEONARDO CAVALLARO  
PRESIDENTE DE VALMARVEST A. C.  
P R E S E N T E

Por medio de la presente, hago referencia a su escrito del 29 de junio del año en curso, mediante el cual solicita a esta Secretaría el nombre del funcionario encargado para resolver lo relativo a las ventas de condominios a través del sistema de tiempo compartido.

Sobre el particular, me permito informarle lo siguiente:

1.- La Secretaría de Turismo es una Dependencia de la Administración Pública Federal, entre cuyas facultades se encuentran las de protección y auxilio de los turistas así como la regulación, clasificación y control de los servicios turísticos.

2.- En este sentido y de conformidad con lo establecido en los artículos 84 al 91 de la Ley Federal de Turismo, la Secretaría deberá vigilar que los establecimientos cuenten con cédula turística, que presten los servicios conforme a su clasificación y categoría, aplicando los precios y tarifas autorizadas, practicando para ello visitas de verificación con las que se constata lo antes mencionado.

3.- Respecto de la prestación del servicio turístico de tiempo compartido, esta Secretaría está facultada para otorgar y modificar la categoría del establecimiento; llevar a cabo la inscripción de los establecimientos en el Registro Nacional de Turismo, cuando se cumplan los requisitos establecidos en la ley; recibir y atender las quejas que los usuarios-turistas presenten por escrito en contra de la prestación del servicio respectivo; llevar a cabo visitas de verificación y aplicar sanciones que correspondan por el incumplimiento a cualquiera de las obligaciones que el prestador de servicios turísticos de tiempo compartido realice.

4.- Por otra parte, como es de su conocimiento, esta Secretaría ha seguido de cerca el desarrollo de este asunto, para lo cual se ha establecido contacto con el Ing. León Slovik Bialostocki, Vicepresidente de la Asociación Valmarvest, a quien se le expuso que debido a que el asunto se refiere a la mala administración del encargado de los bienes objeto del tiempo compartido y por tratarse de un conflicto ajeno a la prestación del servicio, desde

A handwritten signature in dark ink, appearing to be 'L. Slovik Bialostocki', written over a horizontal line.

To Representative Henry B. Gonzalez, Chairman  
and all the Honorable Members  
of the U.S. House of Representatives Committee  
for Banking, Finance and Urban Affairs

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Committee on Banking, Finance  
and Urban Affairs

Mr. Chairman, Honorable members of the Banking Committee

May I petition you to kindly accept the following written testimony to the Hearings held by your Honorable Committee on November 8 1993.

I am submitting this testimony both personally and on behalf of a group of investors of which I am a member. We put some of our hard-earned savings in the Condomar Vallarta, a condominium tower of hotel suites in Puerto Vallarta, as individual investors: we later joined into an Association to protect our common interest. The gross violation of our Economic rights in Mexico is far from being an isolated happenstance. It is, indeed, a rather ordinary case: Economic Rights are routinely violated in Mexico. The essential facts of our ordeal are summarized in the enclosed three-page Digest, entitled "How Mexico's Policy of Impunity can lock you out of your property". May we stress the following points:

- The property bought by our multimillion investment is ours only in name; in actual fact it has been taken away from us by a company with powerful political protection and sinister connections to the Guadalajara drug cartel - connections documented in the enclosed Digest. It was the Trust holding our investment that hired this company as the Property Manager, and gave it liberty to handle our property as if it owned. We did not enter into that Trust of our choice, but we were forced into it by the Mexican Law of Foreign Investment. Our case shows how easily this Law is used for confiscatory purposes.
- The Property Manager has been and is selling our property in timeshare to unwary third parties. We brought this fraud to the attention of the Mexican Tourism Department, which has jurisdiction over timeshare sales, but the Department refused to intervene. A copy of our correspondence with the Department is attached. Three months ago we submitted to the Mexican Consumer Protection Agency a complaint about this fraudulent timeshare sale. The Agency has held several hearings on the complaint, but has thus far abstained from stopping the fraudulent sale of our property. The matter is also the subject of lawsuits, as mentioned in the attached Digest, but it is uncertain if and when these lawsuits will produce any results. Meanwhile, the fraudulent sale of our property to third parties goes on and on.

Mr. Chairman, Honorable members of the Banking Committee, the most important point I want to bring to your attention is the conspiracy of silence that has muffled our case for years. Though it is the handiwork of Mexicans, this conspiracy of silence has been joined, however unwittingly, by fellow Americans who have denied us the opportunity to bring our case to the attention of Congress and the public. To keep our experience under wraps is to create more and more victims, as more Americans are lured into Mexican business ventures that much too often turn into costly and demeaning traps.

The proposed NAFTA makes the muffling of our case the more damaging. Although the NAFTA is called a Free Trade Agreement, in reality it is more about investment than about trade. Who will protect the millions of dollars of American investment lured into Mexico by the NAFTA? Not the Treaty itself: it offers no safeguards. Not Mexican Law, nor contracts entered into under Mexican Law: as our case abundantly proves, south of the border there is no true Rule of Law, no equal accountability before the Law, no equal protection under the Law. The only protection can lie in publicity. Let the Halls of Congress and the newspaper pages resonate with the ubiquitous violations of Economic Rights in Mexico, and Mexico will have to curb these violations. To deny publicity to our case and similar ones is to cause the loss of more millions of American assets in Mexico.

Mr. Chairman, Honorable members of the Banking Committee, we are addressing you not only as investors ripped off in Mexico, but more yet as Americans solicitous of our Country interest. As such, we cannot hide our dismay that the issue of Economic Rights in Mexico has been left out of the NAFTA negotiations and the NAFTA debate. The thought that our Government could negotiate an exquisitely economic treaty such as NAFTA without any consideration to the matter of Economic Rights defies our mind. How can our Government and Congress enter into a Treaty that creates a North-American common market without concern as to whether Economic Rights are or will be uniformly protected throughout that market? Has anybody bothered to verify that there is indeed free trade within Mexico? Any person familiar with everyday Mexico realities will tell you that the domestic Mexican market does not operate under free trade conditions. We are about to enter, therefore, into a Treaty that gives us free trade with but not within Mexico. One more thought that defies the mind.

Had we been deemed deserving of testifying verbally, we would have spoken to the Economic Rights issue with more passion and effectiveness than we ever can in writing. We are painfully aware of the large volume of written statements that reach Congress, and cannot hide our apprehension that this testimony may get lost in that heap. We cannot but reiterate that the NAFTA will induce many Americans to put their money at risk - excessive risk - in Mexico, and they will have no protection except publicity of our case and like ones.

May I in closing express hope that this Honorable Committee will hold further hearings bearing on the matter at hand, and that I or another member of our group may be allowed to appear in person and speak to the issue of Economic Rights abuses in Mexico.

Respectfully



Christine White  
Investor in the Condomar Vallarta  
and member of the Valmarvest Association  
2204 South Quincy St.  
Arlington, VA 22204

November 8, 1993  
dated



The VALMARVEST Association - 20 Corporate Park #290, Irvine, CA 92714

### HOW MEXICO'S POLICY OF IMPUNITY CAN LOCK YOU OUT OF YOUR PROPERTY

#### An ordinary Mexico investment story

The sales office was in the Puerto Vallarta Holiday Inn, the Holiday Inns logo was everywhere, the sales staff - made of Americans and Canadians - traded hard on the Holiday Inns connection. That is how we were sold on investing in a Tower of deluxe hotel Suites, a modern addition to the older Inn facilities. Too late did we realize that the deal had been set up by the owner of those facilities, a very powerful Mexican politician operating under the business name "Ocasa", in order to have this valuable addition built with our money, but for his own exclusive benefit.

Because of Mexican Law requirements, we couldn't buy the Suites directly, but through a Trust. The Trust was set up by Ocasa as Trustor (it provided the land), with Bancomer, the second largest Mexican Bank, as Trustee. From the very start, as part of the deal, Bancomer contracted Ocasa as Property Manager, and Posadas, the Mexican licensee of Holiday Inns, as Hotel Operator. The initial Trust Beneficiary was the builder, a company called Vallamar. We bought the Suites from Vallamar, as individual condominium investors, by Purchase Contracts that assign to us the related beneficiary rights in the Trust. Our association represents 136 small buyers, with an aggregate investment of more than eight million dollars.

The deal was set up by Eduardo Avifa Batiz, the recently deceased boss of the ruling PRI Party machine in Guadalajara, and senior Mexican Congress member from the State of Jalisco. He was also a partner of the Guadalajara drug cartel, as we learned long before it was revealed by a DEA Report produced in the Los Angeles Federal Court at the trial for the murder of DEA agent Enrique Camarena. Three years ago he sold Ocasa to the Burquez Valenzuela brothers, nephews of the very powerful Arcadio Valenzuela, whose family is strongly rumored to be the Guadalajara drug cartel money launderer. We don't know of any published Report confirming this rumor.

As Property Manager, Ocasa has always run our hotel Tower in disregard of all applicable laws and contracts. Its elusive and misleading financial statements have never been approved by the Trust's Auditors. Income distributions are rare and trifling: no income has been released in the last three years. Ocasa ran some Condo meetings, under home-baked Bylaws curtailing our vote. Nevertheless, at an April 1989 meeting we were able to pass motions favorable to us. That meeting "never took place": the records were falsified to suppress all traces of it. In late 1990 Ocasa arbitrarily ejected Posadas from two Holiday Inn facilities it controls, ours and one in Mexico City. When Posadas officials resisted the unlawful eviction, one of the Burquez brothers drove them out at gun point, a feat that landed him in jail for a few days. Following Posadas' eviction, our Tower lost the Holiday Inns' license, and became a Ramada Inn, in breach of the Trust Contract and our purchase contracts. The Burquez brothers sell time-share interests in the Tower, although they own no part of it. They have netted millions from this fraudulent sale of our property.

Because of the Trust, we have no power over Ocasa: only Bancomer does, as Trustee, but for seven years it scorned our untiring requests to stop Ocasa's frauds and embezzlements. As a result, our property is ours only in legal fiction: in reality it has been taken over by Ocasa, through the

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agency of the Trust imposed upon us by the Mexican Government. Of course, this de facto taking of our property violates all applicable laws and contracts. But in Mexico powerful people and institutions, such as Ocaso and its present and past owners, can violate all contracts and laws without being called to account. This deeply rooted Policy of Impunity has been amply documented by Human Rights groups: it impacts Economic Rights as badly, as our case abundantly demonstrates.

Since the Trust operates under a permit from the Mexican Government's Foreign Relations Department, we asked that Department to rescind its permit. The request was denied. Therefore, we sued the Mexican Government for Trust rescission. It is a trailblazing lawsuit: no Trust permit has ever been revoked, and it appears the Mexican Government has no procedure for policing the Trusts it imposes on foreign investors. A case like this would be slow in the U.S., imagine in Mexico. Seeking speedier redress, since the spring of 1991 we have published on the Wall Street Journal several open letters to the President of Mexico and other officials. Some Mexican officials responded, proffering their good will intervention, but pretending that ours is a private dispute with the Trustee. It isn't: we did not enter into the Trust of our free will, we were forced into it by the Mexican Government. It is, then, that Government's duty to enforce on the Trust its own laws and the terms of its own permit.

The Mexican officials' weak entreaties elicited from Bancomer a series of promises which were repeatedly shelved by rigged Trust Beneficiary meetings where we were given a ridiculously low vote, while the builder, which owns a 2% share, got as much as 55% of the vote. It took months of virulent protests, in private and in the Wall Street Journal, to abate this crooked vote counting. Finally, at a December 1992 meeting we could pass binding resolutions enjoining Bancomer to fire Ocaso. Bancomer did the opposite: it made further concessions to Ocaso, as a way of reaffirming the de facto taking of our property. We were forced to raise more protests, and eventually Mexican officials prevailed on Bancomer to comply. Thus, after seven years of refusals, the lawsuit for firing Ocaso was started in late July 1993, as Congress was getting ready to deliberate on NAFTA. It is a complex lawsuit: the Property Management contract is artfully framed in such a way that it is hard to break. The bitter experience of the past gives us reason to worry whether this lawsuit will go on, or will be stalled once Congress will have voted on NAFTA.

Our case is a textbook example of the risks awaiting the Americans who will be lured into Mexican ventures by the NAFTA. At the root of these risks is the lack of equal accountability before the law and equal protection under the law in Mexico. Opposition to the NAFTA has thus far centered on labor and environmental issues. It is time to realize that disregard of Labor Rights and environmental requirements stems from the same root cause that engenders widespread abuses of Human and Economic Rights in Mexico: the Policy of Impunity that shields powerful Mexicans from accountability before the law. The latest developments of our case, and similar ones we know of, seem to indicate that this policy is being somewhat restrained by the spotlight cast on Mexico by the NAFTA debate. It remains to be seen whether this restraint will progress, or it will fade away once the dust has settled on the NAFTA vote. The future developments of our case will be most telling in this respect.

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APPENDIX A - EXTRACT OF DEA REPORT DATED FEB. 13 1990

A DEA Report dated Feb. 13 1990 was produced in the summer of 1990 at a trial in Federal Court in Los Angeles, in which Mexican nationals were convicted of the abduction and murder of DEA agent Enrique Camarena. Among those convicted was Mr. Rubén Zuno Arce, a brother in law of former Mexican President Luis Echeverría Alvarez. The report (called a "D-6" in DEA terminology) is a transcript of the statements made by a witness whose identity was not disclosed by the DEA (but was leaked by defense attorneys at the trial). Sections of the Report were published in the U.S.; a Spanish translation of the entire document appeared in the July 16 1990 issue of the Mexican magazine "Proceso". The following are the report's sections 28 through 32, re-translated into English from the Spanish translation:

28. *Rubén Zuno Arce (RZA), who has a known history of heroin traffic since the early seventies, had access to several airstrips through a man called Juan Aviña Batiz. RZA is a pilot in Mexico, with license #5747, on the basis of which he had received in 1978 U.S. pilot license #0022 78454.*
29. *The brother of Juan Aviña Batiz is Eduardo Aviña Batiz, boss of the PRI in Jalisco and the Deputy for the ninth electoral district.*
30. *Eduardo Aviña Batiz is known to be the former partner of RZA in the heroin traffic. Apparently, one month ago (i.e. Jan. 1990) the witness and Aviña Batiz had a conversation in which Aviña stated that the flow of drugs to the U.S. is the best solution to the problems of Latin America. The poisoning of American youth is the best response of the economically depressed Latin American masses to the imperialist actions of the United States.*
31. *The witness states that Eduardo Aviña Batiz is a strong contender for the Governorship of the State of Jalisco, in view of the expected exit of Guillermo Cosío Vidaurri, uncle of Sara Cosío, the companion of Rafael Caro Quintero, who abducted her to Costa Rica when fleeing from justice because of the Camarena murder.*

With reference to item 30, it is worth noting that, as owner of several assuredly profitable enterprises, Mr. Aviña Batiz was very far from being economically depressed.

La Jolla, 29 de Junio 1992

Lic. Pablo Muñoz Roja  
Director General de Asuntos Jurídicos  
Secretaría de Turismo  
Presidente Masaryk 172  
11587 México, D.F.

Muy estimado Licenciado

Me permito escribirle, por indicación del Lic. Agustín Ballina, Ministro de Asuntos Turísticos en la Embajada en Washington, para someter a su atención una operación de venta fraudulenta de tiempo compartido en una torre de suites la cual hace parte del complejo hotelero Holiday Inn en Puerto Vallarta, Jalisco. La torre de que se trata es constituida en un condominio fideicomitido a Bancomer S.A. como Fiduciaria. Su servidor representa la Asociación Valmarvest, la cual agrupa a numerosos condóminos representando el 46% de la propiedad.

La administradora del condominio, una compañía llamada Ocasa, ha siempre administrado la torre en violación de las vigentes leyes y contratos, faltando dar adecuadas cuentas a los condóminos. Ocasa ha constituido una entidad llamada "Puerto Vallarta Holiday Club", con oficinas de venta en el hotel de que se trata, la cual vende tiempo compartido en la dicha torre, sin poseer alguna parte de la misma. Por vender lo que no es suyo, el dicho Club defrauda a los turistas que compran a caro precio intervalos de tiempo compartido que no podrán disfrutar cuando se restablezca el respeto de la Ley, y mas nos defrauda a nosotros del dinero que invertimos en esta instalación turística en México. Es una situación que le acarrea indubitables daños al buen nombre del turismo Mexicano.

La dicha operación de venta fué uno de los asuntos planteados en una junta celebrada el 17 de Julio 1991 ante la Comisión Nacional Bancaria, con el propósito de lograr el restablecimiento de la legalidad en el manejo del dicho condominio y del fideicomiso relativo. El Lic. Antonio Roa Hernandez, presente en la junta en representación de la Dirección General que Usted dirige, manifestó que Sectur puede intervenir ventas fraudulentas de tiempo compartido, pero en aquel entonces no se pudo aclarar con certeza que existía fraude. Esto se aclaró el Diciembre 1991, como nuestra Asociación señaló al Lic. Roa por medio de la carta de que le anexo copia. El siguiente 7 de febrero de 1991 se celebró en Puerto Vallarta una Asamblea del fideicomiso de que se trata, a la cual presenció el Lic. Avila de la Torre, uno de los funcionarios de Su Dirección General. En tal ocasión el Lic. Avila investigó las operaciones de venta de que se trata, visitando la oficina de venta del Club, y observando a vendedores del Club enseñándole una Suite Modelo (la Suite 1201 de la torre condominial) a potenciales compradores. La dicha Asamblea acordó notificar a Ocasa que parara la venta de tiempo compartido y registrara con la Fiduciaria la ventas ejecutadas, notificación que le fué entregada ante notario el siguiente 2 de Abril.

Al pesar de la notificación, Ocasa no ha parado su venta fraudulenta de tiempo compartido, ni rendido cuenta de la misma. Estamos entonces en trámite de perseguir un acuerdo con los otros condóminos para contratar en común a abogados que demanden a Ocasa civilmente y penalmente en representación de todo el condominio. Los abogados con quienes estamos

en contacto nos confirman que, independientemente de nuestra acción, la Secretaría de Turismo tiene la tarea de velar sobre las ventas de tiempo compartido, y intervenir las que resulten fraudulentas. Me permito acordarle que ya se han perpetrado similares ventas fraudulentas en Puerto Vallarta y en otros centros turísticos, y muchos turistas han comprado intervalos vacacionales que no pueden disfrutar porque los que se los vendieron no tenían título para venderlos. Son casos que perjudican a la imagen del turismo mexicano, y confío que la Secretaría de Turismo no permitirá que el caso presente se agrave ulteriormente.

En consideración de lo arriba manifestado, le solicito los siguientes:

- Que confíe el asunto al miembro de Su Dirección General quien tiene cargo de velar sobre las ventas de tiempo compartido; asimismo Le ruego que nos comunique la identidad de tal funcionario.
- Que cite una junta entre el dicho funcionario y el Vice Presidente de nuestra Asociación, el Ing. Leon Slovik Bialostocki, quien radica en el Distrito Federal, con dirección en la Avenida Coyoacan 1110A, Colonia del Valle, y teléfono 5599911.
- Que el dicho funcionario encargado de velar sobre las ventas de tiempo compartido participe a la próxima asamblea del fideicomiso de que se trata, que se celebrará el 17 de Julio 1992 en Puerto Vallarta. Esto es un caso grave, y le solicitamos que el funcionario encargado de esta clase de asuntos venga a constatarlo personalmente y actuar de conformidad.

En espera de Su grata contestación, me quedo de Usted su atento y seguro servidor

*Leonardo Cavallaro*

Dr. Ing. Leonardo Cavallaro  
 Presidente, Valmarvest A.C.  
 1598 Kearsarge Rd., La Jolla, CA 92037-3824  
 Tel. (619)4591620 - Fax (619)4546370

cc: Lic. Agustín Ballina, Ministro de Asuntos Turísticos  
 Embajada de México en Washington, D.C.



FORMA 47-60  
DIRECCION GENERAL DE  
ASUNTOS JURIDICOS  
OFICIO K/424/92.

México, D.F., a 10 de julio de 1992

SECRETARIA DE TURISMO

SR. LEONARDO CAVALLARO  
PRESIDENTE DE VALMARVEST A. C.  
P R E S E N T E

Por medio de la presente informo a su despacho del 29 de junio del año en curso, mediante el cual solicita a esta Secretaría el nombre del funcionario encargado para resolver lo relativo a las ventas de condominios a través del sistema de tiempo compartido.

Sobre el particular, me permito informarle lo siguiente:

1.- La Secretaría de Turismo es una Dependencia de la Administración Pública Federal, entre cuyas facultades se encuentran las de protección y auxilio de los turistas así como la regulación, clasificación y control de los servicios turísticos.

2.-En este sentido y de conformidad con lo establecido en los artículos 84 al 91 de la Ley Federal de Turismo, la Secretaría deberá vigilar que los establecimientos cuenten con cédula turística, que presten los servicios conforme a su clasificación y categoría, aplicando los precios y tarifas autorizadas, practicando para ello visitas de verificación con las que se constata lo antes mencionado.

3.-Respecto de la prestación del servicio turístico de tiempo compartido, esta Secretaría está facultada para otorgar y modificar la categoría del establecimiento; llevar a cabo la inscripción de los establecimientos en el Registro Nacional de Turismo, cuando se cumplan los requisitos establecidos en la ley; recibir y atender las quejas que los usuarios-turistas presenten por escrito en contra de la prestación del servicio respectivo; llevar a cabo visitas de verificación y aplicar sanciones que correspondan por el incumplimiento a cualquiera de las obligaciones que el prestador de servicios turísticos de tiempo compartido realice.

4.-Por otra parte, como es de su conocimiento, esta Secretaría ha seguido de cerca el desarrollo de este asunto, para lo cual se ha establecido contacto con el Ing. León Slovik Bialostocki, Vicepresidente de la Asociación Valmarvest, a quien se le expuso que debido a que el asunto se refiere a la mala administración del encargado de los bienes objeto del tiempo compartido y por tratarse de un conflicto ajeno a la prestación del servicio, desde



SECRETARIA DE TURISMO

el punto de vista jurídico, esta Secretaría, no es competente para intervenir en dicho litigio, por lo que será necesario, en su caso, realizar las diligencias legales que corresponda ante el órgano judicial competente, a fin de obtener la resolución a la que haya lugar.

No obstante lo anterior, por lo que se refiere a la operación del servicio turístico de tiempo compartido que se ofrece, o a cualquier asunto relacionado con la competencia de esta Secretaría, esta Dirección General, está en la mejor disposición de brindar el apoyo que se requiera.

Sin más por el momento, hago propicia la ocasión para enviarle un cordial saludo.

ATENTAMENTE  
EL DIRECTOR GENERAL

*[Signature]*  
LIC. PABLO MUÑOZ ROJAS

Here, Mr Muñoz is pretending that we asked him to intervene in our dispute with the Property Manager. Nothing could be farther from the truth. We asked the Mexican Tourism Dept. to stop a fraudulent time-share sale. This answer is a bold-faith excuse to allow the fraudulent sale to go on and on.

c.c.p. - LIC. AGUSTIN BALLINA.- Representante de Turismo en Washington D.C.-Presente.

DTA/FRY.

## Mexico

## Fighting the machine

FROM OUR MEXICO CORRESPONDENT

**W**ILL 1994 be like 1988? Six years ago Mexico's ruling Institutional Revolutionary Party (PRI) got the fright of its long life. The PRI, under various names, has acted since the 1920s as the electoral vehicle of Mexico's governing bureaucracy. Then Cuauhtemoc Cardenas, a dissident PRI leader who left to lead a centre-left coalition, appeared to have given it its first-ever defeat in a presidential election. Only after a lengthy delay, blamed on "breakdown" in the computers counting the votes, was Carlos Salinas, the official PRI candidate, awarded victory, with 50.7% of the vote.

Now Mr Cardenas is trying again. Launching his campaign before thousands of supporters at Mexico city's sports palace, he promised them that next August's vote would be no repeat of 1988, meaning that this time he and his followers would not allow fraud to stop him.

But Mexico has changed in other ways since Mr Salinas took office. His bold programme of free-market reforms has reinvigorated the economy after the dreary, debilitated 1980s. In the eyes of many Mexicans, this has bestowed on the president the legitimacy he lacked on taking office. His government has balanced the budget, cut annual inflation from 160% to 9.5%, and sharply increased spending on health, education and infrastructure. Real wages have begun to recover after a prolonged fall in the 1980s.

By negotiating the North American Free-Trade Agreement (NAFTA) with the United States and Canada, and overseeing an application by Mexico to join the OECD, the rich countries' club, the government has projected the image of a country walking tall. Though Mr Salinas's popularity may be dipping, at over 50% in the opinion polls it is still high for a Mexican president in his final year. In contrast, Mr Cardenas's Party of the Democratic Revolution (PRD) has done poorly in recent state elections.

So the PRI should be feeling pretty confident. In fact, it is not. The regime appears cautiously afraid of Mr Cardenas. He has been the target of censorship and dirty tricks that he blames on the government. One Mexican journalist recently complained that his radio show was axed after he interviewed Mr Cardenas. Other radio stations have been told to deny air time to a list of the opposition leader's supporters.

In the most notorious incident, a cam-



Bloodhound Cardenas

paign dinner in the eastern state of Veracruz was enlivened by the surprise appearance of a group of micro-skirted transvestite dancers from a local night-club called "Bum-Bum". They fussed over and kissed a surprised Mr Cardenas. Photographs of this rigged encounter duly appeared in the Mexican press, allegedly in space bought by the PRI state government. More seriously, the PRD blames the government for the killing of more than 200 of its members since 1988, many of them during protests over alleged fraud in state elections.

Mr Cardenas is particularly disliked by the PRI because he has never recognised that Mr Salinas won in 1988. But he is dangerous to the government for other reasons. As the son of a former president who in the 1930s nationalised the oil industry and handed out land to the landless, he can claim to be the authentic representative of the PRI's tradition of revolutionary nationalism. Polls show that Mr Cardenas is Mexico's best-known politician after Mr Salinas. His oratory is laudable. But his modest manner, Indian descent and bloodhound-doleful countenance give him an image of integrity. As well as offering democracy and clean government, his campaign is directed mainly at the millions of Mexicans who have yet to receive many benefits from Mr Salinas's reforms.

The PRI argues that Mr Cardenas represents Mexico's bad old statist and nationalist past, and that this no longer appeals to voters. In an effort to seem modern, Mr Cardenas retorts that he believes in Mexico's opening to market forces and foreign trade. He says he would not re-nationalise the hundreds of state companies privatised by Mr Salinas; he would intervene only where there was evidence of cronyism, and only to organise fresh sales. Though he says he

would seek to renegotiate NAFTA, he also says he favours the principle of a trade agreement with the United States. But economic policy, or lack of it, is Mr Cardenas's most obvious weakness: his speeches are rife with populist promises.

Mr Cardenas's fortunes will depend mainly on three factors beyond his control. One is whether the government keeps its promise to allow the opposition access to the media, in particular to television. Mr Cardenas's hand would also be strengthened if the American Congress were to say no to NAFTA. The third factor is the PRI's choice of candidate—in practice, under the unwritten rules of Mexico's political system, the current president's personal choice. Until now, electoral appeal has never weighed greatly in that balance. This time, if the PRI is to win without resort to dodgy computers or dirty tricks, it will have to.

THE ECONOMIST

NOVEMBER 6, 1993



# MEXICO

## Respect restored



Something to celebrate

**A**FTER years in the wings, Mexico is poised for the spotlight. The club of rich nations hails it as the perfect student of economics. What better candidate for stardom than this country of 85m people, which went bust so publicly just over ten years ago and which has since embarked on dramatic and successful economic reforms?

Its recent achievements are impressive both in themselves and for the break with the past which they represent. Mexico, home of what can be regarded as the world's first socialist constitution in 1917, was one of the 1980s' most enthusiastic converts to the cause of economic liberalism. For one thing, it opened up large tracts of its economy to foreign competition. Since joining the GATT in 1987, Mexico's average tariff on imports has dropped from 45% to 9%. The negotiated—though not yet ratified—North American Free Trade Agreement (NAFTA) with America and Canada is the continuation of this process, not the start of it. In many industries Mexican businessmen already face the full brunt of foreign (which mostly means American) competition.

For another thing, Mexico has dramatically cut inflation and the government deficit that was its main cause. Inflation plunged from a peak of 159% in 1987 to 12% in 1992 and is headed, perhaps, for 8-10% this year. The government deficit reached a scary 16% of GDP in 1987. Yet in 1992 the government ran a surplus equivalent to 1% of GDP, excluding the many billions of dollars raised from privatisation, most of which has wisely gone to pay off the

national debt. Mexico's outstanding public-sector debt is only 39% of GDP. The comparative figure for America is 63% and for Japan 65%.

Mexico has also privatised swathes of its economy, including the telephone company, the banks and, crucially, agriculture. It has also liberated most aspects of commercial life in a bonfire of old command-economy controls. This deregulatory clear-out is perhaps the biggest change of all to daily life and popular attitudes. They needed some changing. Mexico City, the smog-filled metropolis with a population of 15m, defines the culture of the country. It is not yet in the main a commercial one. The city still has little of the raw acquisitiveness of Hong Kong, New York or even Sao Paulo. For a taste of that spirit you have to go north to Monterrey, where many of Mexico's most successful companies are based, or to the booming border towns such as Tijuana and Mexicali.

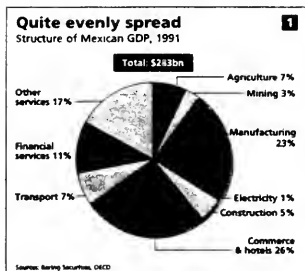
### Fun, tears and efficiency

That mentality will need to spread to more of the population if the Mexican experiment is to succeed. For it is still an experiment. The risk of failure, of a slip back to bolshevik inertia, remains. Mexico is trying something that few other nations have attempted in the past: to become an export-led industrial power with a regime of free trade.

The precedents are ominous. The country where xenophobia runs deep has had one major period of opening since it was born as a nation in 1821. This was the rule of a dictator, Porfirio Diaz, in



*Mexico has come a long way in a short time. It has won back its self-confidence after the disastrous 1980s. But dodgy politics raises the risk of a return to self-destructive urges, writes Christopher Wood*



the last quarter of the 19th century and into the second decade of the 20th. Diaz is a central villain of Mexico's pervasive and ultimately tedious brand of nationalism. But the fact is that his rule represented the golden age of Mexican capitalism. Budgets were balanced, foreign investment poured in and the country was unified by 12,000 km (7,500 miles) of railway. Very few have been built since.

Mexico was the source of the Hurst, Guggenheim and Pearson family fortunes in the second half of the 19th century, as foreign investors cashed in on political stability and the discovery of oil. Yet it all ended in tears with Diaz's overthrow in the revolution that started in 1910. Years of civil war and turbulence followed, culminating in the establishment in 1928 of the National Revolutionary Party. Now weirdly known as the Institutional Revolutionary Party, or PRI, this political machine has run the country ever since. With the collapse of the Communist party of the former Soviet Union, it is the world's longest-governing political party.

The man who has spearheaded the reforms of recent years, President Carlos Salinas, is a product of this ruling order. He was born into a leading PRI family; his father was a government minister in the 1960s. Yet the PRI's tradition is the converse of the sort of classical liberalism suggested by the policies Mr Salinas has followed. The party's tradition is a nationalist and corporatist one in which peasants, businessmen and organised labour all have a voice, presided over by a dominant central authority. Mexican presidents enjoy a degree of centralised power seen in few places outside tropical Africa. The legislative and judicial branches of government are rubber stamps of the executive. The PRI serves as a political machine to deliver elections and does whatever is needed to achieve this. Mexico is in no sense of the word a democracy. Government is conducted by an unelected bureaucratic elite accountable only to the president.

The Mexican polity therefore invests huge responsibility, power and trust in whoever achieves the office of president (which is why no president may stand for a second six-year term). Mr Salinas has repaid that trust in full since he assumed the presidency in 1988 in the most tightly fought presidential election of the PRI's history—one which the ruling party is commonly reckoned to have stolen. Despite those controversial beginnings, more than four years on Mr Salinas has a claim to be hailed as

one of the great men of the 20th century.

The determination with which he has pursued reform is partly explained by the fact that he has only six years to achieve his goals. It has also been helped by absolute presidential power. Aided by a circle of ministers boasting—as he does—post-graduate degrees in economics from America's best universities, the president has been able to transform the country. Mexico probably has the most economically literate government in the world. It is certainly one of the few countries where the economics profession is still revered rather than held in contempt. In a meeting with a government minister or official, the first question to greet the visitor is often: Are you an economist?

Mr Salinas himself is more complex than foreigners often think. As a model society, he cites Sweden (whose social-democratic welfare system is now disintegrating). He has a Lee Kuan Yew-like fondness for the word "efficiency" and a similarly ambivalent attitude towards the virtues of democracy. Mr Salinas is no believer in the intrinsic merits of universal suffrage. He proclaims his goal as "democracy with stability" and is not interested in democratic reforms that promote "anarchy or instability". He believes in securing economic reform before pushing political reform, and cites the chaos of the former Soviet Union as the result of pursuing the opposite course. His implicit goal is to preserve the present political system, and thus the PRI's dominance, by reforming it.

The NAFTA, which was his idea, derived from his reluctant conclusion that the world was moving towards a system of trading blocks, and that Mexico could not avoid reliance on America because it could not get the capital it needs to grow from Europe and Japan. With that recognition, Mr Salinas confronted and overcame Mexico's traditional fear of American dominance. This is perhaps his greatest achievement, given the emotional scars of this bilateral relationship. The scars are the natural consequence of America's violent seizure of half of Mexico's territory in the middle of the 19th century.

This newspaper's previous survey on Mexico, published in September 1987, quoted Mr Salinas's predecessor as president, Miguel de la Madrid, as saying that free trade with America was "not on the cards". It also stated the then almost universally held maxim: "Whoever the next president is, he will maintain a populist foreign policy and disagree with the United States." That this has not been the case is a measure of the change Mr Salinas has wrought and the political risks he has taken.

True, anti-gringo feelings persist below the surface. It is still worth a visiting British journalist's while to say: "Soy ingles, no soy gringo." But gringophobia is, for now at least, a shadow of its former self. This is a sign of maturity in a young country with enough self-confidence to deal with a vastly more powerful neighbour. Which is why it is at least as important politically and psychologically as it is economically that NAFTA becomes reality in 1994, as planned. NAFTA will institutionalise the reforms for the time after 1994 when Mr Salinas is no longer president. And it will consolidate the debunking of the anti-American past and the baggage of revolutionary mythology that came with it.



## Free trade's virtues

*Policy-makers gamble on the continued influx of foreign capital*

"NAFTA is not just the icing. It is the cake, the oven and the kitchen." The speaker is Rogelio Ramirez de la O, an independent economic consultant. He has a point.

The free-trade area matters for several reasons. First, the American economy is all-important to the Mexican one. The reverse is clearly not the case, even though Mexico is America's third-largest trade partner after Japan and Canada. Bilateral trade has grown rapidly since Mexico joined the GATT in 1987. In 1987 it totalled \$21 billion. In 1991 it was worth \$62 billion. That year Mexican exports to America came to \$29 billion, or 10.4% of Mexico's GDP but only 0.5% of America's. Mexico's imports from America were \$33.3 billion, or 11.9% of Mexico's GDP and 0.6% of America's. About 70% of Mexico's trade is with its northern neighbour. Yet the Mexican economy is one-twentieth the size of America's. Hence the fears of being swallowed up.

Then there is the leaky, 2,000-mile border. Mr Salinas's rallying cry in selling NAFTA to Washington has always been that Mexico wants to export goods rather than people. In 1992 the American border patrol arrested 1.2m people attempting to cross illegally, nearly half of them in the San Diego area. No one knows how many made the trip successfully. With wage rates in relatively prosperous Tijuana still only one-sixth of those in recessionary Los Angeles, the human flow will doubtless continue, but a trade agreement will dilute it.

Dilution is probably the best that can be hoped for. Mexico's annual population growth may have slowed to just under 2% in recent years. But the workforce is still expanding by 3% a year (reflecting a higher population-growth rate 15-20 years ago). More than a third of the population are under 15 years old and more than 80% are under 40 years old. Mexico has to create more than 1m jobs each year. But there is also opportunity in this challenge. Mexico has a plentiful supply of labour and would-be consumers.

NAFTA provides the regulatory framework to encourage both Mexicans and foreign investors to believe that the economic reforms are here to stay. If it is ratified, this reassurance will prove at least as



Something else to swallow up

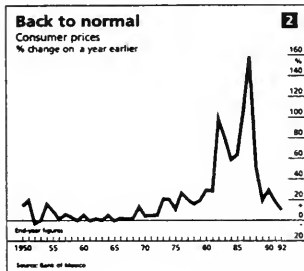
powerful as the growth in trade that will result. Mexicans themselves certainly need to be able to see light at the end of the tunnel.

They have been remarkably patient, considering the mess their leaders got them into with the effective declaration of national bankruptcy in 1982. The shame of this was heightened by the simultaneous nationalisation of the banks. What followed is now commonly referred to as the "lost decade" of the 1980s. In 1982-88 the economy did not grow at all; GNP per head declined by an average of 2% a year. Inflation averaged nearly 100% during the same period (see chart 2).

Mexicans were not used to this sort of dismal performance. The trauma of the 1980s was the exception, not the rule. Before this, a series of PRI presidents had presided over a period of remarkable economic progress. Between 1950 and 1981 real GDP growth averaged 6.6%; per head the annual average rise was 3.4%. This achievement is the main reason for the PRI's long tenure.

The 1980s devastated the middle class, as real wages collapsed while the rich moved their money offshore. Real wages in manufacturing declined by 31% between 1982 and 1988 (see chart 3). Mr Salinas's reforms have no chance of success in the long term unless they create a larger bourgeoisie. Mexico still suffers from a classic legacy of Iberian colonialism: a huge concentration of wealth in a few hands. Despite the cult of the economics doctorate in the higher ranks of government, Mexico's private sector is still dominated by a tight oligarchy, where connections matter more than merit and where the ruling patriarchs are reluctant to give up control.

The best endorsement of a person in Mexico is still that he is "from a good family". Such nonsense needs to end if Mexico is really to be considered a member of the rich man's club of developed nations. Mexico has formally requested to become a



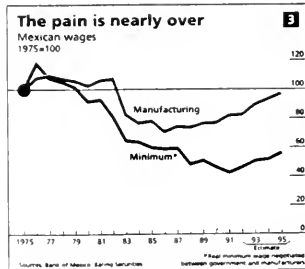
member of the Organisation for Economic Co-operation and Development (OECD). That this request is taken seriously from what remains a third-world country with a GDP per head in 1991 of \$3,400 is testimony both to admiration for Mr Salinas and to the shortness of most people's memories (see enari 4). It was only a few years ago that commercial-bank creditors agreed to write off a portion of their loans to Mexico under the Brady plan.

#### Keeping foreigners happy

If Mexicans need reassurance, so do foreign investors. Once again, NAFTA is vital. Mexico's savings rate of 19% is simply not enough to finance the 5-6% sustained rate of economic growth that Mr Salinas says he thinks Mexico needs. True, his government has already taken measures that should boost savings in the longer term. Real interest rates have been maintained at high levels as inflation has plunged, while a mandatory system of private company pension funds was introduced last year. But capital inflows from foreigners are needed to finance a rising current-account deficit.

This deficit is partly the healthy result of Mexico importing the capital equipment it needs to modernise its industrial base. But it is also partly due to a consumer boom and the proven appeal of American goods as trade barriers come down. In November 1992, when the Mexican government reduced the value of goods that could be bought duty free over the border from \$300 to \$50 and actively enforced the measure, shoppers demonstrated and a mob (of "smugglers", according to the finance ministry) attacked a customs house at Nuevo Laredo. This shows how hard it will be for the PRI to return to its old protectionist ways, should it ever wish to.

The current-account deficit is now the biggest problem facing Mexico's government. It is estimated to have reached \$20 billion in 1992, or about 6.3% of GDP—large enough to raise the threat of devaluation among foreign investors. Last summer the Bank of Mexico felt it necessary to tighten monetary policy abruptly in order to defend the peso. This caused a steep rise in interest rates, to levels foreign investors could not resist. The current-account deficit has since been financed by hot money invested in short-term government paper paying interest rates of 18% and higher. This has been at a cost to economic growth. GDP increased by 2.7% last year compared with 3.6% in 1991.



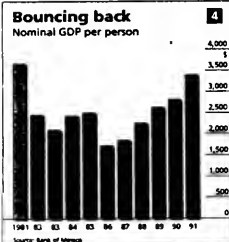
Yet pressure on the currency remains. The government acknowledged this in October when it widened the band in which the peso could fluctuate. Before this, under a crawling-peg system the maximum amount of devaluation was 20 centavos a day, or an annual 2.5%. Now it has been widened to 40 centavos daily. Rudiger Dornbusch, an economics professor at MIT, made headlines in November when he commented that Mexico would still be forced to devalue despite these measures. It may seem odd that the Mexican press should pay so much attention to the opinions of one academic, even if he is a member of the revered economics profession. But Mr Dornbusch taught Mexico's respected finance minister, Pedro Aspe, at MIT and until this point had always endorsed his former pupil's policies.

A devaluation of say 15%, forced by nervous foreigners, would not be as big a disaster as it might first appear. True, in the short term it would be seen by Mexicans as a terrible blow to the reforms of Mr Salinas: it would be a reminder of the maxi-devaluations of the 1970s and 1980s. But the truth is that it would occur under quite different circumstances. Mexico no longer has a fiscal deficit, a fact which will reduce the inflationary impact of any devaluation. This is why fiscal rectitude is the cornerstone of Mexican economic policy.

Devaluation scares and similar jitters should decrease if NAFTA is ratified, especially if the government continues to show progress in its stated aim of bringing inflation down to American levels. For NAFTA will create an established order in the new relationship with America and Canada, with a specific timetable for the opening of most key industries. The promise of that new order has already led to a boom in direct investment. Foreign direct investment during the administration of Mr Salinas reached \$24 billion at the end of last September. This is double the total outstanding level of direct foreign investment when he became president. More will come if NAFTA is ratified, since not every company is prepared to put its money on the table before a deal is done.

Two-thirds of this direct investment is in manufacturing and 20% in tourism. Geographically, its origins are less diversified than Mexico would wish: America accounts for two-thirds and the EC 25%. Only 5% comes from Japan. The Japanese see Mexico as America's backyard, which it is. And they have sharper memories than most of their banks not being paid back in full as a result of the 1980s debt saga. Unlike the American and European banks, the Japanese banks did not engage in debt-for-equity swaps, many of which have since proved spectacularly profitable.

The foreign investment that has boomed under Mr Salinas is not all going into polluting sweatshops on the American border—the clichéd view of investment into Mexico. This is the legacy of the *maquiladora* programme, which began in 1965. The *maquiladoras* are manufacturing plants that assemble components imported tax-free for re-ex-





pon. The chief lure is cheap labour. In the motor industry, for example, American workers still earn eight times more than Mexican workers. Total sales of *maquiladora* plants are expected to reach \$15 billion in 1993. However, *maquiladoras* account for only 8% of total foreign direct investment; they tend to be labour-intensive operations where the level of capital investment is not large. Also, a lot of the machinery is leased, so is not registered as a Mexican asset. The Mexican government now wants to encourage the domestic manufacture of components that are currently imported into the country for use in *maquiladora* plants.

The flow of foreign money—into *maquiladoras* and elsewhere—is spreading away from the border areas, which suffer from high rates of labour turnover. One example is a Japanese car firm, Nissan, which built its first factory in Mexico in 1966. The company recently completed a new \$350m assembly plant in Aguascalientes in north-central Mexico. The geographical diversification of Mexico's manufacturing base will be promoted even more by the completion of an ambitious infrastructure programme. One central component of this is highways. The plan is to build more than 5,000 km of toll roads during the Salinas administration. In 1988 there were only 1,000 km of these roads. Indeed there is a maverick view that the border will become the rust belt of Mexico. It will be joined by

the valley of Mexico City, whose satellite towns are the home of Mexico's oldest industrial base, the relics from the unmourned days of import substitution. Such an outcome is quite possible.

All this assumes that NAFTA is made flesh at the beginning of 1994, on schedule. Sadly for the Mexicans, this matter is now largely out of their hands. The Salinas government reduced its bargaining power by an inexplicably naive policy of putting all its bets on George Bush. It was almost totally unprepared for a Clinton administration; the result is that the new American president owes Mr Salinas nothing. It is not the purpose of this survey to discuss American domestic politics. Suffice it to say that the best-informed guess is that NAFTA will be ratified, but not until the second half of 1993—because of Mr Clinton's need to win stricter environmental and labour regulations from Mexico to appease some of his supporters.

Even such a relatively small delay poses risks. Foreign investors may get jumpy, especially as the question of who will succeed Mr Salinas in 1994 begins to loom larger. The presidential election will be held in July of that year. Meanwhile, there is one solely Mexican risk to NAFTA and to economic reform. It is a risk which has been all too conveniently ignored in the recent euphoric years of blitzkrieg economic reform. That is the country's lack of democratic politics.

## Primitive politics

Political life in Mexico leaves much to be desired

THE event was one of those gatherings of intellectuals meant to celebrate the burial of socialism. Mario Vargas Llosa, successful novelist turned unsuccessful Peruvian free-market presidential candidate, was invited to Mexico City in the autumn of 1990 to join in the fun. He spoilt it. On live

television he announced that: "Mexico is the perfect dictatorship." Nobody was amused. The next day Mr Vargas Llosa was bundled out of the country, his words disclaimed by a furious Octavio Paz, the Nobel prize-winning Mexican poet and sponsor of this anti-collectivist gathering.



Every vote matters

Mr Vargas spoke the truth. The Mexican political establishment has no deep respect for the merits of universal suffrage. The PRI has a long history of effective tampering with elections. It is generally considered by impartial observers to have cheated on a massive scale in the 1988 presidential election, when Mr Salinas only just squeaked home.

The ugly truth is that Mr Salinas and his band of bright technocrats, adored though they are by the great and the good on the international conference circuit, wield power courtesy of PRI fixers and worse in the countryside. Mexican politics is not without its violent side. The left-wing opposition Party of the Democratic Revolution (PRD) claims that, up to last September, 164 of its members have been murdered since 1988.

The PRI remains an essentially authoritarian structure, complete with its own domestic intelligence apparatus. Luis Alvarez, leader of the conservative National Action Party (PAN), recalls that when the PAN held the annual meeting of its national council last year in Morelia, it discovered eight hidden microphones in the meeting room. The PRI has an ingrained habit of viewing itself and the state as one and the same, and is a past master at co-opting critics into its ranks. Thus, Mexican "intellectuals"—a word which is still used in Mexico without prompting the smirks it would elsewhere—tend to compete not on ideas but on their proximity to centralised power. All this may be understandable given the duration of the PRI's dominance. But it encourages bad habits.

Unfortunately for Mr Salinas, this side of Mexican society can no longer be ignored. His reforms may be widely lauded, but they have still been imposed from above. Enrique Krause, a historian and editor of *Vuelta*, a political monthly, puts it well: "Mr Salinas has earned credibility, not legitimacy." Mexico now stands out in its part of the world as an exception. Together with the likes of Cuba and Haiti, it is one of the few countries in Latin America which cannot be described as a functioning democracy.

There may be an argument that universal suffrage is a luxury that a developing country cannot afford when its government wants to administer a hefty dose of the correct economic medicine. But it is not a case that Mr Salinas can make too openly, even if it is probably what he and most of his senior ministers believe. It may only be a matter of time before American congressional opponents of NAFTA start using Mexico's dubious politics as the main argument for attacking the treaty. So far the American press has mostly ignored Mexican politics, so intent has it been on reporting the economic reforms.

Mr Salinas understands this well. His state-of-the-union speech in November called for more "electoral transparency". He proposed various reforms, including limits on campaign funding and guarantees of more impartial access to the media. Sceptics will not be convinced, unless the government gives up its control over the electoral machinery. There is no sign that it will.

Mr Salinas's strategy has been to open up the political process just enough to prevent the sort of violent protests that would attract international attention and so put NAFTA at risk, while at the same



Man of the people

time not diluting the powers of the presidency that have enabled him to rule so effectively. This requires an ability to be both Dr Jekyll and Mr Hyde which few others could match. Rodolfo Junco, executive director of the Monterrey-based *El Norte*, Mexico's best and most independent newspaper, says of Mr Salinas: "He is a man who knows the old ways as well as the new ones. He uses either depending on what he wants to accomplish."

#### Indecisive elections

To let the steam out of the political boiler, the Salinas years have witnessed what would have been unthinkable before 1988: state governments in the hands of the opposition. The PAN now governs the border states of Baja California and Chihuahua, following outright electoral victories. It also holds the interim governorship of Guanajuato in central Mexico, after a disputed election in 1991. The more threatening left-wing opposition, the PRD, has no governorships. It is more of a movement than a coherent party. It is led by Cuauhtemoc Cardenas, whose name has special magic in Mexico because his father, Lazaro Cardenas, is a revered revolutionary hero who nationalised the oil companies as president in 1938. Mr Cardenas broke away from the PRI before the 1988 presidential election after calling for an open vote to choose the PRI's candidate. Under the present system of the *dedazo*, the "pointing of the finger", the incumbent president chooses his successor.

The opposition parties have also scored gains in local elections during the administration of Mr Salinas. The PAN, the PRD and other smaller opposition parties now control 4,000 out of 19,000 municipal elected offices. This undeniably marks a move towards a degree of pluralism.

Still, in other ways Mr Salinas's efforts to keep the lid on domestic politics have served only to underline his own powers. In the past year PRI-elected governors in two states, Tabasco and Michoacan, have stood down after the opposition parties demonstrated against alleged electoral fraud; and two others stood down in similar circumstances in 1991. Nobody doubts that Mr Salinas engineered these resignations in order to avoid violence that might





alarm foreign investors and jeopardise NAFTA.

Mr Salinas has thus given his opponents an incentive to take to the streets the day after polling whenever they do not like an election result. And he has also demoralised the PRI's local functionaries, who may even have won fairly. Mr Salinas risks making a mockery of the political process, since what happens after the election becomes more important than the election itself. Mr Junco calls this "democracy by designation". Its cause is the power of the presidency.

Presidencialismo is also behind Mr Salinas's main initiative outside the economic sphere. This is the National Solidarity Programme. Its origins go back to the topic Mr Salinas chose for his PhD thesis: the correlation between public spending and political support for the system. The young Mr Salinas found there was none. Hence the idea of Solidarity, which bypasses the traditional bureaucracy.

#### Local hero

Smooth government spokesmen like to reel off statistics about how Solidarity has improved the lot of the poor. In the past four years 13m people are said to have got access to electricity and 11m to running water. This is not unimportant. But these same spokesmen convince nobody when they claim that Solidarity has no partisan political purpose. Solidarity's funds tend to be spent where the PRI feels most threatened electorally. For example, \$135m was spent last year in the state of Michoacan, where the PRD is strong. This amounts to 6% of Solidarity's estimated annual budget of 6.8 billion pesos (\$2.2 billion). On the whole, spending tends to be concentrated in the countryside, where it is easier to garner political support in return for material benefits (and, admittedly, because that is where most of the poor live). Urban areas tend to be more sophisticated, and so more sceptical towards such a

crude approach.

Solidarity also exacerbates the primitive side of Mexican politics by its emphasis on the personality of the president—which comes straight from the Aztec tradition of centralised power. On his regular weekly trips outside Mexico City, Mr Salinas receives hand-delivered petitions in which people say what they want done. Officials are then instructed to deliver on these commitments, though government funding is provided only where the local Solidarity committee has organised voluntary effort. Mr Salinas then returns to the village or district when the project is finished. The impression left is clear. It is the president who has bestowed this benefit, not the local bureaucracy. In a village outside Mexicali (capital of a PAN-governed state), which has been connected to running water and electricity, Mr Salinas is hailed thus by a delighted local matron: "You are Mexico, Mr President!" Quite.

Solidarity has another political merit. It organises people who tend not to have been politically active before, though the heads of the Solidarity committees are often experienced PRI functionaries. Thus what has been created is a parallel political organisation loyal to Mr Salinas himself. This has led the inevitable conspiracy theorists to speculate that Mr Salinas may be planning to tap this support when he is no longer president, to form a separate political party. The whole campaign, with its use of *Solidaridad* emblems and slogans, has totalitarian aspects which would be barely acceptable in a modern society.

The result is to perpetuate the Mexican tradition of rule by a strong man. This is the reverse of modernisation. The contrast with the reforms in the economic sphere are obvious and troubling, and sow the seeds for future conflict. The most dramatic of these reforms is in agriculture.

## Rural revolution

The greatest change of all is happening in the countryside

IT IS a sad reflection of Mexico's baggage of revolutionary mythology that it let its system of land tenure survive until near the end of the 20th century. The consequences of dismantling the system will affect more Mexicans than the rest of Mr Salinas's reforms put together.

The origins of Mexico's agricultural mess lie in the 1910 revolution, which was partly provoked by grossly unequal land distribution and the plight of the landless rural poor. Just 260 families owned 80% of Mexican territory. The result was article 27 of the Mexican constitution of 1917. This compelled the government to give land to any group of peasants who asked for it. To comply with these requests, the government could expropriate land from private owners and form new *ejidos*, a peculiarly Mexican concept dating back to before the Spanish conquest and essentially a form of communal ownership. The constitutional drafters were so anxious to avoid the re-appearance of large land holdings that the peasants who owned these *ejidos* could not sell the land nor rent it, nor even pledge it as collateral for loans. Instead the peasants were left

with only two options: to scratch a living out of the land themselves, or, if that failed, to leave for the cities.

The core of the system remained intact until 1991. The consequences of this attachment to collectivist dogma are only too apparent. Agriculture accounted for only 7% of GDP in 1991, having fallen in absolute terms for each of the preceding four years. Yet 23% of economically active Mexicans work in agriculture, according to the 1990 census, and 30% of the population live in rural areas. Out of the 40m Mexicans still reckoned to be living in poverty, 70% are in the countryside. Worse, the taxpayer has been paying huge subsidies to agriculture in recent years to keep such a large part of the population producing inefficiently.

Agricultural GDP per head is now lower than it was in 1965, and the country is importing food. The trade balance in food turned negative in 1989, for the first time in years. Mexico is now a net importer of maize and wheat and is the world's biggest importer of milk powder. Yet Mexican agriculture is blessed with good climates (the country has a 365-



Specialists at work

day growing season) and should be able to grow fruits, vegetables and all types of grain efficiently. In many parts of the country it is possible to grow three crops a year.

Mexico has 196m hectares of land, yet only 20m hectares are genuinely used for agriculture. And only 6m are properly irrigated: the rest are dependent on the vagaries of rainfall. The country also has 50m hectares of forest. But the lack of clearly defined property rights has prevented the growth of a modern forestry industry, just as it has precluded farmers from exploiting economies of scale.

Mr Salinas's reform is simple but (in the Mexican context) breathtaking, as is the fact that it has met almost no overt opposition. Agriculture is to become part of the market economy. This is happening because of three things. First, the constitutional right to be granted land by the state has been eliminated. Second, well-defined rights of private ownership of property have been re-established. Third, the *ejido* system has been reformed so that land can once again be rented, sold or pledged for the purpose of borrowing money (though only to someone inside the *ejido*, unless the majority of the community agrees). Timothy Heyman, head of Barings Securities in Mexico City, notes that a huge amount of natural wealth will, in effect, be added to the national balance sheet.

Yet the change is even bigger than this implies. There is also the impact of NAFTA to consider. Under the terms of the treaty, tariffs on the most sensitive agricultural goods, such as maize, beans and powdered milk, will be reduced to nothing over 15 years. Tariffs and other barriers for seasonal fruits and vegetables will be phased out. Mexico will also remove 82% of the tariffs on American agricultural goods, and America will cut 95% of the tariffs on Mexican goods within ten years.

The long-term opportunities for investors posed by these changes are large. Luis Tellez, a young MIT-trained economist who is under-secretary for planning in the agricultural ministry, and is responsible for implementing the reforms, says:

"It is like opening the Wild West in America. We will get this thing moving in 10-15 years." The companion is not exaggerated.

Investors are showing particular interest in fruit and vegetables; the precedent of Chile shows the potential of such specialist agribusiness. Take the case of bananas. Mexico has not cultivated them on a large scale since the 1930s, when the plantation owners moved their operations to central America. With rights of ownership secure, they may now return, since it is claimed that Mexico has a more suitable climate. Sugar is another area in which Mexico should be competitive, which is why American sugar growers are lobbying hard against NAFTA.

The Mexican government knows that it cannot simply switch to international prices without wiping out, for example, more than 90% of the country's 2.4m corn (maize) producers (whose families make up almost half of the rural population). So part of the fiscal surplus will be used to channel welfare payments to them—but, as far as possible, in a way that will not encourage uneconomic production. The plan is to move to international prices for corn this year (Mexican consumers now pay 2½ times the market price). The corn growers will be compensated by direct income-support payments, a daunting administrative task.

This does not solve the problem of what will happen to all these subsistence farmers, though Solidarity projects may provide work for some of them. The only viable long-term solution is more industrialisation and the development of a larger services industry. This will not happen overnight. In the shorter term the immediate impact of the double blow struck by agricultural reform and falling tariff barriers will be to cause many to leave the countryside—and often the country, as they head north for the United States.

This is a natural consequence of agricultural reform, which it is to be hoped that both the American and Mexican governments fully comprehend, despite the pro-NAFTA rhetoric about exporting jobs rather than people. It would be a price well







worth paying. For it represents Mexico's best hope for delivering a lot of people out of extreme poverty—which can only be good for America, both from the point of view of security and in terms of developing Mexico as an affluent consumer market. Politically, agricultural change will also compel the PRI to develop more democratic habits: elec-

toral tampering is far easier in the countryside, and in the future more of the votes will be found in the cities. Successful agricultural reform is also a *sine qua non* of Mexico's modernisation overall. To have nearly one-third of the population living in rural areas is simply not sustainable if the country is to live up to its aspirations.

## A Latin Big Bang

Finance offers both risks and rewards

AGRICULTURE is not the only area of far-reaching reform: finance, too, has seen big changes. Mr Salinas has undone one of two gross acts of confiscation, namely the nationalisation of the banks in 1982. The other was the nationalisation of the oil industry by Lazaro Cardenas in 1938. The oil business is the biggest sacred cow of them all, which is why it has not been undone by even this intrepid reformer. Petroleos Mexicanos (Pemex) remains a state-owned oil monopoly though it employs 75,000 fewer people than it did in 1988, and there has been quite a lot of privatisation in the petrochemicals business.

Bank privatisation has brought a windfall into the government's coffers. The 18 commercial banks were sold for \$12.4 billion between June 1991 and July 1992. Since the then-president, Jose Lopez Portillo, nationalised the banks in 1982 at a cost of just \$600m, based on prevailing book values, the sale of the banks for 21 times that amount would seem like a great bargain for the taxpayer, were it not for the eight years of lost growth that followed nationalisation.

Buyers paid hefty premiums for the banks (to the tune of more than three times book value) because they recognised an historic opportunity. Mexico is underbanked by almost every measure, a result of the fact that Mexican companies and consumers had almost no access to financing during the 1980s. The government hoovered up whatever credit was available (see chart 5). Yet this was a period when much of the rest of the world was bingeing on debt.

The broadest measure of financial intermeditation, M4 as a percentage of GDP, was 46% in Mexico at the end of 1991. It was nearer 120% in Japan.

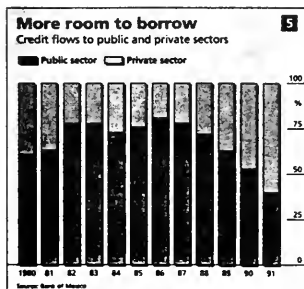
There is only one bank branch per 18,000 people in Mexico, compared with one for every 4,000 people in America and one for every 2,000 in Western Europe. Consumer loans represent more than half of GDP in Canada but only 5% in Mexico. Such facts suggest a huge latent demand for credit among both companies and consumers. This can now be met, since the government is no longer running a deficit. Jose Castello, a banking analyst at Baring Securities in Mexico City, reckons that bank loans grew by 25% in 1992 and that during the next ten years lending will increase at three times the rate of economic growth.

This is heady news for bankers in terms of the opportunity it presents for profits. But it also hints at the risk of losses. Rapid growth in lending too often ends in disaster for financial institutions. On top of this, bankers also have to contend with the Big Bang of deregulation. Interest rates were deregulated in two stages in 1988 and 1989, which means that the newly privatised banks can now compete freely on price (though again the process is not without risks). This makes sense because Mexico's financial services have to prepare for NAFTA. American and Canadian banks will initially be limited to only a 8% share in 1994, with no single bank allowed to have more than 1.5% of the market. But this will rise to 15% by 2000.

Big Bang in Mexico has some of the qualities of its predecessor in London and other financial centres during the frenzied 1980s. Job turnover has risen as salaries have soared. Discarded Wall Streeters have even headed south to cash in while the party lasts, since the reforms under Mr Salinas have also fuelled a boom in the stockmarket.

Speculative fortunes have been made in Mexico in the past ten years. By September 1992 the stockmarket had risen to 120 times its value when the banks were nationalised (see chart 6). Foreigners have become increasingly active. They—mostly Americans—had \$27.7 billion invested in the Mexican market at the end of November, a 21% stake. They often account for more than half the daily trading. Because many Mexican blue chips are quoted on the New York Stock Exchange, the tone of the Mexican market is now set by New York, which opens for trading an hour earlier. The Mexican Bolsa has therefore become an appendage of Wall Street; this will become a sore point the next time New York has a proper panic.

In one sense Big Bang in Mexico is *sui generis*, the result of the peculiar circumstances surrounding bank privatisation. This is because more than half the banks were bought by stockbroking firms, to form what are now known in Mexico as financial



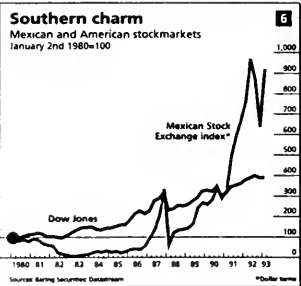
groups. These groups provide the whole gamut of financial services. This is the reverse of what happened in London, where banks bought securities firms. Mexico has therefore embarked on a novel experiment. Stockbrokers as a group are far more prone to risk-taking than are bankers. The worry is that they will bet their customers' deposits, not just on making loans but also on heavy securities trading.

These concerns seemed to have been confirmed last year when an unexpectedly sharp rise in interest rates prompted by the central bank's monetary tightening caused some of the more aggressive banks to suffer large paper losses on a form of government bond they own, known as *agustabonos*. An example is Banamex, the largest bank (measured by assets). It was bought by a group of investors led by Roberto Hernandez, the boss of Mexico's biggest securities firm, Accival. Banamex may have lost around \$200m on its bond holdings, which were financed in a lucrative form of arbitrage by cheap dollar borrowing. There is still an enormous difference between dollar and peso interest rates, which has made it attractive to borrow dollars and invest in higher-yielding pesos. This is why 28% of Banamex's liabilities were denominated in dollars at the end of September.

Banamex, along with other banks, has therefore decided to take a calculated exchange-rate risk—one which suggests it believes in the government's commitment not to devalue. However, the resulting currency mismatch has not been ignored by the central bank, the Bank of Mexico. Understandably so, given the legacy of the 1982 crisis, which was caused by Mexican institutions borrowing too many dollars. After all, the central bank does not have an unlimited supply of dollars to fulfil its role as the lender of last resort. The banks have consequently been ordered to limit their foreign-exchange liabilities to 10% of their total borrowing. Still, this is a target which can be met over time, not in one fell swoop.



Fully equipped for a dangerous business



Interest-rate risk and currency risk are not the only concerns posed by the new liberated order in banking. Credit risk is also growing. Mr Ramirez de la O predicts that a full-scale banking crisis in Mexico is less than 18 months away. This may prove an exaggeration, since deregulation is still in its early stages. However, there is bound to be a good shake-out, since many acquirers overpaid for the banks and are woefully unprepared to manage large enterprises.

#### First pain, then gain

The shake-out will be precipitated by rising bad debts and the inability of various banks to meet international capital-adequacy standards, the scheduled deadline for which is meant to be June 1993. Mexico's biggest and strongest bank, Bancomer, may be well capitalised with a capital ratio of 10%, comfortably above the target of 8%. But Bancomer is the exception that proves the rule. Banamex has had a harder time raising equity from skittish investors. It had to abandon a \$1.5 billion equity offering last June. This was partly because it was too greedy and partly because it was unlucky enough to be at the end of a long queue of Mexican equity issuers. The stockmarket eventually succumbed to a long-overdue bout of indigestion. But investors also worry about a sharp increase in overdue loans, which are now 4.7% of the total. In the worst cases some banks have up to 14% of their loans not paying interest. And 9% of credit-card loans in Mexico are past due.

Such signs of credit rot are worrying, though a caveat needs to be added. In Mexico a loan is sometimes classified as overdue when it is not paid for just 15 days after the specified date. In America the corresponding period is three months. Still, bad debts do pose a problem, which is hardly surprising given the rate of loan growth. Some banks doubled their assets last year. The effect of falling inflation and thus increasingly high real interest rates has also made borrowing an even more expensive pastime. Credit-card borrowers pay annualised interest rates of around 40%. As ever, once in debt it is hard to get out of it.

If Mexico's Big Bang poses its share of risks, which are likely to attract growing attention, it also has huge benefits. The competition produced by deregulation will lead to an erosion of the banks'





currently bloated loan spreads (the difference in the cost to the bank of borrowing money and its charge for lending it). This will mean cheaper financing for companies, especially the many small and medium-sized firms that cannot get access to cheaper dollar financing in the international capital markets. This is critical if Mexican industry is to achieve the productivity improvement that is needed to be competitive within NAFTA.

The experiment in financial services on which Mexico has embarked is also not quite as drastic as it looks at first glance. Many of the stockbrokers who were instrumental in buying the banks in privatisation deals were career bankers themselves before nationalisation in 1982. They are therefore not quite so ignorant about the ways of the industry they have re-entered. For the nationalisation of the banks resulted in the erection of a parallel financial system to meet savers' needs, as bankers quit the new bureaucracies in disgust and went into the securities industry. Instead of keeping their money in bank accounts, savers increasingly switched to

more competitive products offered by the broking firms, such as money-market funds and certificates of deposit.

The banking industry will now be modernised by these entrepreneurial souls who turned the fiasco of the banks' nationalisation to their own advantage. Computer systems will be installed as the industry stops processing transactions by hand. Some of the 160,000 people now employed by the commercial banks will doubtless lose their jobs, but most will be retrained. They will be needed in the many new branches which will have to be opened, to serve the customer face to face rather than shuffle paper tucked away in the back office. There will doubtless be bruised egos and worse as it becomes clear that some buyers of banks overpaid for what they got. This is all part of growing up. The economy cannot develop without channelling credit to all parts of the private sector. And the government, by selling the banks and running a budget surplus, has made that possible. This can only be viewed as progress.

## House cleaning

*Where reform has prepared the ground, it is up to business to deliver*

**"IT IS** great fun. You have a unique opportunity to reinvent the microeconomics of the country." The speaker is Santiago Levy. He is having fun—understandably so, as the technocrat in charge of Mexico's deregulation effort.

Like all good ideas, the premise is simple. In 1989 the Salinas administration realised that to complement trade liberalisation the government also had to reform the way the internal economy functioned. In particular it had to address the huge volume of laws and decrees that allowed the state to tell people what to do. The result was the setting up of an office of deregulation which Mr Levy now heads within the trade ministry. Appropriately, Mr Levy still teaches economics at ITAM, the private university where most of Mexico's ruling technocrats (including Mr Salinas) studied for their undergraduate degrees.

There has been plenty to do in the effort to eradicate over 70 years of statism. Progress has been impressive. The first priority was to overhaul individual industries. A good example is the domestic trucking market, which was plagued by laws controlling entry to the business. Lorries would often have to return empty from a trip because rules decreed where they could and could not load freight. The market was freed and price controls abolished at the end of 1989. Since then, companies' freight costs have fallen by up to 25%. Shipping costs should soon come down, since the government decided last year to privatise the ports as soon as possible. Many Mexican companies still find it makes more sense to use efficient, computerised Houston rather than their own antiquated ports.

Electricity, mining and tourism are other examples of industries which have already been "cleaned", as Mr Levy describes it. But the deregulatory effort has now advanced beyond this sector-by-sector approach. The next stage has been to introduce broad laws designed to institutional-



**Try changing the rules**

ise change by laying down a broad regulatory framework. An example was the law on standardisation passed last year. This took aim at the ministries' habit of issuing decrees without consulting the people affected by them. Now such decrees become binding only after they have been discussed in advance by a committee in which consumers and producers are both represented and after there is an opportunity for public debate.

A second general law is antitrust legislation,

which was announced last November. The previous antitrust law dated back to 1936 and was seldom used. The new version will create a competition commission presided over by five commissioners who will be appointed for ten years. This, it is hoped, will guarantee the commissioners some political independence, since their terms are longer than the six-year term of a president. The commission will have the power to impose sanctions of up to 10% of the value of a company's sales, and every industry will come under its purview.

Deregulation is crucial because Mexico's private sector is not of the same quality as its government. In Mexico the most talented people make policy not money. This is partly due to the sheer excitement and enthusiasm generated by Mr Salinas's reforms. But it also reflects Mexico's anti-capitalist traditions and the associated exaggerated deference paid to intellectuals. In this respect Mexico is the exact opposite of Brazil, whose private sector is entrepreneurial and whose government has been an almost unrelenting disaster.

#### Time to shape up

If the reforms introduced by the Salinas administration are to prove durable, and Mexican companies are not to be swallowed up by American competition, there will need to be dramatic change at the microeconomic level. Deregulation is the best way of setting the conditions which allow companies to make the right choices to secure that change.

Too many of Mexico's best-known companies are monopolies that do not have to compete in their home market. Take Telmex, the national telephone monopoly. Its stockmarket worth has soared from \$200m in 1985 to \$30 billion as a grateful government has sold most of its holding in the company. Felix Boni, research director at Interacciones, a Mexico City-based securities firm, says: "I recommend Telmex as a share but I do not think it is a good company. It is a monopoly which still has a primitive telephone structure." This is a judgment which will ring true to anyone who has tried to arrange meetings by telephone in Mexico. Investors are not worried because—despite NAFTA, which does not cover telecommunications as such—Telmex will not face competition in domestic and international telephone calls until 1996. (Cellular phones, which are taking off in Mexico City, are another matter.) As usual, "free trade" is not quite what it seems.

NAFTA also does not cover broadcasting companies, which must be 100% Mexican owned. Televisa is an especially outrageous monopoly. The largest Spanish-language media company in the world, Televisa's four television channels have more than 90% of the viewing audience. The company's muscle is clear from its practice of forcing advertisers to deposit an amount of cash equal to their advertising budget for the following year at the end of December. The government has now announced plans to privatise at least two of the TV channels it owns. But one likely buyer is Univision, the Los-Angeles-based Spanish language television station in which Televisa owns a 25% stake. It will be interesting to see if the new antitrust legislation curbs some of Televisa's more monopolistic prac-

tices. That seems doubtful given the huge debt the PRI owes the company for maintaining an aggressively pro-government line.

Monopolies are also at work in industry. Cemex has more than 60% of the Mexican cement market. The construction and engineering giant ICA, which is a main beneficiary of Mexico's infrastructure programme, has a half share of the heavy construction market. Vitro has 90% of the flat-glass market. Yet Telmex, Televisa, Cemex, ICA and Vitro accounted for 33% of the Mexican equity market at the end of November. Cemex, Televisa and Vitro are all controlled by a long-dominant family, as (to a lesser extent) is ICA. Telmex was bought off the government by a group of investors led by Carlos Slim, a successful stockbroker.

The Mexicans' defence of this is that they need "national champions" to go head to head with the gringos once NAFTA becomes a reality. Cemex and Vitro are examples of firms which have made acquisitions in America and have used the experience to help them increase their productivity. Cemex reckons it has increased its productivity by 40% since 1989. It used to take 1.4 man hours to make a ton of cement; now it takes only 0.8. These companies have also gone in for American-style demanning. Both Cemex and Vitro will have 30% fewer white-collar workers by the end of this year than they had in 1990. These blue-chip companies have also been greatly helped by the fact that they can obtain cheap dollar financing, since Mexico is now respectable in the Euromarkets since more.

But in general Mexican productivity is still not comparable to that of the fast-industrialising countries of East Asia. The medium-sized and small companies, which cannot borrow dollars, are the least prepared for foreign competition. Luis Rubio, a political scientist, reckons that 40% of Mexican industrial production is fully restructured and ready for NAFTA. About 20% is only now beginning to get ready. The other 40%, which accounts for 80% of companies, has yet to realise the requirements for survival. Too often still blaming a high exchange rate for their problems, the businessmen who run



We'll restructure straight after the coffee break



these firms have not yet faced up to the issue of competitiveness. According to Mr Rubio, "the further down you go, the worse productivity you get."

The smaller companies are already suffering both from the effects of the unilateral opening of the economy in many sectors and the government's continued tough anti-inflationary policy in the form of an overvalued exchange rate and high real interest rates. Fernando Villarreal is head of the Chamber of Industry in the industrial state of Nuevo Leon, where Monterrey is located. The area has the fastest rate of economic development in Mexico. Yet he says that last year 20% more companies closed than opened, the highest rate since the disastrous year of 1982. Some 100,000 industrial firms went bust in the state last year. He expects this attrition rate to continue in 1993 even if there is a strong rebound in the American economy.

Nuevo Leon extends to the American border. So it is quicker to feel the impact of foreign competition. Popular American consumer goods already fill the stores. "The fastest way to lower the inflation rate is to open the borders. That is what is happening here," Mr Villarreal says. To make smaller firms more competitive, the Chamber of Industry encourages companies to form credit unions and purchasing unions so that they can negotiate better terms from banks and suppliers. Financing is the main problem, not only in terms of cost but also whether credit is available at all.

So the reforms are not painless. Visiting the border areas with Mr Salinas on one of his weekly trips

outside Mexico City, it is clear that the president is more popular with villagers who have had the benefits of a Solidarity project than he is with local businessmen. This is not surprising. Many Mexican companies are being asked to make the leap from the third world to the first in a remarkably short time, and many will not make it.

This is all part of growing up. In the long run the only sure way to raise the productive potential of the Mexican economy is to upgrade its workforce. Mr Salinas made a start in this direction last year by launching yet another reform: the most radical overhaul of education since the PRI came to power. The plan is to decentralise control of education to state governments in an effort to promote greater accountability as well as parental participation. The minimum school-leaving age is being raised from 12 to 15. The powerful teachers union, with 1.1m members, had always opposed such decentralisation because it felt it would weaken its power. But the union has gone along with the reforms without too much of a fuss in part because of the momentum behind the Salinas reforms and in part because teachers' wages have increased by 60% in real terms since 1988.

The benefits of educational reform, assuming it works, will take a generation to come through. Meanwhile, the Mexican government has done about as much as can be practically expected in terms of improving the economic and regulatory climate within which businessmen function. Now it is up to the private sector.

## Success and succession

Messy politics will blur technocratic blueprints

SIGNS of a more modern Mexico are there if you look for them. Last November about 100,000 people, paying \$30 a ticket, filled Mexico City's Aztec Stadium to listen to Elton John. This was in a city of 15m where the largest-selling newspaper, *El Universal*, has an audited circulation of only 139,000. The Junco family, which publishes a successful Monterrey journal, *El Norte*, hopes to

change that. It has been talking to Dow Jones, an American publishing group, about forming a joint venture to launch a politically independent general-interest newspaper in the capital. The target audience will be the young urban professional and his family, a group which is ill-served at present. Most of the capital's daily press, save the odd specialist financial publication, is either dully pro-government or narrowly partisan and affiliated to a particular opposition party.

The publishing opportunity seems tremendous, which is why the publisher of *El Norte* plans to go ahead alone if necessary. If the reforms introduced under Mr Salinas endure, the ranks of the professional middle classes will surely grow. There are already signs of progress. Mexico's biggest cities have some of the paraphernalia of yuppie-dom, from mobile telephones to evade the horrors of traffic jams and Telmex, to satellite dishes for tapping into American broadcasting. Offices of securities firms in Mexico City exude a 1980s greed-is-good ethic and optimistic energy—only natural, given the amounts of money made in a comparatively short time by many of the people working in them.

All this is progress. The task facing the next president is to make sure the trend continues without generating a backlash. Mexico has come a long way for it even to be talked about as a prospective member of the OECD. That talk sets a high standard. If Mexico's aspirations to maturity are to be taken se-



The tables will soon fill up

riously, the political consequences of economic reform need to be faced—such as the pressures it will generate for a more open society. Mexicans are by nature political animals. They are not pragmatic East Asians, more interested in commerce than in ideology. Too many people in Mexico today say blandly that there will be no turning back, that Mr Salinas has buried statism and anti-Yankee dogmas for good.

This is too sanguine, just as it was too pessimistic to conclude in the mid-1980s (as so many did) that Mexico was a basket case, where nobody in his right mind would invest hard dollars. In fact, that period saw the beginnings of a national awakening, with the trauma of the 1985 earthquake in Mexico City, the pathetic failure of the government to deal with the emergency while remaining too proud to ask at once for American help, and the remarkably spontaneous voluntary effort by ordinary people which filled the vacuum that was left.

Just as Mexico has since been able to crawl its way back to international respectability—to the point where the question is not if but when the country will be let into the OECD—so the risk of a relapse remains. Mexico does not have a promising record when it comes to economic opening without political reform. There also is a risk that Mexico may be out of step with the rest of the world. The reform process actually began, though at a much more cautious pace, under Mr de la Madrid when Mr Salinas was minister of budget and planning. However, Mexico did not become an enthusiastic convert to the free-market crusade until after Mr Salinas took power in 1988. It was therefore late to catch the tide compared with Britain, America or indeed Chile.

Much of the rest of the world has now begun to move in the opposite, interventionist direction. True, Mr Salinas is less a free-market enthusiast than a European-style social democrat who has decided that economic liberalism is the best way to secure change. Still, it must be now asked how long Mexico will continue to run government surpluses at a time when deficit financing has become increasingly respectable elsewhere.

Running policies which are good for people, even if they do not appreciate them, may appeal to the technocratic mind. But it is not the way political societies are supposed to be run at the end of the 20th century. The next six years in Mexico are likely to witness more messy democratic politics, as opposed to government by technocratic blueprint. For the PRI cannot afford to maintain its reforming ways without securing real legitimacy for its continued rule. This means winning a presidential election which is seen to be fair. Not to do so risks more forceful rejection in a country with a history of political violence, the danger of which can only grow as people head for the cities. Mr Salinas understands this. That is why he is likely to emphasise political skills in picking a successor.

#### In the wings

Although a subject of pure speculation, the question of who succeeds Mr Salinas cannot be ignored entirely. At this stage—and Mr Salinas may not make his choice until early 1994, to reduce his period as a lame-duck president—there are four main

contenders: Mr Aspe, Manuel Camacho, mayor of Mexico City, Donaldo Colosio, minister of social development, and Ernesto Zedillo, education minister. None of them appears to have the combination of political savvy and economic clout now so evidently displayed by Mr Salinas. For all the authority invested in the office of the president rather than the individual, Mr Salinas will be a formidable man to replace for the same reason that he towers over his predecessors.

Of the four, Mr Zedillo is the most unlikely choice. A technocrat with the cautious temperament of a former central banker, he is not obviously blessed with political skills. The same applies to Mr Aspe. He also has the twin disadvantage of being a patrician, whereas Mr Zedillo is a bourgeois, and one born into a family of PAN supporters. Proceso, a political weekly, recently carried a cartoon of Mr Aspe leaving Congress after making a speech, holding his nose and saying *Ay que nacos* (roughly: "Oh that rubbish!"). This aloof image, combined with Mr Aspe's reputation for being too fond of foreigners, could prove a liability: it would be eagerly exploited by the populist Mr Cardenas, who remains the perceived threat to the PRI's re-election hopes.

Lack of the common touch is not an affliction shared by Mr Colosio. He was head of the PRI for three years, and now has the Solidarity programme under his social-welfare ministry. He is an experienced functionary, but he is inarticulate compared with the other challengers and somewhat of a Salinas flunky. If Mr Colosio makes it, which is not out of the question, this will be taken as a sign that Mr Salinas plans to continue running the country somehow and that, via Solidarity, he could even be planning a subsequent return to active politics at the head of a new political party. But this more extreme course would mean turning his back on the system that made him. That seems unlikely unless the party has become a lost cause, which is not yet the case.

This leaves Mr Camacho, who in this survey's view is the most likely next president of Mexico. His skills fit the moment. Mr Camacho is not the favoured candidate of technocrats nor investors because he is not a member of the team that has shaped economic policy during the Salinas years.

The core of that team consists of Mr Salinas himself; Mr Aspe; Jaime Serra, the forthright commerce minister who led the NAFTA negotiations but who cannot be president because his parents were foreign-born; and Jose Cordoba, the president's chief of staff. A controversial, shadowy figure, Mr Cordoba is the strategic brains behind the Salinas reforms. Born and raised in France of Spanish parents (and therefore someone who also can never be president), he is not only the most powerful foreigner in Mexico but also one of the most powerful men in the country.



Salinas is a hard act to follow

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Mr Salinas may even owe his power to the intrigues of Mr Cordoba, who is regarded by many as the would-be Rasputin of the system. The story is that, back in 1986 Jesus Silva Herzog, then finance minister and a leading candidate for the presidency, was set up into advising Mr de la Madrid that it was time to confront the foreign banks on the issue of sovereign debt. The then-president, who had no desire for such a showdown, was only too pleased to be presented with an alternative strategy already prepared by Mr Salinas and Mr Cordoba. Mr Silva Herzog was subsequently bounced out of power and now bides his time in the salons of Madrid as Mexico's ambassador to Spain.

Still, Mr Cordoba's influence may have peaked. A natural elitist, he has never understood the populist, Solidarity side of Mr Salinas's political personality. Mr Camacho does, and he is also a long-time associate of Mr Salinas. The two grew up together in the PRI. Although Mr Camacho may not have played a big role in the economic reforms, he has achieved something at least as difficult and arguably as important. He helped to win back Mexico City for the PRI. In the 1988 presidential election Mr Salinas won only 27% of the vote in the federal

district of Mexico City compared with Mr Cardenas's 49%. Yet in the half-term election held in August 1991, when the lower house of the congress was completely renewed, the PRI won 46% of the federal district without serious accusations of fraud.

Mr Camacho is a politico; his skills are that of a conciliator. These skills are useful in running Mexico City, which is no picnic. Mr Camacho's view is that the PRI won back the capital only because he as mayor followed policies for which he had obtained a consensus beforehand. He also believes that the next six years will be a period to consolidate politically what has already been achieved economically. The best way to do this would be to win the next presidential election fairly—which would mean resisting the temptation to cheat and trusting the electorate to make the right choice. The PRI would find either of these hard to do. But a fair and decisive win would ditch the chances of Mr Cardenas for good.

**The right mix**

Mr Camacho is probably the person most likely to secure that electoral endorsement for the PRI. It is needed. He may not believe in much, but he understands that rule by technocrats alone, however wise and all-knowing, is not viable in the long term. Candidates have to win elections in a way that is seen to be fair if the reforms are to continue.

But if Mr Camacho stresses the political, he is also conscious of his commonly perceived weakness as a presidential candidate. So he is at pains to stress to inquiring journalists that he has no desire to overturn the economic reforms: "I don't think we have a choice in economics. We must consolidate what has been achieved or the country will pay a high cost. To go back to high deficit financing would be crazy." This is just the sort of thing he has to say if he wants to become president. If he makes it, Mr Camacho would probably try to keep Mr Aspe as finance minister or put Mr Serra or some other such right-thinking person in his place. That will be necessary to reassure foreign investors.

A Camacho presidency with such a person as finance minister would provide the best chance for Mexico to build on the successes of recent years. To rely on technocrats for another six years would be to risk a political backlash. Mr Salinas has been living off a large line of credit from a population that is proud of his standing abroad but which has in general yet to benefit all that much from the reforms. That credit line is not inexhaustible, though it will last longer if the American economy recovers strongly and NAFTA is ratified.

Mr Salinas likes to dismiss talk of the contrast between Mexico's increasing economic sophistication and its still primitive politics as an old cliché. If so, some clichés are true and this is one of them. Mr Salinas has achieved a huge amount, not least in giving Mexicans back their self-respect and in heading a government that is sometimes considered to be the least corrupt in Mexican history. But if the PRI cheats again, out of an institutional inability to trust its own people—and most Mexicans think it probably will—foreigners will think of Mexico as only a semi-reformed delinquent. There is still some way to go.



Will she be cheated again?

HENRY B GONZALEZ TEXAS CHAIRMAN  
 STEPHEN L NEAL NORTH CAROLINA  
 JOHN J GARAGE NEW YORK  
 BRUCE F VENTO MINNESOTA  
 CHARLES S SCHUMER NEW YORK  
 RARNEY FRANK MASSACHUSETTS  
 PAUL E HANCOCK PENNSYLVANIA  
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 FLOYD H FLAKE NEW YORK  
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 MAXINE WATERS CALIFORNIA  
 LARRY LAROCCO IDAHO  
 BIL ORTON UTAH  
 JIM BACCUS FLORIDA  
 HERBERT C KLEIN NEW JERSEY  
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 (202) 225-4247

January 7, 1994

Mr. Kaveh Moussavi  
 56, Old Road, Oxford, OX3 7LL  
 United Kingdom

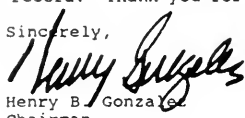
Dear Mr. Moussavi:

I have received from the Mexican Embassy a copy of a report by the Attorney General's Office of Mexico entitled "The Moussavi File." It contains the Government of Mexico's response to the allegations you have made before this Committee concerning corruption in Mexico in connection with your representation of IBM.

I have enclosed a copy of the report for your review. Please provide the Committee with your response to the report and the countercharges which it contains.

If your response is submitted promptly, there may be time to include it in the hearing record. Thank you for your cooperation.

Sincerely,

  
 Henry B. Gonzalez  
 Chairman



*Embajada de México*

*Embassy of Mexico*

*1911 Pennsylvania Avenue, N.W.*

*Washington, D.C. 20006*

DEC 21 1993

Washington, D. C.,  
December 21, 1993

The Honorable  
Henry B. Gonzalez  
United States House of Representatives  
Washington, D. C. 20515

Dear Congressman Gonzalez:

For your information, and thinking that it would be of interest to you, I am hereby enclosing a copy of a publication of the Attorney General's Office of Mexico, regarding the case of Mr. Kaveh Moussavi.

As you may recall, Mr. Moussavi was a witness at the hearings held by the Small Business Committee on October 27, 1993 and the House, Banking, Finance and Urban Affairs Committee on November 8, 1993.

Yours sincerely,

*Jorge Montaño*

Jorge Montaño  
Ambassador

ENCLOSURE

**The  
Moussavi  
File**

**PGR**

**THE ATTORNEY  
GENERAL'S OFFICE  
OF MEXICO**

**The  
Moussavi  
File**

**PGR**

**THE ATTORNEY  
GENERAL'S OFFICE  
OF MEXICO**

## Some comments

*The Attorney General's Office<sup>1</sup>, issued a press release on May 4, 1993, regarding the Moussavi case, in which it was pointed out that as a result of the investigation in progress concerning that case and all the documentation amassed thus far, only two hypotheses were admissible:*

*The original text asserted that:*

*1. Mr. Moussavi was telling the truth and that, consequently, people who he himself admits were not public officials did approach him, in order to ask him for money (one million dollars) in exchange for assisting him in obtaining the contract in question for the IBM company, for whom he was acting as a broker. If this hypothesis should be verified, the Attorney General's Office will take legal action against whoever is responsible.*

*2. Mr. Kaveh Moussavi is not telling the truth and, annoyed at the company for whom he was acting as a broker not obtaining the contract and therefore not obtaining the commission due to him for his negotiations, he has made a series of statements which may possibly defame or slander Mexican public officials.*

<sup>1</sup>Translator's note: PGR: Procuraduría General de la República

*If this second hypothesis were correct, the Attorney General's Office would take legal action against Mr. Kaveh Moussavi for the offense committed, because it is impossible to accept somebody committing slander with impunity.*

*The second hypothesis was fully proven in the course of the investigation, and in addition it was Mr. Moussavi who wanted the million dollars for himself.*

*The Attorney General's Office has decided to publish all legal documents as a result of the aforesaid, in addition to the report on the Kaveh Moussavi case, so that Mexican society at large may become more aware of the facts and form an informed opinion regarding a case which has been commented on by several branches of the media, one of which sought to make it a **cause célèbre**. This report will demonstrate that it really is a matter of unheard-of audacity in attempting to obtain illicit earnings, and obvious cynicism, to any sensible and trustworthy person.*

*Whoever reads this report will come to his or her own conclusions. The Attorney General's Office sets forth the chronological testimony of a case which each reader shall judge and characterize. This institution only asserts that its own investigation demonstrates that the matter is based on a whole tissue of lies.*

*The Attorney General's Office would like to express its thanks to Dr. Ricardo Franco Guzmán, Deputy Attorney General, for his impeccable investigation and his undeniable professionalism, to Mr. Raúl Cervantes Ahumada and Mr. Ignacio Galindo Garfias, Emeritus Professors at the National Autonomous University of Mexico, UNAM, for the many hours they devoted to studying the case and putting forward valuable suggestions, to the Criminal Law Professors' Association and to the Seminar on Criminal Law held at the Law faculty of the aforementioned university for their important legal opinions about the investigation as a whole and their conclusions. Extraordinarily distinguished and worthy experts were requested to assist us in this case so that the clean and objective workings of the Attorney General's Office be made clear.*

*All proof and previous enquiries relating to this case are now available for public consultation in this institution's library.*

**PRESS RELEASE**

Mexico City, December 2, 1993.

Press Release No. 434/93

**KAVEH MOUSSAVI UNMASKED**

The Attorney General's Office has decided, after a long and exhaustive investigation, to take legal action against Mr. Kaveh Moussavi who is accused of committing the offenses of inadmissible use of legal facilities and defamation of character.

By the same token, the Ministry for Federal Affairs has decided not to take any legal action for attempted bribery as there exists no proof whatsoever to support Moussavi's declarations to the effect that he was the victim of attempted bribery by three people, regarding a tender put out by Mexican Airspace Navigation Services, SENEAM, to award contracts for the purchase of radars and control centers.

The two offenses of which the Attorney General's Office accuses Mr. Moussavi, and for which more than sufficient proof exists in order to determine his probable guilt, are:

- The offense of inadmissible use of legal facilities, as determined in the Federal Criminal Code, committed against the Federal Administration, which consists in Moussavi alledging that the Mexican government owed him a public apology, in his using moral violence by

means of threatening, defaming the character of and slandering several Mexican public officials.

- The offense of defamation of character, as determined in the Federal Criminal Code, committed against the Mexican Federal Government and public officials working for the same, bringing them dishonor, discredit and harm in the eyes of public opinion home and abroad, by making several highly defamatory charges based on wholly false grounds in written articles and journalistic and ministerial statements.

The overwhelming evidence uncovered by the investigations and the inconsistencies and contradictions in Moussavi's statements make his allegations of having been the victim of attempted bribery implausible.

The mass of demonstrative evidence available to the inquiry provides firm grounds for supposing that his statement was made with the aim of accruing financial benefit to himself, as he wanted the million dollars for himself, which fact is clearly discernible from the proof and evidence uncovered in the investigations.

The latter would be Moussavi's motive in the present case, in which Messrs. Roger Boyd and William Swope, being high-ranking IBM officials, concur, both having had direct contact with the former and whose statements may be found in ministerial affidavits.

Notwithstanding Moussavi's assertions, to the effect that he has "overwhelming" evidence and that he would make this available through "the appropriate channels", he has forwarded no evidence, and has only produced a photocopy of a bill from the Hotel Nikko in Mexico City for his accommodation from November 8 to 11, 1992.



with which he merely attests to his having stayed in that hotel.

Messrs. Gerald W. Ebker, Roger Boyd and William Swope, being high-ranking IBM officials, all concur in asserting that the company has no proof of the events as told by Moussavi. Mr Ebker has said that apart from Moussavi's verbal statements regarding these contacts, IBM has no proof with which to confirm his statements in this respect.

Boyd and Swope emphatically reject Moussavi's version of events, to the effect that three men requested him to make a "contribution", and Boyd is of the opinion that it was all to do with a maneuver by Moussavi to derive some economic benefit for himself.

Boyd and Swope stated that Moussavi kept on insisting and proposed the following arrangement: he was originally due 6.5% of the total operation cost, and proposed that he be given 8% which would be split up as follows: 3% would be used to make a political contribution and the remaining 5% would be for his commission. For his part, Boyd stated that Moussavi had told him, "You raise my commission and I will take care of the rest".

Regarding the three supposed men with whom Moussavi said he had meetings, and who asked him for one million dollars, he produced descriptions to make up "police sketches". In all ministerial proceedings undertaken and from expert testimony, a 50% physical likeness with the portraits was only found in one case among 578 photographs examined, being that of Mr. Roberto Kobeh González, SENEAM General Manager.

*But just as Moussavi declared he had never seen the three men before, by the same token he confirmed that*

he had met Mr. Kobeh in April 1992, with whom he had spoken and who had introduced him to SENEAM officials who acted as guides on his visit to the said organization's offices. For this reason, Mr. Kobeh could not have been one of the three men who supposedly asked Moussavi for money, as Moussavi already knew him.

The identification experts also testified that another of the "police sketches" had a 40% likeness with the facial features of Daniel Aguirre Dupeyron, from SENEAM, despite the fact that the latter demonstrated in statements sworn by the lawyers Alfonso Silva Monroy and José Isaías Centeno de Jesús, that he was with them in a restaurant in the airport concourse on November 9, 1992, between 08:30 and 10:00 a.m. approximately, for which reason he could not have been in the hotel at the time and date in which Moussavi says he met the three unknown people.

The experts testified that a third "police sketch" had a 90% likeness with the facial features of Mr. Raúl Nahon Gopar, who had worked as assistant and driver to Mr. José Ramón López Portillo in Oxford, England, during the latter's stay there in 1992. From Mr. Nahon Gopar's statement it transpires that Moussavi knew him perfectly well due to the fact that his children as well as Moussavi's attended the same school in the aforementioned city. Moreover, Mr. Nahon Gopar proved that on November 9, 1992 he was in England.

The aforesaid means that Moussavi supplied descriptions of facial features belonging to people he already knew in the drawing of the "police sketches", although he declared he had never seen them before. The machinations plotted by Moussavi are thus clear.

Regarding the allusion to a letter from a supposed "Technical Operative Committee for the Improvement in Conditions of Quality and Safety for Traffic in Mexican Airspace", in which SENEAM's irregular activities are mentioned, Moussavi's lack of scruples is made evident once more, as it is in fact an **anonymous letter** which bears no signature whatsoever, nor any mention of who the author was nor any address from which it was sent.

Regarding a journalistic source attributed to the air-pilot Captain Juan Cruz Albert, Chairman of the Mexican Air-Pilots Association, to the effect that the said committee does exist, the latter, on being questioned by the Ministry for Federal Affairs, declared that "I never made any such statement in this regard and furthermore I have no knowledge of the said committee's existence...".

The Attorney General's Office decided to investigate further and requested information on the said committee's existence from the Secretariat of Labor and Social Welfare. The reply was that the latter "is not registered" in the Registry of Associations head office. Whilst on the matter of the anonymous letter, it is worth pointing out that if the initial letter of each word making up the supposed committee's name, the resulting abbreviation [in Spanish] would be "CTOPCCSTEAM". Nonetheless, the one that appears in the anonymous divulged note is "CSGYT", whose first three initials correspond to those of a highly-placed Mexican official.

The Attorney General's Office explained that before taking a decision not to proceed with criminal action for bribery but with legal action against Moussavi for the offenses mentioned above, legal opinions were requested from the Criminal Law Professors' Association and the Seminar on Criminal Law - both part of the law

faculty at UNAM - as well as from Raúl Cervantes Ahumada and Ignacio Gaiindo Garfias, Emeritus Professors at the same university, who unanimously concurred with the Attorney General's conclusions.

### **SOME BACKGROUND ON THE CASE**

As can be seen, the General Director of Accountability and Financial Standing of the Government Auditor's Office, denounced acts that might possibly constitute some federal offence to the Attorney General's Office, on February 19, 1993, with which preliminary investigation 1267/DO/93 was begun.

The acts consisted in Mr. Kaveh Moussavi, a British citizen living in Oxford, Great Britain, having made some statements to the London-based daily newspaper "The Financial Times", in its February 3, 1992, edition, regarding the three men who were not identified but who, according to Moussavi, were Mexican officials and who met with him in a hotel in Mexico City on November 9, 1992, and asked him for one million dollars in exchange for giving their blessing to a bid made by IBM in a tender put forward by SENEAM, to award contracts for radars and control centers in Mexico.

The preliminary investigations amount to more than one thousand sheets and it was decided that a certified photostatic copy of the latter should be made available for public examination in the library at the Attorney General's Office.

\*\*\*\*\*

(APPENDED COMPLETE TEXT OF "KAVEH MOUSSAVI UNMASKED" REPORT).

## KAVEH MOUSSAVI UNMASKED

Regarding the case of Mr. Kaveh Moussavi, The Attorney General's Office of the Republic of Mexico reports:

### I. CASE HISTORY

#### I. 1. ACCUSATION AND SUMMARY OF THE FACTS.

By means of the document dated February 19, 1993, the General Director of Accountability and Financial Standing of the Government Auditor's Office, presented to the Attorney General's Office, facts which may possibly constitute a federal felony offense, and preliminary investigation number 1267/DO/93 was opened.

The facts indicated that Mr. Kaveh Moussavi, a British subject residing in Oxford, Great Britain, made statements to the "Financial Times" newspaper of London, which were published in its February 3, 1993 edition, to the effect that three unidentified men, - but who seemed to be Mexican officials, according to Moussavi - , during a meeting with him in the Nikko Hotel in Mexico City on November 9, 1992, requested from him one million dollars in exchange for preferential treatment of the proposal

presented by IBM in competitive bidding for Navigation Services in Mexican Air Space (SENEAM) for assigning contracts for the purchase of radars and contracts for operations centers in Mexico.

He also stated that since this bidding was canceled, allegedly because the proposals received did not meet the technical requirements stipulated, SENEAM opened a new bidding, in which the respective contracts were granted to the Thomson and Alenia companies, IBM competitors.

The Government Auditor's Office, which learned of the nonconformity of the losing companies, requested an explanation from IBM regarding accusations made by Moussavi, who claimed to be a representative of the company; Mr. William LaSalle, Vicepresident of the said company, wrote to Moussavi requesting he present any proof available to him. Moussavi answered in a letter dated February 5, 1993 addressed to LaSalle, that the proofs of bribery "were overwhelming" and that he would present them "through the appropriate channels".

#### **I. 2. MOUSSAVI'S FIRST STATEMENT IN LONDON.**

In a ministerial statement before the Mexican Consul in London on May 7, 1993, Kaveh Moussavi reiterated what had been published in the "Financial Times" and explained that as an IBM representative, lodged at the Nikko Hotel in Mexico City, on November 9, 1992, between 8:20 and 9:00 a.m., he met with three unidentified men, who suggested that if he paid them one million dollars the IBM proposal would be given preferential treatment in the aforementioned bidding; he interrupted the meeting, went up to his room to report these facts by telephone to IBM executives Messrs. Roger Boyd and William Swope, which took approximately 45 minutes, and upon returning

to the lobby, continued conversing with the men for some 5 minutes; the entire episode therefore took place between 8:20 and 9:50 in the morning.

When asked if he had evidence to prove the request for money, Moussavi said the evidence was the following: a) the telephone calls to Messrs. Boyd and Swope to inform them of the request for money; b) the receipt from the Nikko Hotel where the said telephone calls were recorded; c) a map, of which he already had a copy, given to him by the men he met with, explaining that Mexican radars did not cover the entire country; d) the testimony Messrs. Boyd and Swope would give; e) a sworn statement the he himself would give, and f) possible IBM internal reports.

**I. 3. MOUSSAVI'S SECOND STATEMENT.** In a second statement given on May 25, 1993, when Moussavi was asked what were the "overwhelming proofs" he claimed to possess regarding the attempt at bribery, he answered that they consisted of: the telephone calls made to Messrs. Boyd and Swope; the fact that these calls appear on the receipt from the Nikko Hotel; and that he denounced this approximately two months before IBM lost the bidding.

In this same second statement he referred to the fact that from May to June of 1992, he had already received offers from individuals to ensure that the SENEAM contract would go to IBM, mentioning in particular Mr. Gustavo Alemán as the person who made several calls from the United States to his office in London and with whom he met in the Carlyle Hotel in New York City on September 22, 1992. When Alemán repeated his offer in October of the same year, Moussavi informed Messrs. Boyd and Swope of this matter, who authorized him in writing to travel to Mexico City to investigate the validity of Alemán's suggestions. Moussavi

never presented this written authorization from IBM for travel to Mexico, nor did he provide more information on the aforementioned Gustavo Alemán.

Moussavi continued to state that this was his reason for travel to Mexico City on November 8, 1992, and that on the following day, he met with three men in the lobby of the Nikko Hotel. After conversing with them, he came to the conclusion that they were "government officials", because he saw they carried official documentation related to the bidding.

He also mentioned in the second statement, that he was in Mexico City with Mr. William Swope on April 28 and 29 of 1992, in the SENEAM offices and in those of Air Traffic Control of the International Airport of that capital city, where they were given a technical seminar on the needs of the air traffic control program in Mexico.

In addition, he said "that he was working on several business deals in Mexico, and that in comparison, the IBM bidding "was of little financial importance", and added: "the entire reason for my trip to Mexico City on November 8 was to see whether it would be necessary to pay government officials or other persons working independently".

Due to his declarations, Mr. Moussavi provided an expert artist with the physical traits of the alleged three men who met with him in the Nikko Hotel in Mexico City and of Mr. Gustavo Alemán, to draw up "police sketches" of these men.

After the second set of proceedings were finalized, he refused to answer questions put to him, stating that he would not cooperate further with the Mexican government in the investigation until he was given an apology, be-



cause he was being treated like a delinquent and not as a witness or an accuser.

I. 4. **STATEMENTS PUBLISHED IN THE PRESS NOT DENIED BY MOUSSAVI.** In interviews published in various media, which Moussavi never denied, he provided further information on the visits made to SENEAM and Air Traffic Control in Mexico City, about the people who dealt with him and about his social relationships in that same city.

I. 5. During the course of preliminary investigation 1267/DO/93, a file of more than 700 pages was compiled, including a large number of records and documents mentioned hereinafter.

I. 6. As a result of the written document addressed to the President of the Republic by an alleged "Technical-Operational Committee for the Improvement of Quality and Safety Standards for Traffic in Mexican Air Space (CSGYT), the General Directorate of Judicial Matters for the Secretariat of Communications and Transportation, formulated an accusation before the Attorney General's Office and the preliminary investigation number 3518/DO/93 was opened.

## II. MOUSSAVI'S AFFIRMATIONS

Kaveh Moussavi's affirmations are substantially as follows:

II. 1. That an alleged Gustavo Alemán, in calls made from the United States to his office in London and in the meeting with him at the Carlyle Hotel in New York, brought up the possibility of giving preferential treatment to the IBM proposal in the bidding opened by SENEAM.

II. 2. That three unidentified men met with him the lobby of the Nikko Hotel on November 9, 1992, requesting from him one million dollars in exchange for favoring IBM in the bidding.

II. 3. That having interrupted this meeting, he went up to his room to call Messrs. Roger Boyd and William Swope on the telephone, informing them of the request, which took 45 minutes.

II. 4. That by ordinary mail, with no receipt, on April 10, 1993, he sent a letter to the Attorney General of Mexico regarding these occurrences, and which was not answered.

II. 5. That he received a letter from a Technical Operational Committee for the Improvement of Quality and Safety Standards for Traffic in Mexican Air Space, which mentioned irregularities in SENEAM and the lack of safety in flight control in the Mexican City International Airport and others in the country.

II. 6. That the SAI company had offered its services to the companies participating in the SENEAM bidding and that Alenia had suggested to SAI a 10% commission, which according to Moussavi, "was extremely high", covering all situations which could arise in the project, and which, as Moussavi claims, paved the way for buying off officials.

### **III. ANALYSIS OF MOUSSAVI'S AFFIRMATIONS**

After examining each of Mr. Moussavi's affirmations in light of the evidence turned up by the investigation, the following conclusions were reached:

**PREVIOUS MATTER:** It is extremely important to know exactly what the contract entered into between IBM and Moussavi stated with regard to bribery.

"The representative hereby warrants and guarantees that he will at all times completely obey all applicable United States laws, particularly those laws governing exports and the Law Against Corrupt Practices Abroad. The failure of the representative to observe said laws shall nullify this contract. The representative hereby agrees that he will not reexport directly or indirectly any of the technical information provided by IBM nor the direct product of said information in violation of the laws governing United States exports.

The representative hereby states that, in his duties as Representative, he will profess the highest moral principles and **he will comply with IBM international policy of not making any payments or gifts (monetary or otherwise) TO ANY PERSON with the aim of influencing decisions in favor of IBM or any other purpose related to IBM.** The representative further agrees that **he will immediately report to his IBM contact any form or extortion or bribery to which he is subject during commercial negotiations involving IBM or IBM products or services.**"

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Once the aforementioned has been defined let us see the first statement.

**III. 1. THE EXISTENCE OF GUSTAVO ALEMAN WAS NOT PROVEN.** Moussavi's statement regarding the existence of Gustavo Alemán was not proven in any way. It may be assumed that this is a lie, since Messrs. Boyd and Swope, important IBM executives, coincide in their statements that Moussavi never mentioned the alleged Gus-

tavo Alemán to them, and because of the following information:

a) Moussavi said that he had given instructions to his secretary to not write down the telephone number as he did not wish to return the call. Nevertheless, contradictorily, Moussavi states that upon Alemán's asking him if he could come to see him in London - did he then accept the telephone call or not? - he answered that it made no sense for Alemán to go to England since he (Moussavi) would be in New York at the Carlyle Hotel, which obviously implies that he wished to continue in contact, and this was why, according to Moussavi, that Gustavo Alemán went to see him at that hotel in New York City on September 22, 1992.

b) Therefore, the reference to Gustavo Alemán in the terms mentioned is completely contradictory to the contract entered into with IBM, because a clause therein expressly prohibits contact with anyone (a government official or any other person) who tries to influence bidding decisions in favor of IBM, outside the normal bidding process.

c) In addition, in accordance with the contract, Moussavi was obligated to report to certain IBM executives any possible situation of this kind. Therefore, had Gustavo Alemán existed, Moussavi should have informed Messrs. Swope o Boyd about Alemán's persistent telephone calls, and later about the meeting he said he had with him in New York City. He never informed them, but rather Moussavi began to name Alemán after mentioning the alleged meeting with the three men in the lobby of the Nikko Hotel.

d) In a ministerial proceeding, experts in identification compared the "police sketch" of Gustavo Alemán with 578 photographs of as many public servants of the Secretariat of Communications and Transportation, including 46 of

the SENEAM, and issued a judgement in the sense that none matched the features of the drawing of the alleged Gustavo Alemán.

**III. 2. THE EXISTENCE OF THE THREE MEN WHO REQUESTED MONEY WAS ALSO NEVER PROVEN** and we may assume that this is also a falsehood, for the following reasons:

A) With the only document supplied by Moussavi, that is, the receipt from the Nikko Hotel, it is possible to confirm only that he was lodged there from the 8th to the 11th of November of 1992 and that on the 9th he made calls to Messrs. Boyd and Swope from his room, but both these two persons as well as Gerald W. Ebker, also an IBM executive, state that none of them can prove that the request for a "contribution" related by Moussavi really occurred.

B) If, as Moussavi says, he had no doubt that the persons who met with him were "government officials", given the terms of the contract signed with IBM, prohibiting him from having contacts "with any person" trying to influence the result of the bidding, there could be no reason for him to speak to persons proposing to favor IBM in the bidding.

C) Moussavi stated that he had never before seen the three men cited. He likewise provided a private artist with elements to elaborate "police sketches" of the three alleged men, which turned up nothing.

In deed according to the ministerial inspection and the judgement of the experts to which we have referred, after comparing the sketches with the 578 photographs examined, a coincidence of facial features was found with the following people:

a) A 50% agreement in physical traits was found with the photograph of Engineer Roberto Kobeh González, General Director of SENEAM. In this regard Moussavi stated having met Engineer Kobeh in April of 1992, conversed with him and was introduced by him to SENEAM executives who showed him about the offices of the said organism. Therefore, Kobeh could not have been one of the three men who allegedly requested money, since Moussavi already knew him, according to his own statement, which was later confirmed.

Therefore, when supplying the physical traits of the alleged "Raymundo", to draw up the police sketch of the man at his left, he intentionally described many of the traits of Engineer Kobeh. This is one of Moussavi's great contradictions: on one hand to state that he had never before met these three men, and on the other, to give a high degree of information on Engineer Kobeh to make up the police sketch of the man on the left.

For his part, Engineer Kobeh González proved with his official schedule and with testimony from SENEAM executives, Alfonso Labastida Ponce, Raymundo Sánchez Cervantes, Luis Julián García Pérez, Agustín Arellano Rodríguez, Juan José Dorantes Rubio, Fernando Molinar Prieto, Roberto Antulio Espinoza Carrizale, Héctor Arias Cornejo and José Luis Oviedo Vargas by name, that on November 9, 1992, exactly the day and hour of the alleged meeting, he was in his office. Said executives pinpointed that Engineer Kobeh was in a meeting with some of them from 8:00 to 9:00 a.m. and with others from 10:00 to 12:00 p.m., remaining in his office until later.

b) The experts in identification ruled that one of the had a 40% similarity with the physical traits of Engineer Daniel Aguirre Dupeyron, of the SENEAM. Nevertheless, this latter demonstrated with the testimony of Alfonso Silva Monroy and José Isaías Centeno de Jesús, attorneys at law, that on

November 9, 1992, he was with them from 8:30 to 10:00 approximately, in a restaurant on the Boulevard Aeropuerto.

The above means that Moussavi had in mind people already know to him, when giving the facial traits for the "police sketches".

### III. 3. EXAMINATION OF THE TELEPHONE CALLS.

Regarding the telephone calls Moussavi claimed to have made to Messrs. Boyd and Swope on the morning of November 9, 1992, mentioning the "contribution" requested by the alleged men he met with in the Nikko Hotel. These calls were indeed made; Teléfonos de México sent receipts of the same; but the telephone calls took barely 15 minutes, rather than 45 minutes.

Likewise, the IBM executives, when confronted with Moussavi's statement that three men requested a "contribution" was flatly rejected and both were of the opinion that this was a trick of Mr. Moussavi's for personal gain.

Mr. Swope stated, when on November 9, 1992 Moussavi spoke to him by telephone in Santiago, Chile to tell him that three men requested that IBM make a "political contribution"; he flatly refused, but Moussavi called again later. Upon being asked how many more times Moussavi called and the gist of the conversations, Swope said: "I don't remember when it began, but it seemed to continue *ad nauseam*... he wouldn't take no for an answer. He repeated what he claimed were requests by these unidentified Mexicans...."

Mr. Boyd stated that Moussavi called him on the telephone on November 9, 1992, saying that some men had been to see him at the Nikko Hotel, "requesting that we make some kind of political contribution or some kind of payment... or the promise to make such payment to increase our opportunities of acquisition in the Mexican government", to which he refused to do.

Boyd and Swope stated that Moussavi kept insisting, and suggested that to pay the three men, the commission set in his contract be increased and that Moussavi would take care of the payment. Swope said that Moussavi suggested the following method: "He was originally to receive six and one half percent, and he proposed that he receive eight percent, three percent for the political contribution and five percent would be his commission". For his part, Boyd stated that Moussavi told him: "you increase my commission and I will take care of it."

Boyd and Swope added that despite having refused to give the contribution requested, Moussavi continued to insist on the matter. Swope said "to the point of nausea", and Boyd said that one of Moussavi's partners, named Sati Lall was calling him about the matter of political contributions, saying to Boyd that "... he did not understand why we shouldn't take into account such a thing. That was his reason for calling."

Summarizing, Moussavi showed that he was ready to thus violate the contract entered into with IBM which clearly prohibited the use of money to tilt the bidding in favor of IBM. He admits having had dealings to make a "contribution", when that was expressly prohibited, in addition to trying to pressure executives of said company to accept that payment, for which there would be no receipt.

The schema of attitudes and operating circumstances that can be inferred from all this, leads one to believe that Moussavi stooped to violating contractual standards and to trying to impose upon third parties for personal gain.

In conclusion to this point, the existence of the three unidentified men who were allegedly asking Moussavi for money in exchange of favoring IBM, could not be proven.



#### **IV. THE ATTORNEY GENERAL RECEIVED NO LETTERS FROM MOUSSAVI**

Regarding the letter that Moussavi claims to have sent the Attorney General on April 10, 1993, by "ordinary mail", because for him "it was an ordinary letter", the Unit of Documentation and Analysis of the Attorney General's Office, conducted a minute review of the correspondence received from April 10 to August 16 of 1992, and confirmed having received no letter from Mr. Moussavi. For his part, the Doctors in Law and Emeritus Professors from the UNAM, Raúl Cervantes Ahumada and Ignacio Galindo Garfias, corroborated that said missive never arrived in the offices of that Office.

#### **V. THE ALLEGED "TECHNICAL OPERATIONAL COMMITTEE FOR THE IMPROVEMENT OF QUALITY AND SAFETY STANDARDS OF TRAFFIC IN MEXICAN AIR SPACE (CSGYT), DOES NOT EXIST.**

The allusion to a letter from an alleged "Technical Operational Committee for the Improvement of Quality and Safety Standards of Traffic in Mexican Air Space", once again unveiled Kaveh Moussavi's complete lack of scruples, since that document, whose original was sent to the President of Mexico, was unsigned and did not mention who was responsible for the letter nor did it give a return address, since it was an **anonymous letter**, which as such, can have no moral or judicial significance whatsoever. It is odd that the anonymous letter was published in its entirety, without mentioning this fact.

Captain Jaime Hernández, President of the Mexican Airline Pilots' Association, was seen as stating to the paper "El Financiero" of June 21, 1993, on page 33, the "he is aware that said committee does exist". Neverthe-

less, upon being questioned about this matter by the government attorney's office on July 5, 1993, he stated: "...I never made such a statement to that effect and besides I have no knowledge of the existence of such a committee, and therefore cannot supply the information requested."

The Attorney General's Office requested the Secretariat of Labor and Social Welfare to provide information on the existence of the said Committee, the answer from the General Directorate of the Registration of Associations of that Department being, **"there is no record of any Technical Operational Committee for the Improvement of Quality and Safety Standards of Traffic in Mexican Air Space"**.

Lastly, a pertinent observation: if we consider the initials of each of the words comprising the name of the aforementioned Committee to form an abbreviation, it would be the following "CTOPCCSTEAM". Nevertheless, that which appears in the anonymous letter disclosed by Moussavi is: "CSGYT", the first three initials do not correspond to the words of the name of the alleged committee, but rather to those of a high Mexican government official.

#### **VI. SAI ASKED ALENIA TO PAY IT 10 TO 15% IN FEES FOR "EXTRA EXPENSES", AND NOT ALENIA SAI**

Regarding the expressions that Moussavi attributes to the Alenia company, allegedly contained in a letter addressed by it to the SAI company, we must consider that the investigation uncovered a report from Alenia and a copy of the letters that the SAI corporation addressed to Alenia, signed by S. Asefi, from which it can be incontestably deduced, that it was SAI that offered its services to Alenia, proposing that it provide a letter accepting

payment of a 10% commission that would include honoraria and "and additional expenses" for situations that could arise, this last expression meaning in broker's language, according to Moussavi, a way of alluding to "buying officials". Thus, it was the SAI company that suggested this situation and not Alenia.

In the investigation also uncovered a second letter, in which SAI insisted that Alenia accept its services, this time requesting a 15% commission. Alenia rejected the offer of SAI services. There is also a substantiated suspicion that there exists an intimate relationship between Moussavi and the SAI company.

## **VII. MOUSSAVI'S AFFIRMATIONS ARE SUPPORTED ONLY BY HIS OWN WORD AND THE HOTEL RECEIPT**

Despite Moussavi's affirmations about having "overwhelming" proofs" and that he would present them "through the appropriate channels", no proof was presented; he only supplied a copy of the receipt from the Nikko Hotel for his lodging from the 8th to the 11th of November of 1992, which only confirms his presence in said hotel for those days and the telephone calls made on the 9th to Messrs. Boyd and Swope, which took less than 15 minutes and not 45 as he claimed.

It is interesting to note that Moussavi gave the photocopy of the receipt with the telephone numbers of other calls made between November 8 to 11 of 1992 crossed out in felt pen, among which are the telephone numbers of Moussavi's Mexican friends and acquaintances, since he knows Mexico very well, having been here several times before, and because Moussavi and his wife have been introduced to other Mexicans.

For their part, Messrs. Ebker, Boyd and Swope, stated that Moussavi boasted of his Mexican connections, which would lead to IBM being favored in the bidding.

Some of the Mexicans mentioned denied knowing him, and others, while admitting that they knew him, said it was a business relationship and not friendship.

Messrs. Ebker, Boyd and Swope all agreed that IBM had no proof as to the facts related by Moussavi. Mr. Ebker, addressing himself to Vázquez Cano, Subsecretary "A" of the Auditor's Office, in a letter dated February 11, 1993 said: "Aside from Dr. Moussavi's verbal statements, IBM has no proof to confirm the statements about this matter."

And in his statement of June 25, 1993, Ebker said with regard to questions 6,7, 8 and 9: "We have no proof aside from the telephone calls... we have no other proof...we have no record, recordings, transcripts, nor anything of the kind... we have looked. We have not found anything and I have been informed that they do not exist... complete written reports were not made at the time Dr. Moussavi made his initial reports... there were no written reports and not even a record or written notes of the conversations...".

### **VIII. CONCLUSION REGARDING MOUSSAVI'S STATEMENTS WHICH GAVE RISE TO THIS INVESTIGATION**

Of everything set forth in this point, it turns out that there is absolutely no convincing proof supporting Moussavi's statements, which is why the Government Attorney's Office decided not to bring legal action for bribery, and to notify the accuser that, should he not be in agreement, to make the relevant observations.

## **IX. UPON CONCLUDING THE INVESTIGATION, THE PROBABLE COMMISSION OF FELONIES BY MOUSSAVI WAS CONFIRMED**

Although it is true that the current investigation has not confirmed the felony of bribery, on the other hand there exists sufficient elements to establish Moussavi's probable guilt in two felonies.

### **FIRST FELONY: THE UNDUE EXERCISE OF A SUPPOSED RIGHT**

IX. 1. The moral pressure exerted by Kaveh Moussavi against the administrative branch of the Mexican government, granted by Article 90 of the Political Constitution to the public institution "Public Federal Administration", with his attempt to make effective his supposed right to receive a public apology, can be considered an offense as described in Article 226 of the Penal Code applicable in federal matters, that is, undue exercise of a right or supposed right.

### **SECOND FELONY: DEFAMATION OF CHARACTER**

IX. 2. The fraudulent communications through various media: telephonic communications, letters to IBM executives, his declarations in London on May 7 and 25, 1993, and those produced for publication in the written press, of national and international circulation, not denied by Moussavi.

All of the preceding comprised the disclosure of imputations by Moussavi which could result in dishonor, discredit and prejudice, as well as exposure to public scorn, of several Mexican public servants, which can be considered an offense as described in Article 350 of the Penal Code ap-

plicable in federal matters, called defamation of character.

The Attorney General's Office has carried out a very minute investigation. The truth is clear and it therefore presents to the succinct proof of this to the people of Mexico.

In this case, as in many others, we have requested the intervention of society and of experts in the matter. Before making a decision on the failure to bring charges for the criminal act of bribery and the exercise of legal action against Moussavi for two felonies, judgements were requested from the Association of Criminal Law Professors, the Criminal Law Seminary, both forming part of the Law School of the UNAM, as well as from Doctors in Law Raúl Cervantes Ahumada and Ignacio Galindo Garfias, Emeritus Professors of said university, which unanimously agreed with the conclusions of this Attorney General's Office.

As already stated, the preliminary investigation consisted of more than 1000 pages, and it was decided that a certified photocopy of it would be kept in the library of that institution for public examination by any person wishing to broaden their knowledge of the matter.

Due to the preceding, a decision has been made to publish, as in other cases, a complete report containing the agreements to not bring criminal charges for alleged bribery and of the statement remanding Moussavi for trial for the felonies indicated, as well as the Report and the corresponding press release, as a historic verification of an audacious and bold act by a foreigner seeking personal gain at the expense of Mexico, which unfortunately was supported and exaggerated by several Mexicans. We shall leave these documents as a written testimony for coming generations to judge.

## CONCLUSIONS

FIRST: There is absolutely no proof supporting Moussavi's affirmations. The inconsistencies and contradictions of his statements make his charges of having been the victim of an attempt at bribery completely unbelievable.

The wealth of demonstrable elements in the investigations serve, nevertheless, to substantiate a serious supposition that his story was plotted with the goal of achieving financial gain; we can clearly infer from the proofs and evidence of the investigation that Moussavi wanted the money for himself. This would be the reason for Moussavi's behavior in the present case, and Messrs. Boyd and Swope, who had direct contact with him and whose statements were given in declarations, agree.

Due the preceding, in the investigation opened by the accusation presented by the Government Auditor's Office, of the charges by Kaveh Moussavi, the Government Attorney's Office has resolved to not take legal action, citing the complete file of the investigation, and has ordered the accuser be notified so that, should he not agree, he may make the relevant observations.

SECOND: On the other hand, the meticulous investigation performed also resulted in the existence of sufficient evidentiary elements to establish Moussavi's probable guilt in two felonies:

a) The felony of undue exercise of a supposed right, described in Article 226 of the aforementioned Federal Penal Code, committed against the Federal Public Administration, consisting in the fact that Moussavi, attempting to claim the right to have the Mexican government apologize to him, used moral violence, through threats, defamation of character and slander against several

Mexican public servants, expressing that if he was not given an apology, he would cause serious harm to Mexico.

b) The felony of defamation of character, described in Article 350 of the Federal Penal Code, committed against the federal government of Mexico and public servants of the same, creating discredit and prejudice in national and international public opinion, in addition to exposing it to general scorn. In effect, Moussavi, through writings, newspaper and ministerial declarations, has published or communicated several highly libelous concepts against the Mexican government and public servants, based on probable falsehoods, which have caused them dishonor, discredit and prejudice, or exposed them to public scorn.

Therefore, the Attorney General's Office has resolved to take legal action against Mr. Kaveh Moussavi, for the aforementioned two felonies.



The printing of "The Moussavi File"  
was concluded in Mexico City, December 1993.  
This edition carries 5,000 copies

***Kaveh Moussavi***

56, Old Road, Oxford, OX3 7LL,  
United Kingdom

Tel + 44 865 742374 Fax + 44 865 750065

18 March 1994

The Chairman  
Henry B. Gonzales,  
The Committee on Banking Finance and Urban Affairs,  
House of Representatives,  
Washington D.C. 20515-4320

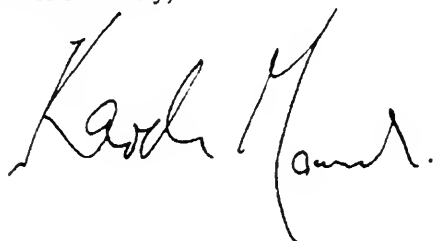
Dear Mr Gonzales,

I acknowledge the subpoena issued by the committee  
on 28th of February commanding me to turn over

"all reports, memoranda, analyses or other writings..... relating  
to the report by the Attorney General of Mexico entitled The Moussavi  
File and any other documents in any way relating to the subject matter  
of this report."

I have pleasure in complying with this order and apologise for  
the slight delay which was entirely attributable to the difficulties  
involved in assembling all the material. To expedite matters, I am  
transmitting same by fax. Should the resulting quality prove  
unsatisfactory, please let me know so that I send you hard copies.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Kaveh Moussavi". The signature is fluid and cursive, with the first name "Kaveh" written in a larger, more prominent script than the last name "Moussavi".

CARPIZO  
EXPOSED

by

Kaveh Moussavi

Oxford

27 January 1994

**To the people of Chiapas who have exposed a fraudulent enterprise**

"I have always heard, Sancho, that doing good to base fellows is like throwing water into the sea"

Miguel Cervantes 1547- 1616

## Carpizo Exposed

### 1. Introduction

The Government of Mr Salinas de Gortari and its Attorney General, Jorge Carpizo MacGregor, have done me the dubious honour of writing a whole book<sup>2</sup>, entitled "The Moussavi File". 50,000 copies have been printed in Spanish and distributed, free of charge, in Mexico. 5000 copies have been translated into English- and what an English! <sup>3</sup> and distributed to legislators and the media in the US, the

<sup>1</sup> This is the exact original of a briefing document prepared, in a hurry, for CBS Television's "60 Minutes" programme. The rushed character of it comes through clearly, as I wrote the whole thing in four days, over a long weekend in January. For a variety of legal reasons, to do with the terms of the subpoena served on me by the US Congress, House Committee on Banking and Finance, all documents in my possession had to be submitted in their original form. For failures of style and grammar, and the occasional repetition of points, I ask for the Congress's indulgence. Aside from this footnote, everything else remains as it was in the original document: prepared for CBS.

<sup>2</sup> "The Moussavi File", henceforth M.F. published by the Procuraduria General de la Republica, Attorney General of the Republic, henceforth, PGR, Mexico City, December 1993; the English version in 5,000 copies, in 26 pages. The Spanish version appears as "Expediente Moussavi", henceforth E.M., published by the PGR, in Mexico City, December 1993, in 50,000 copies. The Spanish version is a much longer document of 121 pages plus extras.

This is the masterpiece that will be analysed in the following pages. I am told the team of twenty worked on this through the months of May to September- and this is all they managed to come up with. The elephant laboured and produced a mouse!

<sup>3</sup> It is no less than amazing that an Attorney General who has the resources of a whole government behind him can not do a decent translation. The style of the book betrays its gangster origins perfectly

UK and Canada. The government controlled media have extensively reported both the contents and the fact that it is freely available, inviting the public to obtain their copy.

In this masterpiece of jurisprudence, the brain child of the grand jurist Jorge Carpizo, we are told that they are going to prosecute me on the charge of "exercise of moral violence against the Mexican government" and "defamation of the honour" of that government.<sup>4</sup> As of the time of writing they have done nothing of the sort. No prosecution papers, no summonses, nothing- which, of course goes to confirm that the whole thing was no more than an exercise in obfuscation, designed to fool public opinion, and thus assuage the thirst for revenge of oligarchs badly humiliated by the exposure of their nefarious activities. As far as its stated purpose, my prosecution, was concerned it was "much ado about nothing". It is likely that the legal Einstein's running the system of "justice" under Salinas, Carpizo and Co., know fully well that their case will not stand up to cross examination in any court that enjoyed the slightest degree of dignity, self respect and independence. That is why they have allowed their loudly stated intention to prosecute me quietly elapse into oblivion. Bear in mind that it is now nearly two months since they gave notice of their intent to prosecute.

Be that as it may the readers will, instantly, recognise that these charges- "defaming the honour of the government" and "exercise of moral violence against the government"- are the sort of crimes for which the citizens of the democracies are jailed regularly, on the dawn of the 21st Century! Does it not speak volumes about the democratic and reformat pretensions of a government which threatens to bring such charges? Does this not betray the pre Enlightenment character of the judicial system headed by Jorge Carpizo?

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<sup>4</sup>Originally there was another charge, as reported by the journalist Granados Chapa. I was to be charged with being in Mexico under the wrong visa! Yes, really! A whistleblower who had exposed a scandal that had to rock the government to its foundations had to be dealt with, no matter what it took. Unable to find any charges that would not be laughed at by the international community, Jorge Carpizo's genius came up with this one- violation of visa conditions! But even Carpizo managed to recognise the stupidity of this one and allowed it to be dropped.

The readers will also find touching the suggestion of being the victims of moral violence, coming from a government that was caught, on camera, in its campaign of indiscriminate aerial bombardment of a defenceless population in Chiapas. They will also note that Mr Patrocinio Gonzalez Garrido<sup>5</sup>, one of those innocent, helpless, shall I say sensitive, (little & cuddly too?) worthies against whom I have "exercised moral violence", the Minister of Interior<sup>6</sup>, has now been publicly exposed as the architect of many of the crimes that eventually led to the uprising of January 1st. That government had no idea when it said it would prosecute me for "moral violence" that CNN was about to capture on camera the evidence of prisoners shot in cold blood, in the back of the head, with hands still tied behind their backs. Carpizo, "the reformer" and his master in Los Pinos Palace, were still riding the crest of the wave when they launched their campaign against me. At the time one was still the hero of NAFTA<sup>7</sup>, not yet the assassin of Chiapas; the other, the champion of the rule of law, as yet not exposed as the over rated and oversold face of an illegitimate government that had perpetrated the greatest electoral fraud against the people of Mexico since the 1940's and now was engaged in the indiscriminate slaughter of its own citizens. At the time they could, with a straight face, claim that they and their whole government were collectively the victims of moral violence and defamation at the hands of a single individual, Kaveh Moussavi. After Chiapas, the malicious posturing of these people would be laughed at but for the fact that the price of such laughter in corpses of innocent civilians of Chiapas is incalculable.

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<sup>5</sup>In the Spanish version he is specifically named as one of the officials whom I am supposed to have libelled by having alluded to the comments of Amnesty International about his human rights record while governor of Chiapas. See E.M, p 114

<sup>6</sup>Which in Mexico is the equivalent of the head of the CIA, FBI, the Secret Service, the INS, the NSA, and, most important the entire elections machinery of both parties and the government rolled into one. No place for pussy footing this portfolio!

<sup>7</sup>The Moussavi File was launched to much media acclaim, on December 2nd 1993; that is just two weeks after the NAFTA vote. Just a coincidence? The political nature of Carpizo's judicial machine could not be better illustrated. They knew that they couldn't afford to bring a prosecution on such anti-diluvian charges before the vote, in full glare of the US media, but did so immediately after they got NAFTA through. Let those who argued that NAFTA would democratise the PRI reflect on this. Its effect was the exact opposite. It made these oligarchs drunk with power and even more haughty

I write this response as briefing paper, but also a modest contribution to the memory of those who gave their lives to expose the lie that is called the "Salinas Carpizo reforms". Otherwise, "The Moussavi File", a work that is beneath contempt, would assuredly not have received a riposte from me. It may have passed- just- as poor comedy, if its message about the nature of Mexico's judicial system was not so tragic. Though poor in composition and shallow in content, it speaks volumes about the total absence of the due process, the rule of law, and the utter contempt that Carpizo, "the great reformer", the darling of the NAFTA lobby, and his kind have for the independence of the judiciary in Mexico. Viewed from this perspective, and only for this reason, "The Moussavi File" is worthy of further examination.

## 2. Carpizo and Due Process of Law

I noted that "The Moussavi File" has been published in 50,000 volumes in Mexico. I am told it has now had a second reprint of a further 50,000. So a full 100,000 copies have now been published. This has been done and the entire and formidable public relations machinery of the Mexican Government and the PRI have been mobilised to publicise its content. One government controlled radio station, soft music playing in the background, has been repeating the message, "Go and collect your free copy of The Moussavi File. The honour of the country is at stake!" Televisa, the oligarchy's most potent brainwashing weapon has run the contents at length. Several newspapers have serialised the contents. "El Dia" published the entire Spanish version. This is the stuff of which fair trials are made of under Carpizo's judicial system.<sup>8</sup>

On the cover we see the arm of the Attorney General's office proudly displayed and there is no mistaking it that this work has been published by the Attorney General's office<sup>9</sup>. Furthermore, in the opening statement of the book we read that the case against me " was

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<sup>8</sup>All this was going on at the height of the full-scale uprising in Chiapas! The government were clearly desperate to use "The Moussavi File" as a distraction from the historical drama unfolding in the south of the country. For a good week into the uprising Televisa, virtually ignored the events in Chiapas to its cost. Because of this mistake it appears that, at long last, it too, like Carpizo, has been unmasked in Mexico.

<sup>9</sup>It is for this reason that I will be suing him personally, the day the prosecution papers arrive. He has made the mistake of distributing this libellous material in the UK thus opening the door for my bringing a legal action against him here. While he was busy doing his worst in Mexico, Jorge Castro Valle, Mexico's Charge d'Affaires in the UK and his colleague Esmeralda Reyna, the press officer at the Embassy were distributing this material to the media here. This latter lady has the counts amongst her achievements the further distinction of having tried her hand at intimidating the UK correspondent of Radio R.E.D Ms Maria Almendra MacBride, away from interviewing me. Verily, she is a worthy representative of the PRI, in trying to spread the time honoured practices of the PRI to other countries too! We shall shortly see what view an English Court will express on this activity. Even so, I hasten to add that, every journalist who has read this *magnum opus* of the grand jurist has laughed at it and the foolishness of the government that produced it. A government that does not understand how such libellous nonsense is received has clearly been in power for too long. "Power corrupts, absolute power corrupts absolutely", said Lord Acton. He may have added "Too long in power rots the brain". The journalists in question have all assured me that they will testify in court that it was the Mexican embassy that has been distributing this material and thus participating in the libel of my character in England. Such behaviour would be expected from the embassy of an international outlaw like Colonel Ghaddafi. But from the embassy of His Excellency from Harvard?



fully proven in the course of the investigation"<sup>10</sup>. Not only was I "proved" in the course of the investigation to be a liar. But more than this " Mr Moussavi wanted the million dollars for himself".<sup>11</sup>

There, we have it! Already! A taste of things to come. The case against Moussavi is "fully proven", before it has even arrived in court. No judge has seen the case, as yet. No jury has heard it, as yet. No defence has been permitted, as yet. No examination of the evidence offered by the Attorney General has taken place as yet. And yet, for Mr Carpizo, the case has been "fully proven". This is due process, in Mr Salinas's Mexico under his great reformer Jorge Carpizo MacGregor. The case is fully proven. When was the trial? Where was the court? Who was the judge? Where were the jury? Where was the defence? When was the cross examination of the witnesses? When were the records identified? For Carpizo, none of this matters. The case against Moussavi "was fully proven". The grand jurist, the grand reformer is above these fine quilllets of the law.

But in these nice sharp quilllets of the law,  
Good faith, I am no wiser than a daw.<sup>12</sup>

-Shakespeare, *King Henry the Sixth*  
Part 1, II, iv

The case against Moussavi is "fully proven", because Carpizo says so. None of these, trouble our grand jurist. He says Moussavi is guilty and that is it. The niceties of due process are not for him. He is above all this, our Jorge Carpizo.

<sup>10</sup> M.F. opening statement, second page

<sup>11</sup>ditto, same place

<sup>12</sup>Not that this great former scholar, the ex dean of UNAM, the author of internationally recognised works of scholarship on the law, literally is ignorant of the law. No, not at all. The point is rather than even the greatest, the cleanest, and the wisest, most learned of the law, once they make the deliberate choice of becoming the servants of a lawless oligarchy have no option but to leave their learning behind them, once they enter the dark corridors of a state geared exclusively to serve that class

What about Moussavi's rights? ( Long ago he ceased to be the victim of and the witness to the crime of attempted extortion but became the criminal. The case against him is proved! He is guilty) Oh, if he is guilty, when at what stage was he the accused? Did anyone ever formally charge him? When? Where are the papers? How come he has never had them served on him? How come he has never seen the charges and the evidence? And if he is the accused, does not the accused have any rights under the law in Mr Salinas's Mexico? Does he not have a right to receive a fair trial? Can he not demand that his case be heard before an impartial judge and jury? And how can he possibly have a fair trial when the Attorney General in 100,000 volumes of a book published by him under his own seal has declared that Moussavi's guilt " was fully proven"? What sort of a trial can it be when the government controlled media have repeated "ad nauseam"- a favourite phrase of the Attorney General- the defamatory concoctions of the Attorney General?

These and a hundred other questions would apply even in circumstances where the neutrality and the independence of the courts are a fact of life- as in the democracies where the rule of law prevails and due process is taken for granted. But in Mexico? Under Salinas? In a regime that by universal consent came to power through fraud on a scale unparalleled even by the standards of the PRI? Had we seen a few Mexican judges raise their voices in protest, had we seen a Federal judge order the cancellation of the elections or the arrest of Mr Salinas for electoral fraud, we might have had been a little less sceptical about the nature of the Mexican judicial system. Carpizo may know nothing about the rule of law and the nature of due process- as is demonstrated by the total lack of understanding that he has exhibited for the most basic elements involved in these ideas. But don't underestimate him. Verily he knows how the judicial system works in Mexico. That is why he so brazenly announces in advance of a trial, long before any judge has seen the evidence that Moussavi's guilt "was fully proven in the course of the investigation". He knows perfectly that no judge would dare find against the wishes of the grand jurist and his master in Los Pinos. That much can be said of him with

certainty. His knowledge of the way things work in the Mexican judicial system certainly entitle him for the title of the Grand jurist.

In condemning me in advance of a trial, even one that takes place before the puppet courts of the PRI, Carpizo does not frighten me. By now the men who run the Mexican government should have learnt that nothing that they are capable of doing - short of carrying out their threats to kidnap my children- is going to intimidate me. What it does do is to demonstrate to the whole world what a shallow farce this "investigation" of the Mexican government has been. It also shows how small the men who hatch such plots are. It confirms yet again the legendary vindictiveness of the present occupier of Los Pinos. By the same token it helps to dispel the remaining illusions from the vision of the most myopic of the rapidly thinning ranks of those afflicted by that dreaded virus "Salinasitis".<sup>13</sup>

So much for the *context* of the investigation conducted by Mr Carpizo. So much for Carpizo's respect for due process- recognised to the full in Mexico's code of procedure. An Attorney General who pronounces the guilt of an accused before the most elementary steps in due process have been taken, one who engages in the fomenting of mass hysteria by a concerted propaganda drive against an accused, is not fit to be in charge of the law enforcement agencies of a great state- certainly not one that would conduct itself within the confines of law. Perhaps that is the reason why, he has been moved to run the Ministry of Interior, the Gobernacion- this most potent instrument of lawlessness in Mexico, the one that is charged with the task of securing yet another "victory" for Mr Salinas's henchmen. He certainly deserves the promotion, for in the IBM- Caso scandal he has served his master well as is illustrated by the master piece of investigation that he has carried out.

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<sup>13</sup> A particularly virulent form of Myopia which severely afflicted, and was spread by, the neo liberal school and the NAFTA lobby in the late 1980's and early 1990's. I too suffered from this dreaded disease but was rapidly cured after a first encounter with the good Dr Carpizo. As for the rest of its victims, Chiapas has proved to be a very potent cure for the present victims- and a vaccine for the future ones.

### 3. The Context of the Moussavi File.

I come now to the *content* of "The Moussavi File" proper. The opening page under the heading "Some Comments" begins, as expected, with a statement that is a demonstrable lie. We have the Attorney General telling us that on May 4th 1993 his office released a press bulletin in which they told the world;

"that as a result of the investigation in progress concerning [the Moussavi] case and all the documentation amassed thus far, only two<sup>14</sup> hypothesis were admissible....."<sup>15</sup>

It amazes me that a government that is so thoroughly based on lies should be so amateurish at lying. But perhaps that is indeed the Achilles heel of all authoritarian governments. No opposition, no challenge. No challenge, no need for no thought. No thought, atrophy of political skills. Atrophy of skills, degenerative processes take over. Incompetence sets in, even in spheres that they are best at- namely lies and deception. In this particular case, I can do no better than to take the reader back to the 3 month period between February 3rd 1993, when the Financial Times broke the IBM Caso scandal and May 4th, when the Attorney General's infamous press release, that they so proudly wave in front of us, was issued.

During that period on numerous occasions the independent sectors of the Mexican press tried in vain to get the Attorney General's office to investigate the issue. "Proceso" and "El Norte"- and to some extent Jornada also- newspapers that are undoubtedly a credit to Mexico, again and again went to the Attorney General's office to make enquiries as to whether there was an investigation going on. If there

<sup>14</sup> The most obvious hypothesis that the government were engaged in a conspiracy of silence, and actively working to mislead public opinion is of course not mentioned. Carpizo, the jurist had not taken the trouble to just look at and read the Contraloria's three press bulletins of February 4, 5 and 19, in which from day one the presumption that I was lying was total, and the objective of the government in libelling me, completely transparent. The scandal broke out on Feb. 3rd. By the next day the Contraloria had already decided that I was lying. For all this see later in the briefing.

<sup>15</sup> Opening statement, first page.

was, they wanted to know at what stage it was. On repeated occasions they were told that there was no investigation going on because there was nothing to investigate! These people had made up their mind. Their objective was not to organise an investigation but to obstruct the one that the press was trying to carry out. The last time this happened was on the 16th of April 1993. On that day's issue of *El Norte* we see a report by Carmen Alvarez in which she tells us that the Attorney General's office have yet again told her that

"there is nothing to investigate"<sup>16</sup>.

To the best of my knowledge this was the twelfth time that these papers had pressed the government for an investigation. "Proceso" kept being told that the Attorney General was not investigating this matter because there had not been a complaint- a comment which drew a number of sarcastic ripostes from several commentators at the time. My own repeated pleas to the Mexican Embassy to come and take a statement from me had all gone unanswered. I telephoned the Mexican Embassy on day two of the whole episode and asked to speak to the Ambassador, at the time Sr. Bernardo Sepulveda. Numerous other requests were similarly rebuffed. Every time I was told that I would be called back- which of course never happened.

A hint of my state of mind at the time is given by a letter that I wrote to "The Mexico Report". Amongst other things I said,

"There are three salient features to this whole sorry affair. First is the persistent and obstinate refusal of the Mexican government to investigate this incident"<sup>17</sup> This is exactly how I was reported *at the time*.

In a further letter to the *Financial Times*, published on March 18th, I wrote

<sup>16</sup> See "El Norte" 16 April 1993.

<sup>17</sup> See "The Mexico Report", Vol. II, March 5, 1993, No 4, p.1

" .....the Mexican government has carried out no more than a perfunctory investigation of my allegations that government officials solicited money from me.....The sum total of the investigation into my report was limited to a half page fax.. "18

These were both prior to the PGR's infamous press release of May 4th. Had there been an investigation going on, would I have needed to write these words. Would El Norte have carried the story of the 16th? If they had not already made up their minds, and said so openly, would these words have been written? I leave it to the reader to judge for himself.

I even wrote directly to Emilio Gamboa,<sup>19</sup> the new Minister of Transportation and Communications, in April pleading with him to order an investigation-points to which I will return below. I wrote to Carpizo himself- of which a lot more later. But again to no avail. The people in charge of the Mexican government just did not want to know. They did not want an investigation. And it is obvious why they didn't want this. They felt that the longer the story was allowed to continue, the more embarrassing attention it would attract in the international press. That is why they wanted to end the matter as soon as possible. In the time honoured fashion of all corrupt oligarchs, they failed to appreciate how much better it would have been, how much better they would have looked had they come clean from the word "go" and commenced a serious, and comprehensive investigation. Their gut reaction was that all investigations of corruption are bound to be damaging- specially in a case where according to one diplomat there were many signs of a smoking gun- as we shall see.

The fact of the matter is that this is a government that far from wanting an investigation was from the beginning absolutely determined to suppress the whole story as quickly as possible, so as to ensure the minimum damage to its international image during the critical lead up to the NAFTA vote in the US Congress. This is a

<sup>18</sup> See *The Financial Times*, 18 March 1993, Letters to the Editor, p 22

<sup>19</sup> See Moussavi to Gamboa, 16 April 1993.

government that more than any other since the Mexican Revolution is dependent on the goodwill and confidence of foreign capital. The only constituency that it really cares about is the foreign business community. I say this not as an academic or a journalist, but as a businessman with a keen ear to the ground and a sensitivity regarding these matters. It is my business and in my interest to know!

Hence the extreme sensitivity to my report. Hence the knee jerk, gut reaction that this government showed as soon as the Financial Times broke the story on February 3rd 1993. The entire machinery of the government was mobilised not to investigate- which would have involved digging into the story and keeping it alive- but to suppress the story. And what better way of doing that than by discrediting me? Hard as they tried they could not suppress the story, because I would not let them do it at my expense. So they had to do more than suppress the story. They had to make it look as though the whole thing was a fabrication by enemies of Mexico.<sup>20</sup>

Carpizo's opening statement, and his efforts to pretend that he was investigating the scandal is nothing short of a monumental lie, as I hope to demonstrate in the following pages. For now the conclusion that this was a government that condemned me before any possible investigation could have taken place is one that is wholly subscribed to by all neutral observers. I will confine myself to one example, coming from the most prestigious newspaper of high finance, and one that has been a consistent supporter of NAFTA and until Chiapas, of the Salinas project. This was the editor of the Financial Times who wrote these words

"There can be no doubt that Moussavi was condemned by Government Ministers before an investigation had even taken place"<sup>21</sup>.

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<sup>20</sup>Yes, there were article in the press, asking who is Moussavi, and answering the question by saying that I was a CIA agent. One grotesquely suggested that Salinas was Allende reincarnate, and I part of an imperialist conspiracy to get rid of him! Can any one think of a greater travesty, a greater lack of respect for historical comparisons? Salinas an Allende? Lord is there no limit? If Salinas is Allende, then from tomorrow I am going to call myself Julius Ceasar, as we have clearly taken leave of our senses.

<sup>21</sup> See The Financial Times, Survey, November 10 1993, Mexico 3, p III

I said in my testimony before Congress that I was able to secure a copy of the entire file that Carpizo had in his possession on my case. This was the complete file up to May 4th 1993, the day on which he issued his defamatory press release, in which he claimed to have been carrying out an intense investigation, during which he had amassed a mass of documents. This is the file that he and his government are now hiding behind. This is file no A.P. 1267/DO/93. I enclose the whole file for the record.<sup>22</sup> I was able to check its contents with that available at the Mexican Embassy later, and could see that my copy is an exact replica of the actual one in the Attorney General's office. The Government now say that the whole file is available for inspection by the public. This should provide the intelligent observer the chance to check for himself and see whether he will find the slightest evidence to confirm Carpizo's claim that up to May 4th 1993 he had done anything remotely resembling an investigation. I urge the reader to avail himself of this opportunity. I assure him he will find nothing that would confirm that an investigation, was taking place up to that time.<sup>23</sup> Most assuredly he will not find "documents amassed" as the PGR has claimed. I invite the readers to check for themselves whether there is the slightest evidence that corroborates the Attorney General's claims on this score.

I leave it to the readers to decide for themselves how much of an investigation this file shows there to have been up that point. If half dozen sheets of newspaper reports, the text of letters squeezed out of IBM Mexico - of which more later - a half page fax from the Inspectorate to my lawyers - and a few other such odds and ends- if this is an investigation, then I see why it is that Carpizo has not been able to find any irregularities in the elections that are habitually "won" by the cronies of his Master. If this hotch potch of stuff is

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<sup>22</sup>Enclose the PGR file.

<sup>23</sup>Even the journalist, Granados Chapa, with whom I have had my differences, over this matter, found it possible to pass a sarcastic remark on the labours of the Procuraduria up to that point. See *El Financiero* May 14 1993, Plaza Publica, Miguel Angel Granados Chapa p 35

For my reply to Granados Chapa, see *El Norte* July 15, 1993, or an abridged version in *Proceso* June 28, 1993.



"documentations amassed", as the book's opening statement says, I now understand what the PRI means when it says it has won the elections by a "massive vote".

The fact is that neither the PGR who took over nominal responsibility for the "investigation", nor before them the Contraloría- the Inspectorate General- had the slightest intention to carry out anything that remotely resembles an impartial investigation, as understood in societies where government is to a degree accountable to the public. When they did come to investigate, I later discovered what they had in mind was the investigation of me. This is apppoint to which I will return, but lest the reader think that I am exaggerating, let me show him a sample of the kind of questions that I was asked to reply to in an "investigation" nominally aiming to locate the men who tried to shake IBM and I down at the Nikko on November 9th;

-Have you got Mexican friends?

-Name them. Who are they?

-For how long have you known them?

-Have you stayed in their house?

-Have you done any business with them?

How much have you earned on average in the last four years?

-How do you compare such income with an average entrepreneur in Great Britain?

-How many properties do you own and what is their value?

-What is the value of any shares or bank accounts you may have?

-How many times have you been in Mexico in the last six years?

-Have you been to Mexico for business or pleasure?

-If on business what type of business?<sup>24</sup>

All of which of, course throws a great deal of light on who the men at the Nikko were and who was behind them!

But I will come to that soon. For now what of the Contraloría- the Inspectorate General of Mexico, under Maria Elena Vazquez Nava, truly another remarkable and worthy scion of the PRI who was in

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<sup>24</sup>E.M. p. 76.

charge of the investigation before the jurist took over. What works of wonder had they achieved by way of preparing the ground for Jorge Carpizo? It was this organisation and in particular its under-secretary Sr. Luis Vazquez Cano, that initially led the Mexican Government's damage limitation efforts. Let's call it by its proper name; that is what it was, damage limitation, not an investigation out to find the crooks. Does their record look any more convincing? Does it show that they were interested in the truth? On day one, that is barely 24 hours after the FT report they put out the first press release, which is attached<sup>25</sup>. Do the authors and the organisation that release this document sound impartial to you? 24 hours later, they put out yet another press release.<sup>26</sup> Does this one sound neutral? Does it tell you that this is an organisation that is interested in a neutral investigation?

In the meantime, the Contraloria were given a helping hand by the Minister in charge of the tender, the then Minister of Communications and Transport, Sr Andres Caso Lombardo. He did even better. In the true fashion of a despotic Third World oligarch, acting as prosecution, judge and jury, all rolled into one, he announced on television that I was a liar, and that he was going to put me into prison.<sup>27</sup> This was done just 72 hours after the outbreak of the scandal. What possible investigation they could have carried out in such a short time it has never been made clear. In fact Carpizo's file shows that they had done precisely none. I, the key witness had not even been so much as contacted, let alone permitted to give the details of what I had seen. Does this sound like a government that was interested in a neutral and impartial investigation?

Having condemned me in two press bulletins, in a wholly orchestrated TV debate<sup>28</sup> in which it was falsely stated by the announcer that all the relevant parties had been contacted and having passed a jail sentence on me, the Contraloria suddenly remembered

<sup>25</sup> Boletín de Prensa, Secretaría de la Contraloría General de la Federación, (SCGF) 4 May 1993.

<sup>26</sup> SCGF 5 May 1993.

<sup>27</sup> See Financial Times March 3 1993, p 6. "Mexican Air Traffic Control Deal Upheld" Damien Fraser & Stephen Fiddler.

<sup>28</sup> Transcript of TV debate enclosed..

that they had better produce something that resembled an investigation. This took the form of a half of one page fax- lest you think I am exaggerating it is included in the appendix- sent on the 12th of February to my lawyers in Washington. This was eight days after I had been condemned and the presumption of guilt on my part had been widely disseminated. The Contraloria had decided that they would go through the motions of an investigation, to "amass documents" for the jurist to be able to hide behind. The fax<sup>29</sup>asked two questions, which must have been at the outer limits of the imagination and the investigative capabilities of the these latter day Sherlock Holmes's,

What are the names of the people who attempted to solicit a bribe?

And what department did they work for?

Yes that was all? Nothing about what they looked like, what were the circumstances that led to their meeting with me, who had alerted them to my presence at the Nikko. what light could I throw on their identity and the hundreds of other questions that any fifth grade detective could have asked Absolutely nothing.

The wholly artificial character of such an investigative approach is, I trust, plain for the dullest observer to comprehend. It is this kind of nonsense that Carpizo has the audacity to call a "comprehensive investigation", during the course of which my "guilt has been proved".

When my lawyers replied on the 18th of February<sup>30</sup> the Contraloria's response was absolutely predictable. It is clear that they had prepared a response, which was above all devised with the public relations aspect in mind. Our response was sent on the evening of the 18th. At the crack of dawn on the 19th the Contraloria put out a third press release.<sup>31</sup> It begins by saying that I have offered "no evidence"<sup>32</sup>

<sup>29</sup> See Lic Manuel Galan Jimenez of SCGF to Robert X. Perry 12 Feb. 1993.

<sup>30</sup> Perry to the Contraloria, 18 February 1993.

<sup>31</sup> Boletín de Prensa SCGF 19 Feb. 1993.

for my allegations, and that the file is being passed to the Attorney General and the latter would pursue me because as they had said earlier, I had libelled the honour of the Mexican government. This was the conclusion that this government had come to after an enquiry involving a fax of one half of a page. I said at the time that in Britain the police would have put more effort into investigating the theft of a bicycle that the Contraloria had put into investigating the violation of the honour of Mexico! I congratulated Maria Elena Vazquez Nava for the vigour with which she was guarding the honour of her government. I urge you to read these three press bulletins. Are they the kind of material you would expect to come out of a government that was interested in an impartial investigation? Do they not totally and beyond a shadow of doubt demonstrate that here was a government that was hell bent on preventing an investigation and doing its utmost to discredit me? The two had to go together hand in hand. The first was designed to suppress the issue once and for all. The second was to destroy my credibility with a view to exonerating the government of any suggestion of malfeasance.

Can there be any doubt, when one looks at these press releases and the press conference of Caso Lombardo, about the fact that the presumption of guilt on the part of the government towards me was total? Anyone reading these press releases, or the tone of the TV debate, can not but conclude that the government's priority was something other than investigating the facts.

Had the Contraloria, or indeed later Carpizo, shown the slightest interest in getting at the truth, they would have noticed that already, in the first eight days, they were in possession of material in the form of contradictory statements from IBM Mexico and IBM USA for them to think that there was something amiss here. Whereas the President of IBM Mexico was saying on Television that they had never had any report of solicitation for a bribe:

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<sup>22</sup>In those early days they were willing to settle for "the evidence", but soon began to expect what they called "definite proof". This is a point to which I will return.

"IBM does not have any complaint whatsoever. We were never approached by any Mexican officials. *We are completely unaware of any such activity.* The statements of this individual [Moussavi] were made exclusively on a personal basis",<sup>33</sup>

a week later, Gerald Ebker, Chairman of IBM Federal System's Co., in anotherwise grovelling letter clearly written to appease the Mexican government and deliberately vague on the key issue of date and manner in which I had reported the solicitations, found it impossible to lie in the same extent as Guerra had done and was forced to admit that:

"On several occasions begining late October 1992 and continuing into mid-November 1992, Kaveh Moussavi advised two marketing representatives from IBM International Air-traffic Co. that he had been approached by individuals in Mexico and told that IBM chances for winning the SENEAM contract would increase if IBM were to make some type of contribution".<sup>34</sup>

So, what to Guerra was something they had never heard of and knew nothing about, became a week later something that they did know about and had received several contemporaneous reports on. This should have been enough to alert our Sherlock Holmes in the Contraloria. But it did not. And this is not surprising, given that the Inspector General was more interested in a whitewash than an investigation.<sup>35</sup>

This is the stuff of which the "investigation" and the mass of documents of which Carpizo speaks was made of up to 4 May. By February 19th I had already been accused of disparaging the honour of the government of Mexico and it was loudly proclaimed that I would not be allowed to get away with it.<sup>36</sup> This was the culmination of the first stage in the Mexican Government's "investigation"

<sup>33</sup>See Televisa transcript, 4 February 1993.

<sup>34</sup>Ebker to Vazquez Cano, 11 February 1993.

<sup>35</sup>Gerald Ebker to Vazquez Cano 11 Feb. 93.

<sup>36</sup>See Press Bulletin of the 19th of February

This much for the *context* of the Moussavi File. Taking that into account, their claim that I offered no proofs takes on a different meaning. Were these people interested in proofs? Was it not their intention to take whatever I gave them and distort it? But let us move on.

#### 4. The content of "The Moussavi File".

I now come to the *content*. When we get here matters get even better. I noted that the very first sentence of the work is a demonstrable lie. There had been no such thing as an investigation up to May 4th. And there were no documents amassed. But what of the rest of this masterpiece.

In the following two paragraphs Carpizo tells us that at the time there were two "hypotheses"<sup>37</sup> that he was working with. He proceeds to enlighten us. Hypothesis number one;

1. Mr Moussavi was telling the truth and that, consequently, people who he himself admits were not public officials<sup>38</sup>, did approach him, in order to ask him for money ( one million dollars) in exchange for assisting him in obtaining the contract in question for the IBM company, for whom he was acting as broker. If this hypothesis should be verified, the Attorney General's Office will take legal action against whoever is responsible.

Let us pause right here. Already we find another lie. The PGR's motives again come through. Carpizo had in his files- yes amongst the "mass of documents" that he told us about just now- several documents which clearly should have told him that this statement that he had just put out was a lie. The document in question was none other than my lawyer's letter of the 18th of February addressed to the

<sup>37</sup>The idea of investigating a third hypothesis, that the tender was corrupt, that the government had something to hide, that this was the reason for the hysteria that they had started against me, had not struck the fertile mind of the grand jurist. Of course not, for he himself was a leading spirit in the conspiracy of cover up being hatched against the people of Mexico and myself.

<sup>38</sup>The sloppiness, the unmethodical character, the total lack of attention to detail in Carpizo's investigation is demonstrated, yet again, when I am reported just fifteen pages later as saying " If, as *Moussavi* says, he had no doubt that the persons who met with him were government officials.....". So the same Carpizo, who in the opening statements claims I have said the crooks were not government officials, on page 15 decides that I have said the men were government officials! Perhaps this is deliberate. He knows that most people, their stomachs turning after reading his first page would throw his magnum opus in the rubbish bin and would never get to page 15 Eager to get it in, he insists, completely fictitiously and by pure fabrication that I have said the men in the Nikko were not public officials. For a succinct summary of my reasons for believing that they were, see Perry to Contraloria. 18 Feb 93.

Contraloria in which the government were told explicitly that we believed that the men in question were government officials.

My reasons for saying so were as follows;

a) the fact the men were extremely well informed about the tender.

b) The fact that they were in possession of confidential government documents

c) the fact that they explicitly stated that they wanted the money for Mr Salinas's Solidarity

d) the fact that they were willing to conduct the meeting in the lobby of a busy hotel, with absolutely no fear of being apprehended

e) the fact that they had a million dollar incentive to prove to me that they were not government officials, but failed to do so. This was the main stumbling block and the reason why I could not deal with them. Had they been free entrepreneurs offering professional services, and not government officials looking for a kickback, there was nothing in my contract with IBM, nor in the law which would have prevented our being able to deal.

For all these reasons, we believed and we had already told the Mexican Government that the men in the Nikko were government officials.

This was the letter sent on the 18th of February, and received by the Government of Mexico. It was the basis of yet another of Contraloria's defamatory press releases against me, that of the 19th February. It is to be seen clearly in Carpizo's own file with the stamp of the PGR heavily on it.<sup>39</sup> Yet, what does Carpizo say in his

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<sup>39</sup>See Perry to Contraloria 18 Feb 93.



statement? He says that by my "own admission" the men weren't public officials!

What this says about Carpizo, about his total lack of respect for the facts or for the documents that are available to him, and what they are telling him, I will leave to the reader to decide. It does however help to bring into focus the priorities of the Mexican government. Carpizo in his desperation to satisfy his master's orders to exonerate the government at all costs from this scandal, gives the game away early on by this amateur attempt to put words into my mouth- despite the clearest documentary evidence to the contrary. Let this stand as an initial foretaste of other efforts on the part of our master juggler to put words into my mouth. This is done on a number of occasions. It is one of the oldest tricks in the tool kit of the demagogue. If you can not defeat an adversary on his own statements, then defeat him on the statements that you attribute to him!

But let us move on. For we shall see even more exciting gem inventions of Carpizo's creative mind. This much for the first hypothesis. Needless to say, they had absolutely no intention of commencing an investigation whose starting point was the premise that I was saying the truth.

Had he been interested in pursuing such an investigation, at the very least, he would have issued a statement clearly stating that the investigation had only just begun. He would specifically have said that everything that had been said so far by government ministers had been speculation and had no basis in any investigation, since the investigation was just beginning. I put this very request to Carpizo in the course of a telephone conversation. His reaction was as though he had just seen a ghost! It was revealing and yet another confirmation that his interest was not the truth. He was out on a witch hunt. Screaming down the line, in a manner more typical of a Third World bureaucrat, unaccustomed to being answered back, than the reformist jurist that the Salinista charm machine would have us believe, his words were, and they still ring in my ear,

"Mr, Moussavi! I don't know if you are honest or not (sic) I intend to find out and when I do I will put you in jail!"

This of course speaks volumes about the metamorphosis that this man had undergone, just a few weeks into his new job at the helm of the Procuraduria. True man of character this, with a personality of steel! It says about as much regarding the misconceptions that he labours under. Much is made of the fact that this man is not a traditional PRI oligarch, and should be given a chance in democratic and liberal circles. He was co opted from the UNAM- the Autonomous National University- where he was the Dean. He was the author of a learned tome<sup>40</sup> which served as the standard critique of what in Mexico is called " Presidentialism", but in plain English, arbitrary authoritarianism, the most complete practitioner of which is the very master that he now serves. The dramatic change that he had undergone, as symbolised by the one sentence I quote from him above, should confirm that his cooptation was completed in weeks. It only shows, once again, the legendary capacity of the oligarchy, to persuade clean men to do their dirty work. That was the value of Carpizo to this oligarchy. He had an air of Mr Clean about him and that is why they needed him. Such men fool themselves if they believe that a dirty task becomes clean if done by clean hands. It is the hands that become dirty, not the task that becomes clean. Carpizo had hardly arrived at the Procuraduria, and he was already speaking like a typical Thrid World oligarch. Such is the inevitable fate of men who try to cover their thirst for power by justifying their cooptation on the spurious grounds of "cleaning the state" from within. Inevitably it is the state that cleans them out of all credibility and spits them out when they have outlived their usefulness.

The learned jurist evidently did not consider for a moment the possibility that I might be " honest" as he put it, nor that an investigator who spoke like that, gave away his prejudices completely the minute he opened his mouth. He now has the audacity to say that I

<sup>40</sup>Jorge Carpizo, *El Presidencialismo en Mexico*, Siglo Veintiuno Editores (3rd Ed) , Mexico, 1983

refused to further co operate with him. I challenge Jorge Carpizo to dig up the tapes of that particular conversation- now that he is the Grand Gobernator he surely has access to all records of such eavesdropping. I challenge him to deny that these were the words he used in our conversation of May7th. This was no detached and impartial investigator!<sup>41</sup>

How does the Moussavi File continue? What other gem piece creations of Carpizo's fertile mind do we find that can in the first second- as opposed to the first minute- be shown to be a lie? We don't have to look too far. There it is, in the very next paragraph, for it reads, as "hypothesis" number two, and I quote

" 2. Mr Moussavi is not telling the truth and, annoyed at the company for whom he was acting as a broker not obtaining the contract and therefore not obtaining the commission due to him for his negotiations, he has made a series of statements which may possibly defame or slander public officials. "<sup>42</sup>

This "hypothesis" was put out with a straight face by Carpizo completely oblivious of what the innuendoes loaded into the language used, reveal about the bias of the Procuraduria. This is not a language that can ever be used by a judicial power that has the slightest respect for due process, and the fundamental requirement of the rule of law, that a man is innocent until proved guilty in a competent court free from bias or political tampering. Given that the intention was not, primarily, to investigate but to discredit and defame the choice of

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<sup>41</sup>In that conversation I also told him that the questions that he had sent had the hallmarks of a hurriedly drafted questionnaire, done to give the impression that he had been investigating. I told him they indicated that, contrary to what he had made out, they proved that he had done nothing that could remotely be called an investigation. I warned him that if he wanted my co-operation he would have to issue a statement the next day making it clear that the investigation had only just begun and that all comments made thus far by every one including government ministers about me had no basis in fact. Were he to do that I offered to suspend my press campaign against the Mexican government until the end of the investigation. In those days the government were so desperate to get my co-operation in this regard that Carpizo came off his high oligarch's horse, and obliged in the best way that he could. He issued a press release requesting the media to behave in a responsible manner! I soon discovered that what he had in mind was not the media in general- he would have no worries there, he controlled most of them- but he meant Proceso, El Norte and just a handful of others who insisted on reporting my view of things also.

<sup>42</sup> M. F. statement.

language is hardly surprising. The references to money and commission, to my alleged disappointment at the loss of the tender, the characterisation of me as a "broker"- all this was clearly calculated to plant in the public's mind the idea that I was a shady character with a clear financial motive for what I was saying. It did not occur to the grand jurist that if I was not absolutely certain of what I was saying I would not have dared bring allegation against Caso Lombardo in an English Court, where my version of things would be subjected to the most intense and rigorous cross examination by the best legal minds that the unlimited resources of the Mexican state could buy for Mr Salians's "uncle". These matters did not begin to enter the mind of our great jurist.

But what of the essence of the "hypothesis", anyway? Carpizo has done it again. At the time when he and his henchmen put out this statement, they were already in possession of yet another document that proved that the hypothesis- how scientific they are- could not be true. This document is the Ebker letter referred to earlier: It says beyond the slightest doubt that I reported the solicitations *long before* we had lost. In other words, the idea that I had made up the story of the solicitations because of disappointment at the loss of the tender could not possibly be true, for the obvious reason that we had not lost the tender yet. But more than this! Not only we had not lost the tender; we could not even have known that we were going to lose it. On the contrary, we had every reason to believe that we were going to win this tender. Indeed we had been assured at that time by SENEAM, verbally, that we had the best bid for the computer side of the contract, as is clear from the IBM documents I have attached. Whatever other explanation the "hypothesis" might have sought to probe, that of financial disappointment after the loss of the tender certainly could not be true, as Ebker's letter clearly places the time of my report well before that loss. I quote the letter again:

".....On several occasions beginning in late October, and continuing into mid November 1992, Dr Kaveh Moussavi advised two

marketing representatives from IBM International Air Traffic Corporation- that he had been approached by individuals in Mexico and told that IBM's chances for winning the SENEAM contract would increase if IBM were to make some kind of contribution"<sup>43</sup>

This was a document written by IBM, not by me. At the time when it was written, IBM and I had already parted ways. Under pressure from the Mexican Government, they had already abandoned me. They were desperate to appease that government, as is clearly evident from the tone of Ebker's letter. Despite this and contrary to Guerra Botelo's earlier statement on prime time Mexican TV, here was Ebker saying that they did have such a report. And they had it in "October and November". That is two months BEFORE IBM lost the tender. It follows as a matter of logic that I could not possibly have made up this story because I lost the tender as Carpizo implies IBM lost the tender on December 28th. I did not learn about this until January 9th, as I was on vacation during that period. Yet we see that I had reported the approaches for payments in general terms in October and specifically on November 9th 1992. In other words a full 60 days *before* I could have possibly known about the loss of the tender. But logic does not enter the world which Carpizo inhabits. This is a world of naked power, of lies and deceit, as we shall see further.

Bereft of logic, he opts for the next best thing. He gives his masterpiece the appearance of a scientific work. He wraps up his concoctions in a label called "hypothesis" knowing this is quite a mouthful and can baffle the mass with an aura of "scientificity"<sup>44</sup>. He forgets however that a hypothesis is a fundamental of the scientific method. It is the essence of Enlightenment methodology. It is the framework that one puts up to guide one's research. And one adapts it as one goes along, when the facts are assembled. Most assuredly one does not call something a hypothesis when right from the start there are facts that demonstrate its lack of validity, as is the case here with Ebker's letter. But for Carpizo this is a hypothesis. He likes the word

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<sup>43</sup> Ebker to Vazquez Cano 11 Feb 93.

<sup>44</sup> A word I have just invented to fit the concoctions of the grand jurist.

because it gives his investigation an aura of the scientific. The grand jurist is not only perfectly neutral in his investigations. He is also scientific with it. There is clearly no limit to this juggler's sophistry.

At the time I said in an interview that Carpizo has two theories about me. I am led to have two theories about him. Either he knew of the existence this document, in which case he suppressed it, which confirms my claim that he is a malicious liar serving the political agenda of his master, rather than the truth. If that is so then I accuse him of being the leading spirit in the conspiracy hatched by the Mexican government to pervert the course of justice. Or alternatively, he was not aware of the existence of this document, which goes to confirm all that I have been saying since day one- that he has not carried out an investigation and is lying when he says he has.

But let us go on. A word about the language that they have used here. It is clear that it is loaded and designed to put into the mind of the public the image that I was a liar and my motive was financial gain. The point is so obvious that it needs no further comment. It is clearly so alien to practices that would be acceptable in a democracy that the reader will understand the point. It is worth noting it in passing as a reminder of how far Carpizo is in practice- as opposed to the imaginary world of the NAFTA lobbyists from what would be regarded as the minimum of acceptable behaviour in societies where the rule of law is taken for granted.

## 5. The IBM testimony , willingly obtained.

But let us continue. What else do we find in Carpizo's bag of tricks? None less than what we are told is the irrefutable evidence provided by IBM's Messrs Ebker, Boyd and Swope " senior executives" according to Carpizo, which proves that I was a rogue and a liar and wanted the million dollars for myself. Carpizo has chosen not to suppress these bits of his evidence. He settles for the next best thing in his tricks, which is misquotation out of context- an art in which he excels.

The inadmissibility of the evidence of a clear third <sup>✓ PARTY</sup> adversary in a court of law that is mindful of protecting its neutrality is a point too obvious to be laboured here. In any decent, self respecting, neutral court, mindful of its public duty to the citizens and jealous of protecting its impartiality, the evidence of a third party that is demonstrably locked in another battle with a defendant would be treated with extreme circumspection by the examining magistrate. IBM, were at the time my sworn adversaries. The "Moussavi File" makes the date at which the IBM testimony was obtained perfectly clear. It was June 25th<sup>45</sup>. IBM and I were locked in a legal battle at that point. They were my sworn enemies, the people who had abandoned me under pressure from the Mexican government, as we have seen, and as they were to admit both to my lawyer and to me later. "Mexico made us do this" as William Lassalle the IBM Attorney was to tell us later. For this reason alone their testimony would not normally be acceptable as impartial in a third party dispute.

Carpizo knows this well, yet proceeds to accept the untested, uncorroborated, unexamined testimony of my adversary as though it was the word of God, written in tablets of stone, brought down from the mountain! Carpizo is no impartial investigator. I could understand if he tried to bring this evidence into court, where its admissibility and validity could be challenged under all relevant precedents, rule of procedure, and judges rules governing evidence. Assuming he was

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<sup>45</sup>M.F. p 22.

successful in getting it admitted, then it would have to be made available for cross examination, to establish its credibility, to see whether they were obtained under pressure of the kind that was brought on Guerra Botelo on day one. But for Carpizo such niceties of the law can be dispensed with. The magician has shaken his wand and produced the verdict- "guilty" even though no court has ever heard the case.

But what of the essence? What is it that the Grand Jurist alleges IBM have told him? We are told that Mr William Swope has stated that I went on ad nauseam saying " increase my commission and I will take care of it"<sup>46</sup>. He and Boyd further say, according to Carpizo, that all this was just a trick for me to increase my commission. They further add that I had suggested increasing my commission of 6.5% by a further 1.5% to a total of 8%. I would then give 3% to the men in the Nikko who wanted one million dollars. This in a nutshell sums up the testimony of IBM, according to Carpizo.

The reader was not there and obviously can not know what happened *for sure*. He will therefore have to opt for the next best thing which is to use his judgement, weigh the evidence and work out the balance of probabilities. In so doing I would ask him to consider the following carefully.

The size of IBM's bid was 20.5 Million dollars. The men were asking for 1 million dollars. Simple arithmetic should tell you that there is something wrong in Swope and Boyd's statement that I was saying they should increase my commission by an extra 1.5% so as to enable me to pay the million dollars "by giving the men 3%"<sup>47</sup>. As a matter of simple arithmetic their statement can not be true since 3% of 20.5 million dollars does not come to 1 million dollars- the sum that the men were asking for on the morning of November 9th, which is when I had the conversations with Boyd and Swope. 3% of 20.5 million comes to \$ 615,000! It does not come to 1 million dollars!

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<sup>46</sup>M.F. p. 18

<sup>47</sup>M.F. p. 18



It is said that a liar has no memory. But this is not about a bad memory. It is sheer mathematical illiteracy on the part of Carpizo our neutral and impartial investigator. He has not even taken the trouble to do the simple arithmetic involved to check and see if this "evidence" that he treats as the word of God stands up to the slightest examination. This is the kind of material of which our grand jurist's investigation is made of. This is the stuff that Carpizo is seeking to force down the throats of the people of Mexico. It is this material for which Carpizo tells us that he

" would like to express [his] thanks to Dr Ricardo Franco Guzman, for his impeccable investigation....."<sup>48</sup>!

This is the quality of investigation on the basis of which I have been found guilty.

Boyd and Swope are not totally stupid. They have more brains than Carpizo has credited them with. Swope is a former operative in Vietnam who takes enormous pride in having been actively involved in the CIA's "Operation Phoenix" in Vietnam, implying some brains, if he was chosen for intelligence work. He also is very proud of his association with that paragon of virtue, the symbol of everything truthful, Colonel Oliver North-<sup>49</sup> in many ways much alike Carpizo, and equally skilled in lying to the his own people, his own Congress and his own media all for the same good reason that Carpizo does it- to save the face of his master, the President. Boyd and Swope have both a technical, scientific background. Unlike the great jurist these two are not mathematical illiterates. That is why one can see that this testimony was obtained under duress. It is certainly consistent with IBM's behaviour from day one, and its determination to say whatever would please the Jurist. In the case of Boyd and Swope they simply did what they were told to do- even if it was demonstrable by simple arithmetic that what was being said could not be true. I can just hear

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<sup>48</sup>M.F. Opening statement.

<sup>49</sup>All this came from Swope himself.

them saying to themselves "If Carpizo is so stupid as to buy this rubbish, let's give it to him. Who are we to argue? That after all is what our bosses have done from day one." The Jurist may have been good in his law studies- though in his practice of it he is a master at falsifying the spirit of the law- he certainly was no mathematical genius.

But let us continue our examination of the contents of the juggler's bag of tricks.

It is suggested that my insisting "ad nauseam" on this point had a reason. I wanted the million dollars for myself. What better demonstration that the whole episode in the Nikko was a lie than finding a motive for my having made up this whole stroy. Now we have it. I was no just guilty of recommending the payment of the bribe. But doublyso because I wanted the money for myself! The demolition of this particular trick of Carpizo is going to require a little more patience.

To do this I would ask the reader to take a look at my contract with IBM and see for herself what the contract says about my company's books and accounts having to be kept open for inspection by the auditors of IBM for a period of three years. This was a requirement that could be extended for a further period of three years, i.e. six years in total. IBM's auditors had the right to demand my books whenever they wished. The relevant passage reads thus;

"The agent shall maintain complete and accurate accounting records of his transactions in performance of this agreement and shall, on IBM's request, make his relevant business records available to IBM or to an outside auditor chosen by and paid for by IBM in order that the Agent's compliance with the foregoing obligation may be verified."<sup>50</sup>

And what was this "foregoing obligation?" that the contract refers to? Precisely the prohibition of payment of bribes. Carpizo, the

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<sup>50</sup> See IBM Contract with KM.

master of misquotations, skillfully quotes the prohibition in full<sup>51</sup> while deliberately and avoiding mention of the passage just quoted which would have made it perfectly obvious to the reader that I could not have possibly taken the money for myself because I could not have hidden it from IBM's auditors. He reports the passage concerning the payment of bribes but leaves out the very effective measures that were built into the contract which would have made it impossible for me to contemplate either the payment of the bribe or the keeping of any money obtained for myself. Carpizo had a copy of my contract. He could read it. He could see this clause. He could see how devastating it is for his libellous thesis about me. So what does he do with it? He suppresses it!

In the light of the quotation above how, in the name of God, could I possibly have hoped to hide such a vast amount of money, a whole million dollars from IBM's auditors? Does anyone believe that one can fool IBM's auditors just like that? The auditors of a 75 billion-not million but billion-dollar company know how to smell a rat in a small company like mine, whose total turnover would have been no more than one and a half million dollars . i.e. the full value of the commission due to me. ( This particular company was switched to doing nothing other than this contract) If the bribe in question had been \$ 20,000 I might have been able, had that been my intention, to hide it in the expenses account. But in this particular company, geared exclusively to run this contract, whose total income would have been 1.3 million dollars it would have been inconceivable. How on earth could I have hidden an extra 1 million dollars in such a company's books. The extra million dollars would have been a massive input into the books of such a small company. A million dollars placed into the balance sheet of an IBM could, conceivably, have been hidden. But a million dollars pumped into the balance sheet of a small company, hoping to obtain, over a period of three years- the time it would have taken to complete the project.....? How was it possible to do this? Is this a credible scenario? Moussavi wanted this money for himself? Is it plausible? How on earth could I have hidden such a sum? In the first

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<sup>51</sup>M.F., p 18.

phase of the project the total commission due would have been about 500,000 dollars. That is what I would have got in the first year assuming we had won. That is what the accountants and- more to the point- the auditors of IBM would have seen going through the books of the company. But a million dollars extra? Such a sum would have been double the entire balance sheet! How can anyone in their right senses believe that I could have hidden such a sum from IBM's auditors?

If anyone believes IBM's story, please tell them to get in touch. If they are that gullible I would love to meet them. There is a nice building in Mexico City that I want to sell to them. It is called Los Pinos; is very well situated, and its present occupier will be unemployed shortly!

Carpizo further tells us that IBM have told him I was recommending the payment of the "bribe". They say this in the same breath as they say, Moussavi wanted the money for himself. The implication being- no doubt to please the Mexican government and make themselves look good- that there was never a solicitation for a bribe. The whole story was concocted in order to get more money for myself.

The reader should stop and reflect on this for one moment. If I were to concoct a story, the main constraint- the structural matrix- within which I would have to operate, adapt my story to, spin the yarn around, would again have been my contract with IBM. In particular the clauses relating to bribery, which Carpizo spins out at length. I would have no choice but to skilfully negotiate my way around these clauses. Now, if I was the clever schemer, the manipulator, the "coyote" that the Mexican government make me out to be, what would I have done, given that my objective was supposedly to squeeze more money out of IBM for myself? I ask the reader to stop here, put himself in my shoes and reflect upon this. Operating within the said constraints and in particular the requirements of the Foreign Corrupt

Practices Act, what would he have done, if that had been his objective? Would he have

a) come up with a story about a bribe that he had to pay to public officials, knowing fully well that both his contract and Federal law banned such payments

OR

b) made up a story about having met a group of top technical experts, who were free and independent of the government, but extremely well versed in the requirements of Mexico for this and future phases of the upgrading programme?

What would you have come up with, if you were going to invent a story to squeeze more money out of IBM? Would you have tried to persuade them to break the law and risk going to jail? Would you have risked violating the terms of your contract and risk being sacked on the spot? Would you have openly said we need to pay a bribe, knowing fully well that IBM has its internal auditors and the like who put the fear of God into its executives?

OR

would you have subtly hinted that you have met a group of people who have the expertise, ex Air Traffic Controllers, scientists engineers, working in the private sector who would be of enormous assistance if taken on board. You could have argued that you have checked these people out very thoroughly; you were satisfied that they were not government officials; that they would not be paying a kickback to officials; they would be of enormous help to us in the next stages of the project; that there was no question of any impropriety or illegal activity....and so on.

I ask the reader to think about it. If you were in it to fool IBM into giving more money to you, which of these scenarios would you have concocted? The first, knowing that it was illegal and probably impossible for IBM to meet, or the second which would have provided a legitimate cover for whatever you wanted to do? I know which one I would have opted for.

What does the record show Moussavi to have actually said. Despite all the lies that the Mexican government have concocted the record is perfectly clear that once I actually arrived in Mexico and met the men in question, I reported

- a) that I had no doubt that these men were public officials
- b) they wanted a payment to Salinas's Solidarity program

leaving no room for doubt that they were asking for a bribe.

Interestingly Carpizo, in reporting what Swope's "voluntarily obtained" testimony, says quite clearly that I emphatically described the request as a "political contribution".<sup>22</sup>

If I had been out to get money for myself is that what I would have reported, knowing the legal and contractual obstacles involved?

The whole point and purpose of my going down to Mexico on November 8th was to find out if the people offering their services were government officials out, to get a bribe, or experts with something worthwhile to offer. Of the dozens of people of the Gustavo Aleman ilk, who kept bothering me in the weeks leading up to that fateful trip, one could never tell who was behind them. Aleman himself never made it clear who was behind him. The best I could get out of him was that his people were the best, they knew the business inside out, but also *crucially*, they knew everybody in the business and in the government. It was thus never clear whether they were asking for a bribe ( is this what "they know everybody in the government" meant)

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<sup>22</sup>M.F. . p. 18

or were legitimate operators with genuine expertise to sell. This was the point of my going down to Mexico.

Prior to going to Mexico, I made it absolutely clear to Boyd and Swope that I had no intention of paying a bribe. Lall<sup>53</sup> was telling them "in Mexico that is how business is done". I told them "what Lall tells you is his business- you sort it out with him. What you do with him is nothing to do with me. What I am telling you is I need to go and find out what this is all about." Indeed I specifically told Swope to come down with me. He declined. Today I understand why.

There can be no question that if the men at the Nikko had been genuine entrepreneurs with the necessary expertise ( who could have guided and helped us), and not government officials wanting a bribe I would have recommended dealing with them. My objection to Swope and Boyd's attitude was that they just wanted me to handle the whole thing. Did they know something that I did not know at the time? Their attitude was "you handle this problem and if we have to compensate you we will do it elsewhere." And of course IBM authorised me to go to Mexico and meet the men, a matter that is proved by Swope's letter of May 4th to me<sup>54</sup>- another document which the Mexican government have suppressed.

This much for the IBM testimony- so called. Carpizo's failings as a jurist in this area are legion. He has not applied the most elementary

<sup>53</sup>M.F., p. 18. Incidentally, Carpizo makes out that Mr. Satl Lall was my partner. This is an absolute fabrication. For the record I will state, Mr. Lall's role in this project as far as I was concerned was that he introduced me to IBM. One telephone call from Lall was enough to get Bill Swope to drop everything and fly to Mexico City to meet me. Lall was not part of my company, did not have any shares in my company, was not an officer or a director of my company, and was not an employee of my company. In consideration for his having put IBM and I together, I told him that he would receive 10% of my total commission. He was extremely unhappy about this and told Bill Swope of his unhappiness, at one point doing his utmost to bring our relationship to an end. He constantly pressed IBM to increase his commission. I have no idea what his relationship with IBM was. All I know is that one call from him was enough Swope to Mexico. I also know that despite telling IBM that I would not increase his commission, but they were free whatever they wanted to do with him, they kept him fully informed of the developments in the tender. Copies of most communications that were sent to me were also sent to his office which was totally separate from mine. With this background the reader should know that I was not and I am not responsible for communications between Lall and IBM. Indeed, after IBM had broken with me they were in constant touch and discussions with Lall. If Lall was my partner, Carpizo please explain.

<sup>54</sup>See Swope to Moussavi 4 November 1993.

tests that are required when dealing with testimony of third party adversaries. IBM were being sued by me at the time. They were not exactly disinterested witnesses. Carpizo should have taken this fact into account. They were moreover, by their own admission, under enormous pressure to appease the government of Mexico. It is inevitable that they would say what Carpizo wanted to hear. Had he given the slightest hint that he was only interested in the truth, it is conceivable that IBM might have behaved differently. But to expect that from Carpizo, would be to expect a lot given the agenda that he has and the master that he has to serve.

Moreover, on the IBM evidence, Carpizo has deliberately misquoted my contract, to suit his own purposes- twisting of documents is an art that he excels in. I have enclosed it for the reader to judge for himself. Note that he has deliberately left out all that the contract says about my books having to be kept open for the auditors of IBM. Had he allowed this to be presented to the public, had he allowed them to make up their own mind, the worth of his conclusion that I wanted the money for myself would have been shown for the nasty piece of character assassination that it is.<sup>55</sup>

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<sup>55</sup> In passing let me mention an interesting episode which should tell the reader volumes about the methods of the small men who run the government of Mexico. I always took it for granted that they would be tapping the phones of my few remaining friends- most had been intimidated into abandoning me. Some had their phones cut off by the supposedly privatised telephone company, Mr Slim's Telcelmex. But I wanted to prove that contrary to its denials it was not the free press but the government that was behind the massive campaign of character assassination against me. I therefore did an experiment which caught the Gubernacion red handed. Having obtained her consent, I gave an interview on the telephone to an El Norte journalist in which I would deliberately give her a few pieces of inaccurate information about myself, on an open line. We would then see how long it would take before one of the myriad of puppet journalists available to the the Gubernacion would be given this information and told to write it. I told Carmen Alvarez that my Degree was in Politics and Economics and my Masters Degree was in Political Sociology. In fact both degrees were in Politics only. I also told her the name of my tax office, with an inaccurate file reference as well as other material about my financial affairs, in a few cases turning reality totally upside down. We did not have to wait too long. The inaccurate information appeared in exactly the form that I had fed it down the line in another newspaper, Siempre, in an article by Patricia Ruiz Manjarrez. The timing was perfect. It came in the week that I appeared before the US Congress. Let those who continue to doubt that it is the government who is behind this character assassination campaign reflect on this incident. Let them note also that the government would not be able to carry through this kind of dirty tricks if it did not have accomplices in the press. In the same week Granados Chapa who had been the beneficiary of another leak. this time by Carpizo produced the libellous material analysed here- material that was denied to Proceso and El Norte. See siempre n. 2106, 3 November 1993, "Quien es Kaveh Moussavi? Evasor, impostor y mentiroso", by Patricia Ruiz Manjarrez.



While he says that the contract forbade me to pay bribes, he does not make it clear that the payment of outside consultants, capable of assisting with a tender is neither illegal under US law, nor forbidden under the contract. In his desperation to discredit me he gets carried away and gets confused about the distinction between a payment to a government official, which is illegal and the hiring of consultants which is not. This is incidentally an attribute that he shares with most officials of the government of Mexico. In an earlier letter that Carpizo's agent in Washington wrote to Mr LaFalce's committee the Mexican Government made the same point<sup>56</sup>.

<sup>56</sup>Letter from Mexican Embassy's Minister for legal affairs to the Chairman of The House Committee on Small Business dated 4 Nov 1993- another truly remarkable piece of scholarship, worthy of Carpizo's offspring! The slovenly, sloppy, disorganised, amateur, and wholly dilettantish character of Carpizo's investigation is yet again confirmed by his agent's letter to the Committee. The author, one Gregorio G. Canales is the Minister for Legal Affairs- quite a mouthful of a title that- a lawyer of Carpizo's ilk. Please look at his letter. The poor fellow at first thinks that I have been involved in a traffic deal! He also reports me as having said in the Committee that Mexican Radars have gaps in them to let drug dealers pass. I said nothing of the sort as the following extract from the transcript shows

Chairman LaFalce: What about the other aspect of my question, the geographic gaps that exist and.  
Mr Moussavi .

Yes Sir .... I wouldn't want to be on record as saying one way or other. I have no expertise in Cocaine and Codeine Trade.... [ then I go on to repeat that I have never said the radars have gaps, only that this is what the crooks in the Nikko told me and then I explicitly spell it out, thus]

For the record, I will say this is not what I am saying. I don't believe one way or the other whether that is true. I have no expertise. I think for that you may need to ask the DEA people to come here. This is simply what I was told

See Committee Hearings of The U S House of Representatives, Committee on Small Business. Oct 27 1993.

He repeats the tired old hat, that if I agreed to meet the men then I have been engaging in corrupt activities! When will these people begin to understand the difference between a legal payment of a fee for professional services paid to a consultant and a bribe paid under the table to a government official? Busy as they are lining their pockets, treating their official positions as the chance to milk the state they find it impossible to draw a distinction between their private coffers and their public duties. That is why the author of this piece shares the confusion that informs the work of his master on this issue.

He reports me as having met the crooks four times. No I met them once in the morning, and once in the evening, both on the 9th of November. That makes two times. Unless of course he has made a Freudian slip and included my two meetings with Ibarrola in the count. That makes sense. It is true, Ibarrola too had come for a bribe- this time to give rather than take one.

He again says I have not provided "definite proof" for the events in the Nikko. I love it. Now they don't just want sufficient evidence; they want definite proof. No, the men at the Nikko did not plan to ask me for a cheque in front of the cameras of "60 minutes". They did not bring their lawyers to sign a

And this is how it should be. These people are so corrupt that they simply do not see a distinction between their role as government servants and private empire building for themselves. They do not see the difference between the position of government officials out for a

commission contract. They did not arrange for photographers and glasses of champagne to be served while they were trying to shake me down. That would be "definite proof", according to these people. What do they want? Isn't it enough that every participating company as well as their governments thought this tender was crooked; that a diplomat was quoted by the Financial Times saying "There are many things here that smell like smoking guns", that the government trying to blind people with science, hid behind Martin Marietta saying Marietta had endorsed the tender, only to be told that this was not true; that the government did its best to discredit me as soon as the story broke (would it do that if there was nothing to hide?); that it refused to carry out any investigation until forced to do so when I sued Caso Lombardo, and then did its best to investigate not the crime but me.....all this and our Minister for Legal Affairs want definite proof? Lord save of us from the vulgarity of these latter day Sherlock Holmes's.

He tells the committee that the government are not behind the efforts by puppet journalists to implement a concerted character assassination campaign against me. How does he explain the leak to Siempre that I reveal in the main text; the leaking of the PGR's conclusions to one puppet and the refusal to release the same to journalists who would tear it apart- and doing this just when I was testifying before Congress "Just a co-incidence my dear Watson, just a co incidence!"

"But my dear Holmes, how do you account for the numerous warnings that had been given to Moussavi directly and indirectly, the last by Consul General Brito of the Mexican Embassy in London, that if he went to Congress the government were planning something big against him. How do you account for that?"

"Just a coincidence my dear Watson, just a co incidence."

"Holmes, under Salinas people disappear, when they become a nuisance, just a coincidence? The dead rise at the time of elections and vote for the government, just a coincidence? The living are not on the register, if they support the opposition, just a co-incidence? The computers fail in the middle of the vote, just a coincidence... the ...?"

Sherlock Holmes Canales still wants "definite proof". The rest of his "scholarship" is unworthy of a reply.

Where does Carpizo find such geniuses from?

During this period when I was appearing before various Committees of the US Congress the Mexican Government did me the honour of promoting me to the status of Public Enemy No 1! An intense media blitz was started against me through an assortment of government puppets. Granados Chapa, who had earlier refused a challenge from me to a public debate (Proceso 25 June 93) on the grounds- yes really- that trial by the media was unacceptable to him, became the very first journalist who launched the government's "trial by the media" against me by publishing the contents of the jurists's fertile mind which had been leaked to him- and only to him- by the Procuraduria. Proceso and El Norte were denied the same material when they tried to obtain it the day after. The opening shot of my trial by the media as fired the night before my appearance before LaFalce's Committee (El Financiero, 26 Oct 93 and Mira 1 November 1993, no 1. Do note the dates as they just co incidentally fall right at the time when I was testifying). The next salvo was the Siempre article referred to above based on the material leaked to that honourable journalist, by the Gobernacion. I had been warned on a number of occasions that if I went to Congress the government would do "something really big" to me- in the words of Mexico's Consul General Martin Brito. The character assassination campaign has continued and reached a crescendo with the publication of the Moussavi File. As for me I laugh at this foolish government that fears the truth so much and goes to such lengths to discredit me. That only confirms that it has something to hide. As for the rights of the accused, rule of law, due process, this is the environment and the material of which fair trials, uninfluenced by the media, are made in the Grand Jurist's Mexico.

kickback and private individuals going about their lawful and honest business. The conceptual distinction between a bribe which is illegal and a consultancy fee paid for professional input, as opposed to influence-peddling is not recognised by the likes of Carpizo and the brains who run the Procuraduria with him. This is the intellectual confusion that accounts for the absurd situation in which they quote my contract with IBM, and out of context and conclude that I was not allowed to meet the men at the Nikko under the terms of the contract. That was the whole point of my going to the Nikko. To find out who these people were; government officials or free lancers. But to expect Carpizo to understand that is to expect a little too much.

Contrary to what Carpizo makes out, IBM were fully aware of the purpose of my trip to Mexico in November of 1992 and had authorised me to go as is proved by the enclosed document. They were aware that we were on the receiving end of offer of Assistance and had let me go because there was absolutely nothing illegal about exploring the nature of these approaches. There was nothing improper in this and anyone other than the likes of the grand juggler, hell-bent on character assassination against me would have no problem appreciating this. We were out to find out who was behind these requests- People who could genuinely help us or crooks who were paying kick backs to their masters in the government. This is all too subtle for Carpizo to comprehend of course. So he deliberately confuses the issue and throws in another element to muddy the waters even further. He tries to make out that IBM had not authorised me to go to Mexico at the time and did not know anything about this- which of course is another of his lies, as is proved by the enclosed letter signed by none other than William Swope himself. He also lies when he says I did not give him the proof of this. In any event it is here enclosed once again<sup>57</sup>. The reader should read it to his heart's satisfaction for it is unlikely that Carpizo will ever allow it to see the light of day. Because it is so short Carpizo finds it impossible to misquote bits of it out of context- as he has done with longer documents. So he does the next best thing- he simply suppresses it and

<sup>57</sup> Swope to Moussavi 4 November 1992, authorising me to go to Mexico

pretends that I never gave it to him which of course is a transparent lie. This much for IBM's testimony. Let us move on in our exporation of the contents of the trickster's bag - on to the missing letters.

## 6. The mystery of the missing letter

Carpizo is truly a master of the art of twisting, and suppressing documents. We have seen this with the contract. We see it again and again with the suppression of the answers that I gave him during the short period in May/June of last year when I naively gave him the benefit of doubt and co-operated with his farcical investigation. And we see it with the letter that I wrote to him on April 10th 1993. He tells us that he never received this letter.<sup>58</sup>

The point of this denial is twofold, one to do with me and one to do with him. It is to say that I never wrote the letter and I am therefore a liar; and further he implicitly tries to say that had he received it he would have replied to it. For remember he is Jorge Carpizo- no ordinary PRI oligarch, accustomed to the exercise of unfettered power, unaccountable to no one, surveying his domains from high up and typically unconcerned with the supplications of ordinary mortals. Not so with Jorge Carpizo. He is Jorge the reformer. He, the grand jurist has been brought in by the great moderniser in Los Pinos to clean up and change things. Perish the thought that he would ever contemplate not replying to a letter from a "coyote" named Moussavi. No! No! That is not his style. If he did not reply there must be a good reason for it. It has nothing to do with his lack of enthusiasm to respond to a plea for an investigation. If he didn't reply, it is because he never received this letter. Let no one think otherwise. To prove his point he got half of the law Faculty of UNAM - the *Autonomous* National University- and a half a dozen or so other named worthies to drop everything they had, and rush to the aid of our Jorge Carpizo. What they did was to roll up their sleeves and between April 10th and 16th of August rummage through the cellars of the Procuraduria in search of one letter from Kaveh Moussavi! I can just visualise them. There they are amongst the brooms and dustpans, piles and piles of paper, rusty old type writers, various instruments for obtaining "voluntary testimonies" from suspects and searching in the middle of all that dust and confusion sweating to oblige our friend, Jorge the reformer.

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<sup>58</sup>M.F., p. 19.

But why did he have to go to all these lengths, all for a letter from a mere "fourth grade coyote"?<sup>99</sup> Carpizo had to bring along these named worthies because if he were to tell us that he had done all this searching, late into the night, in the cellars of the Procuraduria, all by himself aided only by his friends, Patrocinio Gonzalez, Maria Elena Vazquez Nava, Caso Lombardo and other such high symbols of political virtue no one would have believed him. That is the reason why he has to go to such absurd lengths. He has to mobilise and bring on board individuals who are not obviously, at first glance, recognisable as the runner-boys of the ruling Salinista Mafia. He has to find individuals who are not totally bereft of all credibility. That is why he goes to UNAM, pushing the word "Autonomous" in our faces.

I am most flattered that Carpizo has gone to all these lengths to find my letter. But even more I am sceptical. If the point of all this was genuinely to find my letter would it not have been more appropriate to get half a dozen junior post office clerks to get on with the job. Is it part of the professional training of the Law faculty of UNAM to sort letters at the local post office on the Reforma? I can understand the odd undergraduate taking a Summer job sorting letters and thus develop some rudimentary knowledge of how to locate lost letters. But The Eminent Professors Emeritus and the Faculty? The distinguished jurists that he has mobilised to his help and mentions in roll call? Don't they have anything better to do than cough away their days in the dusty cellars of the Procuraduria searching for one Coyote's letter? I just don't know. Verily this is a strange tale.

Carpizo and his cronies have never explained to us the methodology that they used to say with such certainty that my letter was never received. I for one am at a loss and have certainly not heard of a fail-safe audit mechanism which can rule with certainty in such situations.

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<sup>99</sup>This is what Caso Lombardo called me publicly at his press conference of May 3rd 1993 in Mexico City text enclosed.

What I do know with absolute certainty is that I also wrote to Mr Salinas on June 25th. But I never received a reply. Perhaps he too did not get my letter? Or was he too busy to reply? Or is it the case that Sr. El Presidente does not reply to mere mortals. That certainly is closer to the mark as an explanation, given all that we know about the nature of the present Mexican regime. The idea of arrogant, un elected officials, filled with pride of power ignoring with contempt the request of a foreign coyote for the investigation of corruption within their ranks is a much more realistic scenario and fits the image of reality far better than Carpizo and his cohorts, with the sleeves rolled up, rummaging in the dust, late into the night with torches searching for my letter.

Be that as it may he concludes that he did not receive my letter and deduced from this that I never wrote it. I am therefore an untrustworthy liar. I will not elaborate on the fallacy of a logic that jumps from the proposition that he did not receive a letter to the conclusion that I did not write it. This is a bold non sequitur that even a school boy would see through. But Carpizo clearly has no difficulty with it. Let us grant him this and assume that he genuinely did not receive this letter. But I did write another letter, this time sent via the Consul General of Mexico. I enclose a copy for the record<sup>60</sup>. This letter was dated 17th June and sent on the same day, well within the period when the jurist and his friends were searching in the cellars. What happened to that letter? This was drafted after Eduardo Ibarrola had come to try and bribe me into silence- of which more later. What happened to that letter? Not only did the Consul General acknowledge receiving it, he also assured me and Proceso<sup>61</sup> that he had passed it on to the Attorney General of Mexico. The letter was widely reproduced in the Mexican press contemporaneously. Proceso pressed the Consulate in London and the PGR in Mexico and were assured on several occasions that it was under consideration. I can tell the readers that to this day I have received absolutely no reply to this letter either.

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<sup>60</sup>Moussavi to Brito 17 June 1993 and 18 June 1993

<sup>61</sup>This was confirmed to me by Anne Marie Mergier, of Proceso, who wanted to know in the course of an interview with me whether Carpizo had responded.

Have they lost this one too? What of the letter that I wrote to Emilio Gamboa,<sup>62</sup> the new Transport and Communications Secretary of Mexico who replaced Caso Lombardo, when his sheer buffoonery proved too much even for his prodigal "nephew" Mr Salinas? He also didn't receive my letter? Carpizo did not receive my letter. Salinas did not receive my letter. Gamboa did not receive my letter. Need I go on?

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<sup>62</sup>Moussavi to Gamboa 16 April 1993.



## 7. The conundrum of the police sketches.

Nor of course have they ever explained to us what went on behind the closed doors of the Procuraduria, when they received the "police sketches". They tell us only that "the experts" looked at them and concluded that I had again lied. Who these experts were, how they went about their business, what was the methodology used we are never told. We are only told that the experts saw them and this is the result. Precisely the same procedure was adopted to tell the world about the outcome of the elections of 1988. The experts emerged from behind closed doors to tell us that Mr Salinas had won with 50.3% of the vote. The same procedure, and who knows, maybe the same experts!

And why in any case did we need experts? Is it not the standard procedure of all law enforcement agencies, that are genuinely interested in catching criminals, to publish, broadcast and widely disseminate pictures of wanted men? Is this not the normal custom and practice of the police in Mexico itself? I certainly have seen on numerous occasions pictures of wanted men plastered on walls and in the press in Mexico. But not in this case. Why haven't they done it this time? That, after all is what they had promised me in their efforts to lure me into continuing my co operation with this farcical investigation. At the risk of a slight diversion I will reveal that this happened in the middle of May last year when my worst suspicions about the hollow nature this investigation had been confirmed. As I have said above, when I saw the questions that were sent, just days following the announcement of my law suit against Caso, I became totally convinced that Carpizo's purpose in this investigation was primarily a public relations exercise designed to save the face of the Mexican government. I had very little doubt that whatever answers I gave them would be twisted and misquoted as is amply demonstrated in the work produced by Carpizo. Nevertheless I saw some merit in continuing to co operate in the certainty that once the police sketches were published in Mexico someone would recognize them and they would be immediately identified by the public- as is often the case in

such situations. That is why I insisted and was given what I took to be an absolute guarantee that the pictures once sketched would be widely disseminated.

That of course is precisely what they have obstinately refused to do ever since. Instead of making the pictures available to the mass media and ensure the widest possible dissemination, they have kept them under lock and key, behind the thick walls and the closed doors of the Procuraduria. Rather than allowing the public to see them they tell us with a straight face of the farcical exercise in which a group of unidentified "experts", using procedures that have not been explained, have examined the pictures and have concluded that here too I was lying! Who were these experts? Why does one need experts for this sort of thing? Was not the whole point of drawing police sketches in order to publish them so that the help of the members of the public could be enlisted in apprehending them?<sup>63</sup> These are questions that our grand jurist has not even begun to tackle.

Instead we are told that the experts compared the pictures with the photographs of the employees of SENEAM, as though the crooks who tried to shake me down for a million dollars had to be employees of SENEAM. Let us assume for one moment that Carpizo has in fact done what he says he has in this narrow and rather irrelevant respect. We can take it for granted in fact that since what he is saying is utterly irrelevant for the purported objective of catching the crooks involved, he would have done this bit of the job very thoroughly. Assuming he really has compared the pictures with the photos of the employees of SENEAM, and assuming that the results proved negative, this would only show that the men in question were not SENEAM employees. That is it; absolutely no more. Nothing other than this rather irrelevant point would have been demonstrated. Would this prove that the men did not exist at all? Surely not. Only that they did not work directly at the SENEAM! Who said they were of necessity SENEAM employees? I certainly did not. In fact I specifically said that all the indications

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<sup>63</sup> And yet Carpizo has the audacity to tell us:

"In this case as in many others, we have requested the intervention of society and of experts in the matter"!! M.F., p. 24.

seemed to suggest that at least one of these men, the one operating under the alias of Gustavo Aleman was a resident of the USA. It follows as a matter of logic that he at least could not have been a full time employee of SENEAM. This is an obvious point that was clear from all that I had said from the beginning. But Carpizo deliberately ignores it. He pretends that of necessity the crooks must have been SENEAM employees and thus engages in this charade. You can trust him to have been very methodical with this aspect of the work precisely because he knew for certain, that this kind of nonsensical acrobatics would yield nothing.

But could the men in question not have been employees of other organisations? After all they were asking for a contribution to Salinas's Solidarity. Did Carpizo run the pictures against the photos of every Solidarity official too? Indeed, why did they have to be the direct employees of any government office at all? Is it not possible to be serving the purposes of the government without being directly employed and officially on the payroll of one of the state organisations. After all governments do employ all sorts of people for all sorts of tasks but keep them at an arms length, in case the need arises for "plausible deniability." Could these men not have been just the cousin or nephew of this or that government official, who were given the right information by their well placed kith and kin and sent on to their dirty work of trying to shake down IBM and I for a million dollars? Could they not? And if they were any of these, or a myriad of other descriptions, would Carpizo's deliberately confusing methodology that limited itself to a comparison - by the "experts" - with the photos of SENEAM employees alone have thrown up the characters in question? I leave it to the reader to decide for himself. The lack of logic in what Carpizo is telling us here is no less than breath taking. The absurdity of his reasoning would be laughable, if what it says about the nature of a judicial system that puts out this kind of nonsense was not so tragic.

Carpizo has deliberately chosen a methodology that he must know would not lead to results. But that is precisely the point. He is not

interested in results. He is just interested in the appearances of progress. This is very much like the Contraloria's master detectives writing a half a page fax to my lawyers, asking for the names and addresses of the crooks involved. This was designed simply to give the appearance of an investigation.

Men like Carpizo would, of course, not have got away with it if they did not have puppet journalists willing to share with them in the crime of silence perpetrated against the Mexican people. It requires that kind of a parasitic combination to enable senior government officials to get away with this kind of grotesque insults to the intelligence of the Mexican people. Against such a deadly combination, there is not much that a simple individual can do, as I have learnt to my cost. But that is another story.

Had Carpizo been genuinely interested in pursuing the culprits he would have dispensed with all this nonsense and ordered the publication of the pictures as soon as they arrived in Mexico. He has obstinately refused to do so and rejected all approaches from the three Mexican newspapers Proceso, El Norte and Reforma in this regard. Even today, when the government have loudly proclaimed that the public can go and inspect the "thousand pages" of documents amassed in the Procuraduria, the pictures are strictly a taboo. The newspaper "Reforma" have recently told me that they have been examining the documents in the PGR but the latter have categorically refused to allow them to take photographs of the pictures of the men. There can be no doubt that this is because Carpizo knows

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<sup>64</sup> This is in direct response of my having ridiculed the government's initial investigation. In several interviews I held up the half page fax which the government had sent to my lawyers asking for the names and addresses of the crooks. I repeatedly pointed out that this was the sum total of the investigation that they had carried out- half of one page. They had sent this fax days after I had already been condemned. I noted at the time that in Britain the police would spend more time investigating the disappearance of a bicycle than the grand jurist had put into investigating the violation of Mexico's honour! That is why from every roof top they keep telling us of the "thousand pages of investigation". I am surprised they didn't say a thousand kilos of investigation. These people don't seem to be aware that it is the quality of an investigation and not how many rolls of paper that has gone into it, that counts. A judicial investigation is judged by the degree of its meticulousness, its attention to detail, its painstaking efforts to get at the facts impartially and truthfully- above all by its determination to stay clear of political influences. On these points Carpizo's magnum opus is an abysmal failure

perfectly well that it is the intention of this courageous and independent newspaper, one of a mere handful, to publish these pictures. The people of Mexico have a right to know the reason for this obstinacy on the part of the PGR. They have a right to judge for themselves what these pictures say. They have a right to have them published to see if someone will recognise them. That of course is precisely what Carpizo is unwilling to permit. He can not afford to have someone recognise these men. God forbid, what if one of turns out to be the nephew of this or that oligarch, or indeed an official of Solidarity? What would our Jurist look like then?

Carpizo's explanation for his refusal to publish the pictures has been that he does not want the men in to escape! This defies common-sense and is utterly bereft of all credibility. The logic of this response is that every time the police, the FBI and other law enforcement agencies publish pictures of wanted men they are organising their escape. Truly there is no limit to the vulgarity of the man who until recently was the guardian of "justice" in Salinas's Mexico and now has been entrusted with the task of securing the Salinista succession! Did the government want Sub-comandante Marcos to escape, when they put out what they had of his description on Televisa? According to Carpizo this is what they wanted to do!!

But the story gets even better Carpizo tells us that his "experts" have now established that these are pictures of two individuals in SENEAM whom I had met during my visits to that organisation and of another Mexican in the UK whom I also knew. I had met and knew all these men, who resemble the police sketches to the tune of 50 %, 40% and 90% respectively. The men have been identified and interviewed by Carpizo's henchmen. They all have cast iron alibis and can prove beyond doubt that they could not have been at the Nikko at the relevant times. One was in a Restaurant at the stated time, the other with his lawyer and the last not even in the country. Carpizo deduces from this that there were no other men at the Nikko at the said time. If *these three* men can prove *they* were not there, with a command of logic that is truly astonishing, Carpizo concludes that there could have

been no other men at the Nikko. And if there were no other men at the Nikko it follows very nicely that I must be lying. The three men who had a go at shaking me down were a product of my imagination. They did not exist. Aristotle must be rolling in his grave watching the grand jurist's mastery of logic!

In any event, I for one have no idea what 50% or 40% resemblance means? Do you? No doubt his experts, this time using computers were able to work out the percentages of resemblance. The reader will forgive me if I am a little uncomfortable with computers in the hands of Mexican government experts producing handy percentages. It was such computers, which after having conveniently become immobilised at a critical moment, miraculously jumped back to life and, in the hands of his experts in 1988 produced the magic percentage of 50.3% and put Carpizo's master in Los Pinos. I don't trust computers in the hands of Carpizo's mysterious experts. They have simply pulled out too many rabbits from too many hats, on too many occasions, for them to be credible as anything other than magicians who learned their tricks from master Jorge Carpizo.

What does one do with exponents of such "logic"? By proceeding with cold analysis and the methodical dismantling of their false logic? Clearly not, for Carpizo is utterly impervious to the assault of reason. If he had the slightest sense of decency and self respect would he allow his department to stoop to such transparently low tricks in their efforts to discredit me and save his master's face before the international community? For sure, one does not confront such men with logic. Instead one exposes them to public opinion.

The explicitly stated message of this remarkable detective work is that in assisting with the production of the police sketches far from describing individuals who met me to extort a bribe, I settled for describing three men whom I knew already. Although Carpizo says quite explicitly that this is what I did,<sup>65</sup> nowhere in the two editions are

<sup>65</sup> I quote directly "The above means that Moussavi had in mind people already know (sic!) to him, when giving facial traits for the "police sketches". M.F.; p 17,

we ever told explicitly what my motive for such strange behaviour was. The Procurador does not even speculate as to a motive. The reader is left to work it out for himself. It is all implicit.

This failure to provide an explanation is quite deliberate. The behaviour described is so absurd, so illogical, so outlandish, that Carpizo does not dare take the risk of providing an account of it. He can not come out and say openly what would account for this behaviour. The reader is thus left to try and work out an explanation for himself. He will try all sorts of explanations and will see that none of them make sense<sup>66</sup>. And once he sees that this is so, he is bound to see through Carpizo's ridiculous concoctions. But at that point Carpizo has left himself an exit route. It is the reader who has come up with his own explanation which does not fit- not Carpizo. So Carpizo cannot be blamed!

But somewhere in the background, left implicit, but never quite said openly is an explanation of sorts, which Carpizo does not dare to articulate formally, as he knows it would be laughed at. But there it is, for sure; Moussavi gave these descriptions because he wanted to implicate SENEAM officials.

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<sup>66</sup> The best that I have heard, and one which has all the air of Carpizo's "scientificity" about it, was related to me by a Mexican journalist, who had in turn heard it from an employee of ASA who reported the new head of that organisation, Guillermo Ruiz de Terace, enthusiastically telling it to his bewildered, but somewhat sceptical subordinates. This was, that in coming to give a description of the men, who did not exist in the first place, I needed some role models whose features I used. So I opted for these three- as a "man can not give a description of something he has not seen"- is how this Salinista imitation of Freud had put it. As I had seen these three, I thought they would do very nicely and described them! Apart from the wholly fallacious pseudo psychology that lies at the basis of this nonsense, the genius who came up with this one forgets that I could have opted for one of hundreds of other Mexicans- or indeed, Brazilians, Argentineans, Nicaraguans, Spaniards, Greeks, Portuguese, Italians, that one encounters during the course of one's international business. Any one of those would have done nicely. Why opt for the three people most likely to be able to prove that they were not at the Nikko at all relevant times; and three who I knew could prove it, and thus blow my story away? Ruiz deTeresa would do well not to try his hand in playing amateur detectives, or pseudo psychology. If men could not describe that which they had not seen, then the entire genre of Science Fiction, and much of other creative writing would simply not exist, dealing as they do with matters that have not been experienced directly by the senses. Ruiz de Teresa's pronouncements on these matters would certainly come as a great revelation to all cognitive scientists and the theorists of artificial intelligence. If he must try his hands at new things, let him write an account of a clean election under Salinas. That would be a short piece, involving both creative vote counts science fiction - and if it involved - a lot of imagination based on things that the sensors had not perceived!

The mind boggles at this jugglar's lack of logic. These born again Aristotelians, did not stop to think how demonstrably absurd this is as a logical statement accounting for my behaviour. This takes some cold analysis and I ask for the reader's patience.

Let us begin with the premise that I, like most people of average intelligence, (and I claim no more, no grand jurist am I ) know that a man can not conceivably and under any circumstances be in two places at the same time. This is axiomatic and can be taken as granted. I know it and the reader knows it. I can understand Carpizo not knowing it, since very shortly he has to produce a lot of men, including a great many dead ones, who will be in ten different voting booths, in different parts of Mexico, all at the same time! The grand jurist of yesterday has now become the Great Elector of today who has to secure the "victory" of the Salinista succession. But to lesser mortals, like me, the idea of a man being in two places at the same time is an absurdity, as inconceivable as the idea of the sun emerging from the West. We know this in our bones as surely as we know that day follows night. I know this now and knew it at the time, when I gave the police sketches to Carpizo.

If I knew this basic fact of life then, why would I construct a tale that depended for its credibility on the rejection of this axiomatic truth; the one that says a man can not be in two places at the same time. By Carpizo's own statement, at least one of the men that according to Carpizo I have described, was well known to me. This was Captain Nahon Gopar, who lived in England at the time. I knew him far better than the other two people<sup>67</sup> whom I am supposed to have met. I knew that the Captain was, at the time of the events in the Nikko, in England. I also knew and accepted, unlike Carpizo and his master, that a man can not be in two places at the same time- unless of course he is voting for Mr Salinas. Whatever else one might be able to

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<sup>67</sup>One of whom, a certain Engineer Daniel Aguirre Dupeyron, incidentally for the life of me I can say I have never met and certainly do not remember. I have gone through all of the cards of the people I met at SENEAM and have not found his card. Does he have mine?



say about the other two men, in the case of the Captain I could have had no doubt that he, at least, would have no difficulty proving that he was in England on the morning of November 9th, when the attempted extortion was made at the Nikko. He would need no alibis. His passport would be quite enough to prove his point that he was not and could not have been anywhere other than in England at the said time.

Given this, can anyone think of any logical reason why I would want to create a story which placed one of the key actors, the Captain, in a location (the Nikko) other than the one that

i) I knew him to be in at the time (England)

and

ii) knew him to be able to prove he was there with the greatest ease of all three of them by simply showing his passport?

Does it makes sense that I would pick the one who would have the least difficulty in proving that he was not where my story would place him?

Additionally, would I have given this one of the three the most central position in the whole story? According to Carpizo he fits the description of the police sketches by 90%, whereas the other two people fit only 50% and 40%. Clearly a person who fits 90% has a more central role than one who fits only 50% or 40%. Yet if we are to believe Carpizo we would have to say that I was *doubly stupid*. Not only did I choose a person who I knew could prove he was not where my story would have placed him. But more than this, of all the three men available to me, I gave the pride of place, the central role of the cast to this one- the one who more than any other could prove with the greatest ease that he was not there. I gave a description with 90% accuracy to the very person who more than any other could destroy my story- and did this knowingly! Unless I was a complete fool, I can not think of any logical explanation for why I would want to do a thing like this. And I would have thought my record, thus far, has demonstrated beyond reasonable doubt that I am not so stupid as to make up a story that has such obvious shortfalls. If the government of

Mexico think I am that stupid I do not see why they go to such lengths to try and discredit me.

Yet according to Carpizo, I made up a story knowing fully well that the central characters that I invented were easily identifiable and their whereabouts at all relevant times verifiable with the greatest ease. I met Sr. Kobeh in SENEAM for a total of about 20 minutes. The other gentleman, Sr. Engineer Daniel Aguirre Dupeyron I simply do not recall having ever met- unless of course he is one of the dozens of people who were milling about in SENEAM. I have gone through all the cards of the individuals whom I met and I do not find his. Does he have mine?

Carpizo's lack of logic is no less than astonishing. In the elegant words of the Procurador, " The existence of the three men who requested money was ...never proven and we may assume that this is also a falsehood....."<sup>68</sup> . Thus, for Mr Carpizo if the existence of something has not been proved, it follows that it must be false! This of course is to turn logic on its head. Normally we conclude that something is false if its existence had been **disproved**, not when its existence has not been proved - as any elementary undergraduate text on Aristotle will tell you.

If we give in to Carpizo's logic we have to throw out the entire post enlightenment scientific methodology. This states that the method of scientific discovery is to put forward a hypothesis and thence to proceed by experimentation or observation until the weight of evidence points one way or other. By definition a hypothesis is a mental construction whose existence has yet to be proved, or to put it another way has not as yet been proved. According to Carpizo's logic, however, we are at a point of "no go" the minute we embark upon setting up our hypothesis. This, coming from the trickster who has set up two "hypotheses" at the opening page of his master piece is at first glance surprising. Not only is Carpizo a false scientist as we have seen. He is also a false hypothesis, since what he calls hypothesisist

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<sup>68</sup>M.F. p. 15.

number 2 was false when he raised it. Carpizo should read a little more Aristotle, followed by Descartes, and Enlightenment thought. But I am told he is busy mastering his new trade ploughing through "The Salinas Handbook of Electoral Fraud" now that he has become the Grand Elector. Or is this his peculiar version of "argumentum per impossibile"? If so I wait with bated breath to hear from any logicians who recognise it as anything other than the travesty that it is.

If my aim was to discredit the government of Mexico, is it not perfectly obvious that the last thing on this earth I would do would be to describe three men, whom I knew and therefore also knew were not at the Nikko on the said day. If they had been there I would have surely given their names on day one, when I reported these matters to the Financial Times. And if they were not there, would I dare implicate them, knowing fully well that they would be able to prove that they were somewhere else at that time? How did I know they would be able to prove this? Obviously, because as a simple law of physical existence a man can not be in two places at the same time. And if these men were not at the Nikko at that time, it must follow as a matter of logic that they must be somewhere else. If X is not at place A, by inevitable, inescapable, and unavoidable logic, if he exists he must be somewhere else. He can be anywhere but at place A, since a man can not be in two places at the same time.

I leave it to the reader to judge for himself the level to which this government's Mister Clean has sunk. I noted earlier Carpizo's purported reason for not publishing the pictures of the men at the Nikko. This was that while an investigation was going on he did not want the crooks to escape - a logic that the reader will reflect upon at his leisure. But why in that case is he refusing to allow these to be published now? Surely his investigation has ended now. His "experts" with their computers have ruled that I made up the whole thing by describing individuals who Carpizo has proved were not at the Nikko at the stated time. If that is so, then what possible explanation can he have now for not allowing the media to print the pictures? If he is that certain of the percentages that his experts have concocted why not

The rest of the grand-master's evidence I will deal with in summary fashion- it deserves no more. He tells us that the letter from the committee of technicians, who, outraged at the corruption prevalent in SENEAM had written to Salinas, Carpizo with a copy to me, was either a forgery or in any event not a serious statement. The reason for this, according to the master, is that it was not signed and such a committee "was not on the register" of the relevant ministry. The average Mexican will immediately recognise what sophistry this nonsense is. Given the record of the Mexican government and the likes of Caso Lombardo - and Carpizo himself judging by what he is trying to do to me - with those who dare to express dissenting opinions, I am not surprised that a group of conscientious employees

sick to the teeth at the behaviour of these oligarchs, while wishing to do their utmost to expose the corruption, would do their level best not to expose themselves and their families to the wrath of the authorities. Lest it be thought that I am exaggerating, I refer the reader to the experience that this very same group back in February 1993 when the scandal had just broken. A group of technicians who had leaked information on the faulty state of Mexico's air-traffic control system to the Mexican daily *El Economista* found that the authorities were hot on their trail. In an article dated 16 February '93 entitled "SENEAM workers denounce failures in air traffic control"<sup>69</sup>, the technicians told the paper of precisely the matters that IBM and the companies had put in their protests; incompatibility of centres, radar and computers. What did the government do? *El Economista* tells us that in typical fashion instead of investigating the complaint, the government launched an investigation into who had leaked this information - and no doubt thereby "defamed the honour of Mexico", as the Salinista lexicon would have it! I trust the reader will appreciate why the technicians who sent a copy of their complaints to the authorities and to me did so without putting their signature to the document.

As for the suggestion that the committee was not registered<sup>70</sup> in the ministry, this one must be one of the best that Carpizo has come up with throughout his investigation. According to our master logician the fact that an organisation is not registered with one of the myriad tentacles of the Salinista octopus proves that it does not exist. I ask Carpizo whether the Zapatistas of Chiapas were registered in the ministry of Social Affairs before 1 January? Did Sub-comandante Marcos turn up in December and register with master Carpizo before launching a campaign that has exposed the fraudsters running Mexico? I await with to see what the register showed for the month of December!

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<sup>69</sup> *El Economista*, 16 February 1993, p 22

<sup>70</sup> M.F. p. 20.

As for the comments regarding Captain Juan Cruz Albert and Captain Jaime Hernandez <sup>71</sup> Carpizo tells us that they have both retracted their earlier statements. Reader please note they have *both* retracted their statements. One who had been interviewed at length by Proceso in March of last year and the other who made his statements to El Financiero in June of last year. We are asked to believe by Carpizo that *two* of the most prestigious newspapers interviewed *two* completely separate individuals about a matter on which they were both highly qualified to speak. Indeed, they are probably the two most qualified individuals to speak on this matter in the whole of Mexico. One is the chairman of the Airline Pilots Association and the other is the president of the Mexican Air Pilots Association. Carpizo tells us to believe that men of such standing in their trade, along two of Mexico's most important newspapers just got it wrong - just like that. Is there no limit to the vulgarity of this man? When will he stop treating the people of Mexico as idiots?

To expect one to accept this is no less than an insult to ones intelligence. For this retraction to have any credibility it should have come the day after these prestigious newspapers reported the comments of these two gentlemen. We are told that one of them, Captain Jaime Hernandez, was on the receiving end of enquiries from the Procuraduria - the place where people slip on bars of soap and invariably discover that they suffer from amnesia and retract earlier statements that the authorities have found unpalatable. In this case no doubt the retractions were both "voluntary"!

What this tells me as an outside observer who has also been graced by the attentions of the Procuraduria is not only the contempt with which the likes of Carpizo treat the intelligence of their own people but also the total lack of respect that they have for the independent life of civil society in Mexico. For clearly these two men are leaders of their profession - can there be any doubt of that since one is the Chairman and the other the president of two obviously professional middle-class associations. And yet, Carpizo obliges these men to submit to such indignity. This speaks volumes about the nature of political participation and a contemptuous authoritarianism of

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<sup>71</sup>M.F. p. 5

Salinism. Here is civil society trying to assert itself in a field that could not be more technical - the ins and outs of air traffic control - and by that token could not be less controversial and "political" and this is the treatment that is meted out by this, the most reformist member of Salinism. What bigger proof that Salinism, far from being an agent of political reform is now the biggest obstacle to the emergence of a broadly based participatory middle-class democracy in Mexico? What bigger proof indeed? And this coming from a man who tells us with the vulgarity at his command, that he seeks the participation of society in matters of this importance.<sup>72</sup>

Carpizo says Moussavi broke the terms of his contract when he went to see Aleman and the three crooks at the Nikko<sup>73</sup>. Wrong! IBM were fully briefed regarding the purpose of my trip. They authorised me to go and proof of this is attached.<sup>74</sup> There was nothing in the contract which forbid my exploring legal opportunities for extending our knowledge base regarding the air-traffic control situation in Mexico. On arriving in Mexico and interviewing the men it became quite apparent that these were men who wanted a bribe for the government or themselves, which was illegal. They were not private consultants with expertise in air-traffic control. When will the likes of Carpizo understand the difference between a bribe that is always illegal and a consultancy fee that is not paid to officials but to private citizens going about their lawful business trying to earn an honest day's work through their professional expertise. Which the likes of Carpizo clearly are not doing. I suppose the day they begin to make a distinction between their private coffers and their official positions they will begin to comprehend the conceptual difference. Thanks to the Zapatistas that day may not be as far away as one thought not so long ago!

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<sup>72</sup>M.F., p. 24.

<sup>73</sup>M.F. p. 14 (c) & p 18

<sup>74</sup>Swope to Moussavi, 4 November 1992.

## 8. Did Moussavi never prove his case?

What then can we say by way of a summing up, at this stage of the story. We can not speak of a conclusion yet, for the battle with Salinas, Carpizo and Co. is not over. Neither my battle to clear my name, nor that of the people of Mexico against the lawless, illegitimate tyranny that rules over them. That does not mean we can not stop and take stock of the position so far.

The essential message that Carpizo and his like have peddled from day one until now with the publication of "The Moussavi File" was that I never proved my case. Many versions of this have come and gone. They have ranged from the most diplomatic, the Eduardo Ibarrola approach combined with offers to buy my silence<sup>75</sup>, to the naked display of power, and threatening dire consequences, prison and worse. In its latest version they don't just say I did not prove my case. They go further and say that the case against me has been "proved". This is said in the same breath as we are told that I am going to be prosecuted. And this is how it should be in a judicial system guided by Carpizo. The guilt of a man is pronounced from every roof top before he has even been prosecuted. But whatever the guise, the main point has been that I have not proved my case. In taking stock of the position so far, let us also deal with this proposition.

The proposition is based on a premise that is alien to democratic concepts of rule of law but is loudly proclaimed with absolutely no awareness that something is seriously amiss with a legal system that requires the witness to a crime to take on the burden of proving the crime. This is Carpizo's definition of the rule of law and due process. This requires a slight digression. I do not expect the likes of Carpizo to understand this, or if they understand it to accept it in public. If they do the whole house of cards on which they depend for their wealth, privileges and power will come crashing down upon their heads. But those imbued with the spirit of democracy and determined to ensure the arrival, installation (I deliberately avoid the term

<sup>75</sup>For the Ibarrola episode see Proceso Nos. 867, 14 June 1993 & 868 21 June 1993



institutionalisation) and growth of the principles of rule of law in Mexico will bear with me. In a state of law it is normally not the job of a witness to a crime to "prove" his case. He is only required to cooperate with the properly constituted authorities who are paid by the tax payers, and entrusted by the citizens in turn to investigate acts that are recognised in law as crimes and to do so in good faith without regard as to who might be implicated, and to bring to book the culprits regardless of rank or position. Where the rule of law prevails, the witness is not treated as the accused and even less as a criminal by the authorities, no matter how damaging what he has seen and reported; no matter how unpalatable his message. The task of proving what he has witnessed is not imposed upon him. It is the job of the authorities who are paid by the citizens to do this.

Already I see that I am writing about concepts that are light years away from the reality that prevails under Salinas and Carpizo. The idea that citizens pay the government would be anathema to a ruling class that thinks it has a god given right to rule, and has done so for 7 decades, on and on and on by means fair or foul, by fraud, obvious or subtle. It is even more unpalatable for a clique that has usurped the traditional "consensus based" aspects of the older PRI, seized the state and openly proclaims its intention to rule for at least twenty-four years. The idea that the government has an obligation to the citizen - indeed the idea of citizenship itself - is unheard of. The notion that the government is paid to, amongst other things, protect the citizens from self appointed officials milking the state for their own pockets, is so alien to the people that rule Mexico today that I may as well be writing science fiction.<sup>76</sup>

That I should be required to prove my case, even though on day one I was only a witness to a crime should not come as a surprise given the realities of Mexico. This is because the authorities clearly will not do their job in this sphere. The reason they will not do it is because the issue involves corruption and the role of officialdom in it. Given the central role of corruption in the Mexican system it would be

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<sup>76</sup>This is not to implicate all the individuals who are in or work for the government under Salinas.

naive in the extreme to expect anything like a serious investigation aiming to establish the facts and get the culprits involved to originate from within the system. Political and financial corruption are at the very core of the Salinista system. It is through corruption of the political sphere that these people came to power originally. The scale of the electoral fraud that they perpetrated against the Mexican people is legendary. Moreover, it is through corruption that they maintain themselves in power, through their peculiar version of patronage and pork barrel politics. What they call "solidarity" is parish-pump politics repackaged, in which goods and services that are by right the citizen's anyway are dispensed as though from heaven by Mr Salinas's henchmen. Wealth and resources that belong to the people in the first place are dripped-fed back to them and this is portrait as the greatest act of statesmanship in the history of modern Mexico. It goes without saying that if you dispossessed the people for long enough up to the point of well-neighbor starvation then they will clamber for the crumbs that you throw at them even showing their gratitude by voting for you quite freely, no doubt.

Corruption also serves in large measure as the *raison d'etre* of their being in politics. They are there for systematic plunder of the national purse for personal gain and enrichment. It is at the heart of what has come to be known as Salinas's crony capitalism by such renowned institutions of international communism as Business International. Public contracts are the milk cow for the enrichment of an oligarchy which can lead to situations in which contributions of 25 million dollars can be asked for by Mr Salinas<sup>77</sup> towards the expenses of an electoral campaign to ensure the continuation of the rule of the dominant brotherhood, who plan to be in power for 24 years.

To expect men such as Carpizo, who come from within this system, are appointed by this system, are there to serve this system, largely in an effort to sell the system to the North American public

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<sup>77</sup>This scandalous event was widely reported in the international press including the Financial Times. See in particular, *The Mexico Report* Vol. II, No 4, March 5, 1993 "The Millionaire's Banquet; Mexico's Robber barons ante up"

opinion by the odd-token Mr Clean - and what a Mr Clean this one is - to commence an investigation into actions that are the Leitmotif of this system is to exhibit a degree of naiveté that would be plainly dangerous for one's health- as I have discovered to my cost. Assuredly, if the public relations requirements of the system dictate it they will go through the motions of organising an investigation. But this is contingent and does not come naturally to the system. If there is a NAFTA vote around the corner the public relations machinery will be mobilised, a Mr Clean will be found in the cellars of UNAM and brought into the government and given a high profile job, preferably as close to the TV station as possible. But in essence this will all be a show. The reality and the essence will not be effected. The likes of Carpizo, ambitious and greedy for position - but in his case not wealth - and power, might fool themselves into thinking that they are working to change the system from within. But the net result inevitably and invariably is that they end up being worked on by the system. Those who try to ride the tiger usually end up inside. The likes of Carpizo may be given a free hand to catch a few small time crooks and drug dealers but assuredly the big fish, the political masters who control the big time drug cartels and the money machines that they run have nothing to fear from the likes of Carpizo who are as much part of the legendary "sophistication" of the system as the more typical faces, Messrs Caso Lombardo, Gonzalez Garrido et al.

That is why the likes of Carpizo will not investigate the serious issues involving corruption. That is also why the task of "proving my case" has fallen on the shoulders of the witness, with the likes of Carpizo not batting an eye lid when they see this legally absurd concept being bandied about. Where the authorities will not investigate public sector corruption, there is nothing strange in the notion that the witness himself has to prove "his case".

The IBM- Caso scandal became "my case" in less than 24 hours after the Financial Times wrote the story. And it is perfectly understandable that this should have been so. There is so much at stake, and the system is so dependent for its survival and continuity on

the perpetuation of the existing arrangements that no effort will be spared to protect these practices from serious exposure. Heaven help a naive foreigner who, having fallen for the propaganda emanating from the glossy brochures coming out of Los Pinos Palace, might actually contemplate helping the new President in his loudly stated determination to clean up Mexico. He will soon come to regret it. In February 1993, I too believed that I was genuinely helping Salinas in the grand project that he was proclaiming to the world from every rooftop. I, too, had no doubt that if we went public with our concerns about the corruption that we had seen in the SENEAM tender, we would have a helping hand from the Salinas administration<sup>78</sup>. But alas for illusions. That is how I ended up with "a case to prove". The witness imbued with all the imaginable goodwill towards the Salinas project suddenly found that he was being publicly defamed by that very government, called a liar in public, and openly threatened with prison by one of its Minister. That is how the witness became the accused. That is how he ended up with the burden of a case to prove.

Well let us see what the evidence tells all unbiased and impartial readers. I deliberately do not say "disinterested" readers, because a matter involving the corruption of the government of Mexico and the concerted efforts made by that government to prevent an investigation and to discredit the witness to that corruption is of crucial interest to you in the media, the people of Mexico, the US Congress and in the case of this particular tender, to anyone likely to travel over the skies of Mexico. It is also of vital importance to those trying to obtain public sector contracts in Mexico. It has vast implications for the rule of law, or rather its absence in Mexico, and thus for those who are trying to bring about democratic change to that long suffering land. Let us see what the evidence says by itself- not what Moussavi has or has not proved. We must not give in to this

<sup>78</sup>See my interviews with Radio RED, and with El Financiero in those early days. I had not recovered from the accused affliction "Salinasitis" and repeated, parrot fashion, the contents of the glossy brochures emanating from Mexican Trade Missions. My words which I shall regret to the end of my days were

"I consider Carlos Salinas to be a world class statesman, one of the greatest statesmen of the 20th Century". His government is more akin to pre-Enlightenment Absolutisms of the 17th Century- but they at least did not have amongst their sins, the narcotics trade.

nonsense where the witness to a crime has the task of proving the existence of the crime imposed upon him. Is it really the case that the case has not been proved? Better still does the evidence point to my having lied, or "libelled the honour of the government of Mexico" as these people would have us believe? What would neutral outside observers make of it?

With the backing of my employer, IBM Corporation, I had participated in a tender which we discovered was being conducted corruptly and decided to take our concerns to the public domain. The main reason for our doing so was because we were concerned that because of the greed and corruption of a few officials in Mexico the safety and lives of innocent air travellers was being put at the risk by the award of a faulty air traffic control system.<sup>79</sup> IBM had identified the potential of corruption before I did<sup>80</sup>. On June 17th 1992, IBM's Bill Swope, the same person whose supposedly freely obtained - this time not in the cellars - testimony Carpizo relies on, telephoned me to tell me amongst other things that IBM had identified, through their contacts, Sr. Juan Jose Dorantes Rubio as being personally corrupt and on the pay roll of the Italian company Alenia. I was given certain instructions in this regard, which I will not discuss here, and was warned that this individual should not be trusted. At a subsequent meeting in my office in London exactly a month later the same Bill Swope repeated the charge and added that IBM had been able to recruit to our cause a lady employee of SENEAM who had confirmed that some of the senior officials of that organisation were "on the take" from our rivals.<sup>81</sup> My orders were to try and find out "who can we trust"<sup>82</sup>. The numerous unsolicited offers of assistance that I received from Mexicans further enhanced our doubts about this tender - the same offers that I continuously reported to my IBM controllers, the one that Carpizo refers to, but distorts by quoting out of context. The events in the Nikko Hotel, followed by the cancellation, re-issuance

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<sup>79</sup>See both IBM's protest letter and the FT briefing letter prepared by IBM.

<sup>80</sup>Notes of telephone conversation with Bill Swope, dated 17th of June 1992, these were the subject of a congressional subpoena and passed to the FBI for forensic tests to confirm their contemporaneous nature

<sup>81</sup>However, there was no question of financial impropriety or the lady being on the pay roll of IBM.

<sup>82</sup>Note in William Swope's handwriting dated 17th July 1992.

and the manner in which the new tender was conducted left absolutely no doubt in the mind of IBM and myself that this was indeed corruptly handled. Mr Roger Boyd, the same Roger Boyd on whose supposed testimony Carpizo relies in his efforts to discredit me, in a confidential and carefully worded fax sent to me from Mexico City the day after the bids were opened, spoke of his certainty that this tender "was engineered by someone with influence who needed some way to lower their price"<sup>83</sup>. Once the award had been made, IBM's investigators identified another senior official, Mr Roberto Kobeh Gonzalez, the Director General of SENEAM as one of the key individuals responsible for the corruption of the tender. In the course of a telephone conversation with myself, in January 1993 in the lead up to the decision to take our case to the international press, my three IBM controllers, Messrs. Swope, Boyd and Conyers, collectively told me this assembled as they were in one room over a loudspeaker. I was instructed to confront Kobeh and tell him straight to his face that we knew he was in the French company, Thompson's pocket. This was a point that was confirmed by a subsequent fax from IBM to me in which they wanted to know what was the outcome of my confrontation with Sr.Kobeh.<sup>84</sup>

We were not the only company that had our doubts about this tender. Every single company participating, except of course the Italians and the French company that were awarded the contract, filed written protests. And not only the companies! The embassies of the UK, Japan and the USA<sup>85</sup> and the Trade Minister of Canada, Mr Michael Wilson, formally protested the manner in which this tender was conducted. We discovered that the French company Thompson had reduced their price by 50% in ten days in order to win the deal. This is what Roger Boyd had referred to when he had written to me telling me that the tender was being influenced by someone who wanted to reduce their price.<sup>86</sup> Today we know a great many officials

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<sup>83</sup> Boyd to Moussavi, 16 Dec. 92. from Mexico City. .

<sup>84</sup>IBM Fax to Moussavi dated. 20 January 1993

<sup>85</sup>See letter from Carlos F. Poza, Commercial Counsellor, US Embassy to Juan Manuel Galan Jimenez of SCGF, 11 January 1993.

<sup>86</sup>See El Economista, 11 February 1993: "In 25 days Thompson reduced their price by half".

of the Italian company have gone to prison in Italy for corrupt practices involving public contracts.<sup>87</sup>

The essence of our and the other companies' protest was that this award had not been made on the grounds of quality and the openly stated terms of the tender. I can do no better than include here the text of IBM Corporation's letter of protest which was delivered by the local subsidiary, IBM Mexico, to SENEAM. In passing I will just mention that the local IBM so watered down the original protest as to virtually make it meaningless. This irritated IBM USA officials no end. The reason for this behaviour on the part of local office of IBM can only be guessed at. It certainly was a sign of things to come. Put simply, IBM Mexico have recognised quite correctly that they operate in a near criminal environment in which the government is a virtual Mafia that rules by notions more akin to the rule of the mob than anything that the US parent has to deal with, obliged as it is to operate within a state of law. They are aware of the extremes of displeasure that is exhibited by the government of Mexico towards anyone who would dare criticise its behaviour or its officials. That is why they have so watered down a protest drafted by the US Company which "called a spade a spade" and wanted to call the people in SENEAM to order, down to a meaningless supplication which gave every indication that it would not be followed up by sterner stuff, thus inviting the government of Mexico to dismiss it with contempt that it asked for.

Nevertheless I enclose the protest<sup>88</sup> which confirms that IBM believed the tender had not been handled according to the requirements. I also enclose the briefing paper that IBM prepared for me to use in alerting the international press to what had gone on. We were not the only ones who protested. In fact every single company, every single government and the relevant embassy protested this tender. The remarks of one prominent foreign diplomat were reported

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<sup>87</sup>See Proceso n. 861, 3 May 1993

<sup>88</sup>The IBM protest letters

by Financial Times which quoted him as saying that "There are many things here that smell like smoking guns".<sup>89</sup>

I include in the bundle of documents enclosed the US Embassy's letter protesting the manner in which the tender was conducted. One can do no better than to quote directly from this document:

"All the North American companies represented at the tender have expressed their complaints in view of the procedures that were followed and the decisions that were taken by SENEAM in its selection of the suppliers of radar and monitoring equipment for air traffic control. In view of the complexity of the case, we are worried that the Ministry of Transport and Communications, without previous warning from SENEAM and without knowledge of these complaints might proceed to signing of contracts before you can analyse the causes of our multiple complaints.

The North American companies claim that they have offered Mexico the highest technology at the most convenient prices. Without any clear explanation, stages in this tender have been closed and reopened and, even with less transparency, it has been decided to adjudicate the tender to suppliers that are far from offering the technology and the financial offers of greatest convenience for the state in the long run." Amen! I ought to rest my case here.

The decision to mobilise the international press was a joint one. To its lasting credit- and this coming from me who have suffered so much at the hands of IBM should not be taken lightly- IBM Corporation took a principled stand when it decided to expose what it saw as corruption on a massive scale in an issue that involved the safety and the lives the air travelling public. In this it behaved in an exemplary manner. I have no doubt that the junior executives who made the decision to write a briefing paper<sup>90</sup> for me to distribute to the press acted from the highest motives and out of genuine concern for what they saw as a faulty award with dangerous consequences for

<sup>89</sup> The Financial Times, February 3rd 1993, p. 6.

<sup>90</sup> IBM's briefing paper for the FT.



innocent people. Had IBM continued to maintain this posture I have absolutely no doubt, given the information that was reaching me from my sources in Mexico City at the time, that the government of Mexico would not have dared, on the eve of the NAFTA vote, to try and brow beat the Big Blue into becoming an active participant in the conspiracy of silence that the government was about to hatch against the people of Mexico<sup>91</sup> which involved a furious campaign of character assassination against me, in order white wash the whole thing by discrediting me.

This was not to be. When I briefed an initially sceptical Financial Times in London, the Editor of that newspaper decided that the story was so scandalous that it required a detailed investigation by its own team on the spot. Having done their research and talked to everyone "in the know" the Editor told me on the telephone of their conclusion that "this thing stinks". The FT ran its story on 3 February 1993 at which point all hell broke loose. That is also the point at which my life and that of my family was turned into a pocket version of hell.

The government of Mexico mobilised as though it was going to war. In less than 24 hours after the appearance of the FT article IBM Mexico were bludgeoned by that government not just into silence, but dragged into becoming an active partner in the misdeeds of that government. I have it on good evidence and from extremely well placed sources inside IBM Corporation in Mexico and in the USA- yes there are decent people who work in both IBMs - that it was IBM Mexico that dragged the parent company into adopting positions that it came to regret - a case of the tail wagging the dog. But in this case a tail that was being bludgeoned by a government, inherently hostile to the airing of corruption issues in public, but now doubly so because of the imminence of the NAFTA vote. IBM Mexico had a stark choice, their business in Mexico or sticking to the line adopted initially by the parent

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<sup>91</sup>See The Mexico Report, 5 March 1993, p. 2, in which the author comments: "perhaps the more interesting question is why IBM apologised to the Mexican government and seemingly backed down on the political pressure from Los Pinos ... The computer giant has enormous political clout in Washington ... One word from IBM demanding an investigation and the Mexican government would have backed down. This is a very sensitive time for Mexico. All IBM had to do was to demand a full investigation and the response would have been immediate".

company to secure a debate on what had happened in this tender. It was aware that it operated within an environment under the eyes of a government that is not too different from a power structure run by a narcotics cartel.<sup>92</sup>

<sup>92</sup>This is no exaggeration, and will undoubtedly become fully exposed as more and more state governments fall to the opposition in the future- or indeed as the centre caves in. The revelations of governor Ruffo of Baja California in Proceso n. 868, 21 Jun. 93 are an indication of things to come. It is a link that only the most courageous or foolish would dare explore, as Enrique Camarena the famous agent of DEA discovered to his cost, a little too late. It was also the issue that Mexico's most celebrated journalist, the great Buendia, tried to unravel and was murdered for it in a conspiracy that had all the hallmarks of reaching up into Los Pinos. The links between narcotics and the government of Mexico began in earnest under President Miguel de la Madrid and have now reached possibly the point of no return, short of the complete overthrow of the present regime- which mercifully looks more likely, given the sacrifices of the people of Chiapas and the renewed efforts of the PRD. As for the "efforts" of Carpizo in fighting the drug cartels, these are now totally lacking in credibility. Lest the public's short memory has elapsed, Carpizo's record, in the hours and the days immediately following the assassination by the drug cartel of the late Cardinal Posadas of Guadalajara should convince anyone that this is no latter day Elliot Ness. In his desperation to avoid the inescapable conclusion that the regional government in Guadalajara was in the total grip of the mob, the world was told that the Cardinal was murdered by accident, in a shoot out between rival drug gangs and that there was no question of a conspiracy involving the powers that be. This was said with a straight face by our grand jurist even though the victim was murdered at point blank range, a distance of one and half meters, he was shot fourteen times, he was sitting in the highly visible Cardinal's vehicle, was dressed in the recognisable attire of the High Church, white with the Holy Cross perfectly visible- hardly the everyday gear that narco barons move about in; having done their work the killers were able to calmly get on an Aeromexico flight to Tijuana; that flight had been ordered to standby, and was proved to have been sitting on the runway for 20 minutes waiting for the assassins; when it had become known that the killers were on board the aircraft, no effort was made either to order the plane back, or have it intercepted; and of course the men were not picked up by the police when they arrived in Tijuana. If this is not evidence of a state thoroughly penetrated by the cartels, and completely in their grip, then pray, what is it? Is this not the beginnings of the "Colombianisation", of Mexico which is sure to reach an advanced stage sooner rather than later unless the motley crowd, the criminal brotherhood, running Mexico at the present are sent packing at the earliest. The beginnings of this "Colombianisation" are to be seen already with the increase in kidnappings, and ransoming, street shoot-outs and the perceptible all round increase in violence. This is a prospect so utterly abhorrent to all who love Mexico - and I certainly am one of those- that they simply can not afford the luxury of a false nationalism that pretends to protect the "image" of Mexico, but in reality does precisely the bidding of the brotherhood. If this is allowed to go on for much longer there will be no Mexico! To rely on the likes of Carpizo to save Mexico from this horrifying prospect, so utterly beholden as he is to the brotherhood that brought him to power is to live in a world of illusions, the make believe world that told us until only very recently that Salinas was revered like a pre-Colombian god in Mexico. The descendants of those cultures thought otherwise! Carpizo is simply yet another feature of the Salinista charm campaign designed to obfuscate reality and mislead, international and specially North American opinion. The day we see Carpizo arrest more than the petty crooks, and the odd show piece policeman, the day we see him arrest the political masters at state and Federal level, who are the ultimate protectors, controllers and beneficiaries of the narcotics trade, then we may begin to accept that a serious effort is beginning in this regard. How many politicians in Guadalajara has he arrested? That will not happen given the "structural constraints" prevailing in Mexico. The biggest of such "constraints" is that officials reach power not through mechanisms of open, competitive politics, not by democratic choice of the people exercised in free, fair, and transparent elections, but in back room arrangements between power brokers and men of money and means, in mutually beneficial deals cut to secure the next term of office for all concerned. Given the financial muscle that the narcotics cartels can bring into such meetings and arrangements, is it really a wonder that their and their henchmen secure the real business of "election" in the back rooms, and only then go through the motions of "effective suffrage, no re-election" afterwards when

The point here is not the behaviour of IBM in the days following the outbreak of the scandal, though that will be covered in the programme. That is not my focus and priority. The point is the behaviour of a government that has corruption at its very core. Corruption is the Leitmotif, the air that it breathes. It is through corruption that these people come to power- electoral fraud. It is through corruption that they maintain their power- "patronage" and pork barrel politics. It is through corruption that they maintain and regenerate their oligarchic status- milking the public purse through government contracts and the accumulation of personal wealth by treating their public positions as a persona fiefdom, there primarily to fill their personal coffers. That a government like this should literally go crazy when a corruption issue reaches the international press, should not surprise anyone. That it should mobilise as though it was going to war should, on reflection, have not come as a surprise to me. In those days I too was a victim of that dreaded disease "Salinasitis" which affected a great many people and led them to think that this is a reform President interested not just in showmanship and selling off the national silver to his cronies and friends, but also in a democratic opening and cleaning up of Mexico. In mitigation for my mistake in this regard I would only say that this was a myth that had captivated better minds than mine- including IBM Corporation.

Can anyone in their right mind believe that if IBM and I had not been absolute believers in the Salinista mythology, we would have risked going public with our concerns? If we were not convinced that our exposure of the corruption in the tender was going to be welcome by the government, seized by Salinas as a chance to clean up that particular ministry we would assuredly not have decided to brief the Financial Times. IBM would not have prepared a special briefing paper for this purpose<sup>93</sup> And I most certainly would not have risked all of my considerable business interests in Mexico by incurring the wrath of that government.

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the ugly deed has already been done? Those who truly care for Mexico - and most emphatically I am one of those - and are not mesmerised by the oligarchies ideology of false nationalism would do well to ponder this point and to do so quickly before effective suffrage "a la Salinas" delivers a president Escobar to Los Pinos.

<sup>93</sup>See IBM briefing for the FT dated 20 Jan. 93.

All this seems such a long time ago. It is difficult to believe after all we have seen of the ways of the Mexican government, of its concerted effort to libel and discredit me, its campaign of character assassination, its destruction of my business in Mexico, its intimidation of my friends in Mexico and my family here....all this puts light years between the reality of Mr Salinas and the mythology that is put out by its, agents, allies and higher lobbyist.

The government's visceral reaction should tell the reader that there was something wrong here. Instead of beginning an investigation into the facts, instead of opening an enquiry into the merits of what I, IBM, all the other participants, and their embassies were saying the government decided to go to war. But not to war against corruption but against me. At the heart of its strategy was the idea that at all costs I must be silenced, made to retract what I had said or totally discredited. And that is the story of the last twelve months.

IBM Corporation were bludgeoned into retracting what they had said in both protesting the tender and their decision to bring their concerns to the public domain. The President of IBM Mexico was force marched into the studios of Televisa, this most notorious symbol of crony capitalism ruling Mexico, whose owner without batting an eye lid was recently reported by the Financial Times to have coughed up 25 million dollars to secure the Salinista succession - for which he was well rewarded with licenses for 57 TV stations without so much as the formality of tender- as was reported by The Economist- not even one run like the present SENEAM one! Mr Guerra Botello was obliged to say on TV that IBM had no complaints, they had no idea what I was talking about, these were comments that I had made in my personal capacity, they had nothing to do with IBM!<sup>94</sup> All this even though we had protested formally to the government just two weeks before this; in this we had been joined by every other company and their governments; we had been so concerned about the danger to the air travelling public that we had taken our concerns to the public

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<sup>94</sup>See transcript of TV appearance of Guerra Botello, 4 February 1993.

domain.....All this was thrown out in recognition of the fact that IBM's business would be roasted alive by the Salinas government if they did not save the face of that government. IBM were made to understand that they should expect no help- not to say favours- from a government that was fuming because some of its every day practices had been brought to the attention of the international community. In such circumstances I can understand that IBM decided to beat a hasty retreat. I can understand this behaviour given the near criminal environment in which they have to operate. The trouble was that I was not willing to be libelled in public by a criminal fraternity<sup>95</sup> that calls itself the government of Mexico and rules the country as any drug baron would rule his territory.

The reader should not hold it against me when I call this government a criminal fraternity. In a democracy if an individual fraudulently obtains money, reward by deception he is called a criminal. In Mexico under the PRI, if an individual fraudulently steals the biggest prize of all, that is the entire government of Mexico, he is called Sr. El Presidente! If he then proceeds to sell off the entire assets of the country to his friends and cronies, as though these were the private property of the brotherhood that brought him to power, I can not be faulted for thinking of these arrangements as the work of a criminal fraternity. It is a crime in the democracies to obtain the seat of power through fraud. And once obtained if the national heritage and treasury is treated as private loot to be distributed amongst the coterie who brought one to power by such means I see no merit in calling this anything other than what it is, a criminal fraternity.

That is precisely why, at the very same time when something like 32% of the population of Mexico live in abject poverty in the World Bank's definition of the term, when income distribution has become even more lopsided than it was in 1982, when the average

<sup>95</sup>The choice of the term fraternity is perhaps not so out of place, given the activities of Sr. El Presidente's brother Mr Raul Salinas, who more than most members of the fraternity has stood to benefit directly from crony capitalism of his brother. In passing I will mention one project in which the brother has not done a bad day's work for himself. This is the Salina Cruz refinery project being awarded to Mitsubishi corporation. I was witness some time ago to the efforts of Mitsubishi to enhance their prospects in this multi billion dollar project. As part of those efforts they were hard at it to recruit someone with connections and clout. The services of Sr Raul were eventually secured for a fee of 10%, according to extremely reliable sources. I will relate the details of this case in due course.

real wage is 30% below what it was in real terms 12 years ago, Fortune magazine has just announced that Mexico boasts 7 full scale dollar billionaires. That is indeed what happens under the rule of a criminal fraternity.

That such a government should react with such venom against an individual who has dared expose its corruption should surprise no one. Those who say "Moussavi never proved his case" should bear this context in mind. Just the gut reaction, and the measures that this government has taken since then to silence my voice should be sufficient to tell the reader that there must have been something very seriously wrong here. The crooks had been caught it and they were angry.

I will spare the reader the details of the steps this government has taken since day one against me. In brief and summary fashion I will just catalogue them. On day one they forced IBM on to prime television and obliged it beat a hasty retreat. At the same time they put out a press release in which the presumption that I was lying was total. On day two they did this again with a further press release with the same message. On day three Caso Lombardo, a man who sums up in his whole posture, appearance and behaviour, all that is being pushed aside in the upgrade version from Harvard, went on television, denounced me as a liar and sentenced me to a term in prison. In less than 72 hours, when no conceivable investigation could possibly have been carried out I was branded as a criminal to be jailed. My metamorphosis from the witness to and the victim of a crime to the criminal was completed in just 3 days! Yes, just three days.

When I made it absolutely clear that I would not take this lying down, and when it became obvious that a handful of brave journalists- Roxana Fuentes Berain of El Financiero, Carmen Alvarez of El Norte / Reforma, Anne Marie Mergier of Proceso, Carlos Ramirez, Sergio Sarmiento and others in La Jornada - would not give in to this nonsense, the government decided that they would go through the motions of a sham investigation. A half page fax, asking me to give the names of and addresses of the men who tried to extort a bribe out of me and IBM was sent to my lawyer - in

the certain knowledge based on what was already in the public domain that I did not know the answers to these two questions.

That this was no more than a public relations job was proved very shortly by the fact that as soon as the Contraloria of Ms Marie Elena Vazquez Nava received our reply they put out a press release saying there was no evidence for what I had said and that the file was being closed, and passed to the Public Prosecutor for him to come after me in keeping with what they had said earlier for my having allegedly defamed the honour of the government.

That is how the matter landed in the Procuraduria. That is how the paths of the grand jurist and I crossed. The file was passed to him. In fact our paths need not have crossed at all because, as was to be proved later, he had absolutely no intention to do anything about this case. He was neither going to investigate the crime of extortion, nor come after me in the English Courts. The former because of the obvious reason that a government run by such criminals does not go after its own; the latter because he knew he would be laughed at if he tried to bring a charge under such a heading. Carpizo simply sat on the file and let it catch dust in the famous cellars of the Procuraduria- the safe place where people slip on bars of soap and give voluntary confessions! To all enquiries from El Norte and Proceso he kept saying "there is nothing to investigate".<sup>96</sup>

It takes no small measure of audacity, on the part of Carpizo, to pretend that he had been investigating my case throughout these months. I managed to secure a full copy of his file and saw how much of an investigation he had carried out. This must be the thinnest investigation file on record. It is about as thin as a book recording the instances of clean elections under Mr. Salinas. All we find in there are copies of the FT articles and a mesh mash of other bits and pieces evidencing anything but an investigation. We do not see an investigation chart. We do not see a plan. We don't see any correspondence commenced by the Procurador which indicates an intention to conduct a serious enquiry into the scandal that they had

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<sup>96</sup>See Carmen Alvarez, *El Norte* 16 april 1993.

no intention to investigate. And that is how it should be. To expect the servants of a regime that comes to power through corruption, that maintains its power through corruption, that regenerates itself through corruption is naive in the extreme. And a positive danger to the health of those who believe it.

The intention of this regime was not to investigate. What they wanted above all was to suppress the story. This is a government that is frightened of such scandals. In the words of one local intellectual nurtured on the diet served by this ruling group "scandal is worse than corruption". The trouble was that they had met in me an obstinate adversary who refused to allow them to libel him and get away with it. To their lasting credit, the two newspapers *El Norte* and *Proceso* and, to a lesser extent a few others too, refused to become party to this conspiracy of silence. So the story did not go away.

In its continuing effort to discredit me the government reinforced its defences by a concerted campaign to sow confusion amongst the population. It did its best to fool the people by attempting to blind them with science. Mexicans were told that the tender had been perfectly clean and that a foreign company, *Martin Marietta*, of Canada had been brought in to supervise it. Much like *Carpizo* who as we saw, force-marched half the present and the previous faculty of *UNAM* into endorsing his report, *Maria Elena Vazquez Nava* announced to the world that they need have no worries, as the tender had been supervised, approved and endorsed by a foreign consultant. It is strange how foreigners who are picked on by the exponents of these falls nationalism when it suits them to whip up xenophobia, suddenly become the paragons of virtue who act as custodians of public morality and the ultimate guarantors of the purity of the tender. Voluminous tomes of technical information was forced down the throats of a confused population that did not have the technical know how to evaluate the meaning of this material. For a number of days this media blitz took on the dimensions of saturation coverage. An assortment of pseudo scientists was lined up to spell out the ins and outs of primary and secondary radars, decoders, software written in "C", ins and outs of satellite navigation, differences between electronic and manual



flight strips, the whole complex lot- all by way of portraying the image that this was a government that was scientific and modern in its approach, and would not settle for shoddy products simply because some oligarch been paid off in a Swiss account.

This was pure theatre. The public were not going to get any balancing input, or impartial rendering of the facts from the existing sources of information, heavily monopolised by an oligarchy determined to stamp out the scandal as soon as possible. Mr Guillermo Ruiz de Teresa, the new head of the Airports and Auxiliary Services, pontificated to the deputies in a theatrical performance, pronouncing on matters that he plainly knew nothing about. The PRI deputies, as expected, cheered while the opposition, as they later told me, didn't know whether to laugh or cry- laugh at this foolish man, or cry at the state of a country in which the oligarchs in office were not even willing to spare the skies from their nefarious activities. The point was repeated ad nauseam that this was a tender that had been supervised, analysed and endorsed by Martin Marietta. It had the imprimatur of a neutral foreign company.

However, at no time did any of the myriad spokesmen of the oligarchy ever explain, that the foreign company was brought in only to *evaluate the offers*. It was to do so according to the *criteria which were not of its choice, and it had nothing to do with proposing*, but on the contrary imposed by SENEAM. It was SENEAM that had decided the criteria, not Martin Marietta. Martin Marietta had neither written, nor proposed, nor endorsed the criteria. It had nothing to do with these. It was the absolute conviction of IBM and the other companies that I have spoken to, that the criteria were deliberately written in a manner so as to put Alenia and Thomson in an advantageous position.

To explain this let us take a simple example. It is rather like my saying I want to buy a fleet of cars for a hospital catering for the elderly and instead of going for rational selection criteria- such as the number of doors, the size of the engine, space inside, the ease of getting in and out of the vehicle, the overall comfort and so-on, I impose criteria that are not obviously relevant to the needs in

question. For example I might insist that the cars must all have the steering wheel on the left hand side! Or that they must all be red in colour! Of what possible relevance such criteria would be to the stated objectives, it is not clear. To any rational observer the arbitrary imposition of such a criterion would seem absurd, as indeed it would be. But if I was on the payroll of a supplier who was paying me in a Swiss account but could produce only left hand drive cars, as for example a British company; or one who had a lot of red cars in stock and was keen to get rid of these expeditiously then it would make sense for me to impose such selection criteria. Now if I was keen to go ahead with this "tender" and make it look clean what would I do? Simple! I would call in an outside party, call him an independent third party and tell him "to evaluate the bids of the suppliers for compliance with the criteria only"- in the certain knowledge that none of the producers offering green, blue, navy or any other colour, as well as all the right hand drive suppliers would be automatically disqualified. Let no one dare to accuse me of having run the tender corruptly, for I would hide behind the back of the "independent third party" and proclaim from every roof top that this tender was endorsed by the outside evaluator! I would say this with a straight face, in the certain knowledge that I could blind the public with the a lot of technological gibberish. As for the independent evaluator, and the other suppliers, no matter how much they might say the selection criteria are irrelevant to the stated objectives, or distorted to favour one set of suppliers- I would have already response. To the independent third party I would say that he has been brought in to act within the framework of the criteria that I choose and it is not his business to comment on the those criteria themselves. If he insists I would tell him to mind his own business and not interfere in my business. He is not getting paid to judge "our" criteria. To the suppliers I would say it is "we" who decide the criteria and not you. If they are foreigners, I would also invoke a bit of the language of false nationalism with it. And to the press, I would issue a statement saying that "we brought in a third party, independent evaluator", and would do my level best to give the impression that the outsider had ran the whole tender, endorsed its procedures, and (why not if we are going to be vulgar, let's go all the way) add that they had decided the award. End of story; a perfectly clean tender was awarded! I trust this is clear to all.

All this was increasingly becoming obvious to us as the tender was unfolding. By the time the first tender was cancelled IBM and I very little doubt that this was a corrupt tender. Since then I have talked to and know that the other companies felt exactly the same. I have checked and rechecked this matter both with Martin Marietta and with my friends and well-wishers in SENEAM- and they are many- on repeated occasions, since.

At the same time I have diligently examined the Mexican press as well as the Mexican Congressional record to see if I find a single instance in which these matters are made clear in the mass of the confusing, pseudo- scientific jargon fed to a bewildered population. I have not found a *single instance* of an official coming out openly and honestly explaining, in comprehensible Spanish, what Martin Marietta had been hired to do. In the mass of mumbo-jumbo falling off the lips of the likes of Maria Elena Vazquez Nava, Luis Vazquez Cano, Guillermo Ruiz de Tereza, not once do we have an honest account of this matter. Not once have any of these self serving climbers, hanging off the tail coats of their masters and desperate to climb further, or the old time oligarch, Caso Lombardo himself, ever explained that *Martin Marietta had absolutely nothing to do with the granting of this faulty and corrupt award*. They did not explain to the public that Martin Marietta was brought in to give the stamp of legitimacy to a contract that was awarded not by transparent procedures, as the companies stated but, in the age old traditions of these people, through backroom bargaining. Martin Marietta did not endorse this tender. It did not award it. It did not know who was going to win it. It knew as much- or rather as little- about the eventual winners, as the rest of the Mexican people. Was this explained to the public or to the deputies? I have not found a single instance of it.

In case the reader thinks I am exaggerating, I can do no better than to quote the words of Martin Marietta themselves- which to the best of my knowledge has not been referred to once by any of the bigger or smaller oligarchs pontificating on to the people of Mexico. The evidence that absolutely puts an end to this theatrical charade put up by the government of Mexico comes in a letter from

none other than the President of Martin Marietta himself who wrote to the Financial Post of Canada on November 24th, making it absolutely clear that his company had nothing to do with the making of this award. To prevent any accusation of misquotation out of context, and in case anyone might think that I am using Carpizo's tricks in this regard, I will reproduce the entire letter, verbatim here, to let the reader decide for herself. It reads as follows;

' I am writing to correct the perception left with your readers in Diane Francis's Column "Mexican Bribery Case May Hurt NAFTA" (The Financial Post, Oct. 27) that Martin Marietta Canada Ltd. was involved in the evaluation of the bidding process, or providing conclusions on potential irregularities on a competitive bidding process for a multimillion dollar air traffic control system.

To set the record straight, Martin Marietta Canada LTD's involvement was limited to being an independent third party to evaluate proposals for technical compliance only. The technical evaluation is only one part of the overall evaluation process and is straightforward- a bidder's proposal either met the technical specification requirement as published or it did not.

Martin Marietta Canada Ltd. was not involved in other parts of the bidding process, did not evaluate the bidding process, and was neither involved in nor had knowledge of how the winning bidder was selected or who won until the decision was announced publicly.

J C MacDonald,  
President,  
Martin Marietta Canada Ltd.  
Ottawa<sup>97</sup>

I trust this will clear this matter once and for all. I ask the reader to set this letter next to that sent by the committee of SENEAM technicians to Salinas, Carpizo and I, and see what this says about the Mexican government's rhetoric. The reader will recall that according to Carpizo the letter from the committee- the

<sup>97</sup>Financial Post, 24 November 1993. Letters to the Editor " A technical evaluation only"

one that Carpizo tells us does not exist because, like the Zapatistas, it is not registered at the Ministry of Labour and Social Affairs - is proof of, as he puts it my "complete lack of scruples". Does this not, on the contrary, demonstrate the depths of depravity that Carpizo and Franco Guzman have fallen to when they ignore such absolutely irrefutable evidence? Does one see a copy of the Martin Marietta letter in the "more than one thousand pages" that these men have accumulated? No, precisely because the aim of their investigation is not to get to the truth, but to continue the effort to discredit me.

I would also ask the reader to take my word it- unless he is willing to do the research himself- that not once is this point made clear by a single government official either to the press or to the deputies in Mexico. I would also ask him to take it from me that the biased nature of the selection criteria, the fact that they were clearly written to favour Alenia and Thomson was a fact that became plainly obvious to IBM and I as the tender moved forward, as is alluded to in the IBM protest letter as well as in the briefing document prepared for the Financial Times.<sup>98</sup> It is also a point that was well covered by the other companies in their protests.

But of course the government were engaged in a massive damage limitation campaign, at the core of which lay the absolute requirement to discredit me. They were not interested in the truth.

Since I was not prepared to take this libellous campaign and character assassination lying down I decided to bring a legal action against Caso Lombardo at the High Court in London determined to prove to the world that the government of Mexico were lying and that their concoctions would not stand up to cross examination in court. I confess that despite all that I had learnt about the nature of the Mexican government in this period, I was not prepared for what happened next. I found that a law suit brought by me against a discredited former Minister -Caso had become such an embarrassment to the nephew that he had been sacked by now- now

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<sup>98</sup>IBM to Moussavi "Bascs for Protest". 20 January 1993.

supposedly an ordinary citizen led to the mobilisation of the entire government of Mexico against me, once again. Round two of my battle with that government had begun.

Caso was permitted to give a televised Press conference, in the great hall of the local equivalent of the Gestapo Headquarters. Under the intimidating and watchful eyes of the Interior Minister, none other than Gonzalez Garrido, the Salinista symbol of the cause of human rights in Mexico, Caso denounced the local press for giving space to a foreigner's efforts to bring discredit to the name of Mexico. Sitting below a picture of his erstwhile master Mr Salinas, his prodigal "uncle" and rather than confronting the issue, he wrapped himself in the flag of his false nationalism and did his best to whip up a frenzy of xenophobic hysteria against me, threatening all sorts of nasty things- all of which proved to be empty threats. I was denounced as a liar, a "fourth class coyote" and the local press chastised for giving me, "no high executive" as Caso's lawyer put it,<sup>99</sup> space in which to bring dishonour on the name of Mexico.<sup>100</sup>

I ask the reader to consider the point. If this was a government that had nothing to hide, would it have behaved in this way? Is that a measured response of a rational government to a perfectly legitimate efforts of a private citizen to seek to redress a wrong done to him by bringing an action in a court of law against another individual who was by now not a member of the government? Why would a government that was not heavily implicated in corrupt practices be so frightened of the record of one of its former members being subjected to scrutiny in open court? Why should it react like this? If it had nothing to lose why not allow the case to proceed? The surest way to prove that they had nothing to hide, or that I was lying was surely to let the case come to court.

<sup>99</sup>What bigger proof of the oligarchic and anti democratic character of these people does one need than this one sentence of Caso Lombardo's lawyer, Sr. .... According to these people only "high executives" have the right to a fair hearing in the press. A client like that, is definitely made for a lawyer like this!

<sup>100</sup>Text of Caso Lombardo's press conference given in the hall of the Gobernacion, 4 May 1993, enclosed. Incidentally, this text, typed on Gobernacion letter head was circulated by courier to members of the foreign press corps by the government quite oblivious- that is how they are- of the obvious meaning of what they were doing- trying to protect a disgraced member of the fraternity from cross examination in a court of law that they could not muzzle.

That is all I was trying to do. So why the fuss? Why the full scale mobilisation? Why indeed?

Precisely because these people do have something to hide! They simply can not afford to allow this matter to come to open court. There they will be exposed like they have never been before. While they can, occasionally, under strictly controlled conditions and not in a court that is not completely under the jack boot of the likes of Carpizo, throw the odd sacrificial lamb to the wolves, they can not, under any other circumstances permit one of their own to be forced into open court. That is the reason for the hysteria and the renewed efforts to stop me.

This involved, as ever, the effort to discredit me which was achieved by Marie Elena Vazquez Nava, following in the footsteps of Caso Lombardo going on television to nervously read a prepared statement in which the two infamous hypotheses drafted by Carpizo were read out again on prime time national television. This was done in the full knowledge that they were already in possession of documentary material supplied by none other than IBM itself, which proved that the defamatory hypothesis could not have been true. Carpizo and his henchmen, as well as Vazquez Nava were in possession of a letter from Gerald Ebker, the Chairman of IBM's Federal Systems company in which Ebker had said, amongst other things, that I had reported the requests for payments months before the loss of the tender. The letter, though obsequious and clearly written to assuage the wrath of the Mexican government, nevertheless makes it perfectly clear that I reported these matters some two months before IBM lost the tender- which was on the 28th of December. Carpizo and Vazquez Nava both had seen this letter. They knew what it meant. But they nevertheless proceeded with their criminal deception of the Mexican public. Nothing less is to be expected from the servants of a government that came to power through a crime against the people of Mexico and depends on corruption for its daily existence.

But they did more than this. Lying through their teeth, pretending that they had been investigating this matter, they hurriedly drafted a set of questions and sent them to London for me



to answer. Ignoring totally the fact that it was I who for months had been begging for an investigation, and it was in part in order to force them into an investigation that I had sued Caso, when sending the questionnaire to London Carpizo let it be known to the press that if I did not co operate with the investigation they would take Penal action against me. This was of course cheap propaganda designed to mislead public opinion, and to convey the impression that it was they who were trying to investigate and I who was not co operating thus implying that it was I who have something to hide! This coming after all that I had done to get the jurist to begin an investigation which in the end he was forced into by my legal action against the "uncle" of Sr. El Preisdente. Just a coincidence wasn't it that the announcement of an investigation, the drafting of a questionnaire, the sending of this to London

- all this and much propaganda- should all come in the four days after I sue. And yet, the representatives of this same Jorge Carpizo had the audacity tell the Mexican press that if I did not co-operate with the investigation they would take penal action against me. For those who are inclined to give the benefit of the doubt to the likes of Carpizo and his chief henchman Franco Guzman, who is loudly praised for his "meticulous" investigation let them ponder over this. On the very day that they sent a questionnaire to London Mr Guzman tells the press that he will initiate a penal action against me if I do not answer his questions as "it is impossible to accept that someone should make calumnies without impunity"<sup>101</sup>

The effort to discredit me went hand in hand, this time with the cynical attempt, by Eduardo Ibarrola, the special representative of Mr Salinas to try and buy my silence. It was an attempt that I rejected with the contempt that it deserved, but there is a reason for my deliberate choice of words when I say the "special representative of Salinas". I have it from an absolutely certain source, which I have been able to check against Salinas's personal calendar that in the first week of May, that is in the same week that I had sued Caso Lombardo and the Mexican Government was working itself up into a hysterical frenzy, Carlos Salinas was having a private dinner with one of North America's most prominent journalists, who for the moment shall remain anonymous. Suffice it to say that this was one of the most influential correspondents in the English Speaking world, and for that reason alone, likely to be heavily wooed by the likes of Salinas. I hasten to state for the record that the source of this story is not the journalist in question. But I issue a public challenge to Mr Salinas, to deny the veracity of what I am going to say here.

Over this dinner inevitably the conversation moved to the topic that was the buzz of Mexico City at the time- the IBM- Caso

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<sup>101</sup>La Jornada 3107, 5 May 1993. I should add "La Jornada" to the list of the handful of newspapers that have adopted an exemplary and principled stand on this issue and have refused to be brow beaten by the Gobernacion into toeing the line. The historians of this period will have reason to thank the journalists and editors of this newspaper. Long after Mexico has rid itself of the shadow of Salinas, the people of Mexico can proudly reflect on the fact that there were journalists and newspapers that refused the blandishments of the brotherhood and came out of this period untainted. Proceso, Reforma, El Norte, Jornada will be well remembered then.

scandal. I have been able to reconstruct, and have checked and rechecked, with a little help from friends in Los Pinos, the essence of the conversation that took place between the eminent journalist and Carlos Salinas on that evening in May. It went as follows, and I repeat once again that I challenge Salinas to deny it.

Journalist: Mr President, what about Moussavi

Salinas: What about Moussavi?

Journalist: Mr President, he is making some very damaging statements. He has also shown that he is ready to have these tested in open court.

Salinas: Oh, Yes. Moussavi! He is just a liar.

Journalist: Mr President, with due respect, it seems hardly credible that if he was not absolutely certain of his case, he would dare risk having them subjected to cross examination in an English Court.

Salinas: Yes, fine. He will either prove his case or he will go to jail.

Journalist: No Mr President. Again with due respect, in the first place he is not the accused. It is he who has brought the action against Mr Caso Lombardo. So there is no question of he going to jail. Second in a defamation action brought under English law, Moussavi as the Plaintiff does not have to prove anything. It is Mr Caso who has to prove that Moussavi is lying. And you have to do it by the exacting standards of proof required under English law. You are never going to be able to do that.

Salinas: Are you sure of this?

Journalist: Mr President, I write in English and most of my material is published under English law. I know what I am talking about. It is my job to know. I know what I am telling you.

Salinas: You are sure about this?

Journalist Mr President, it seems to me that your government have got yourselves into a very serious mess with this Moussavi business. From what I have seen of the way you have handled this case, Moussavi's lawyers are going to tear Caso apart in court, and by implication your government is going to be caught in that. Have you thought about what you are going to look like when an English court finds that Moussavi has been libelled and orders damages to be paid to him?

Salinas What are you saying?

Journalist I am telling you, you had better see what he wants, because if he gets this thing to court, you have had it.

My sources have described the look of shock on Salinas's face when he emerged from dinner that evening. The very next day Salinas issued orders that I be contacted and paid off and of course we know that the date of Ibarrola's arrival in the UK corresponds perfectly with this information. If Carpizo is really interested in investigating the cases of attempted bribery in this scandal - as he would be if he was anything other than the servile lackey of his master- he would do well to check the Ibarrola's movements, for confirmation of the accuracy of what I am telling him here. But to expect that would be to expect more than a miracle.

I have described this clumsy and unprincipled attempt in Proceso<sup>102</sup>. Evidently men of Salinas's background imagine that everyone is like themselves and can be bought. Honour, dignity, self respect are hollow words to be used as cheap trinkets on state occasions for fooling the public, while the real business of the state, that of plundering the national treasury, dividing the spoils and "freely trading" it amongst the brothers goes on behind the scenes, undisturbed by such distractions. I issue a public challenge to Mr Salinas to deny that these are the sequence of events that led to Ibarrola's foolish efforts to buy my silence.

I will not detail here the repeated attempts at the intimidation of myself and my family by telephonic threats and other equally "subtle" techniques that are the stock in trade of Mafia run organisations. I've put into the records of the House Committee on Small Business a document that catalogued some of the measures which the British Police have taken to protect us, specially in the lead up to my appearances before the US Congress, when the Mexican government were desperate to stop me. However, what I have suffered in this regard, is minuscule compared with what the average Mexican has to put up with at the hands of Carpizo's Procuraduria, and there is no merit in bringing more drama into a case already packed with material that is the stuff of gangster movies rather than normally encountered in an account of the deeds of a law abiding government. I have no doubt that Captains Juan Cruz Albert, Chairman of the Mexican Pilots Association and Captain Jaime Hernandez, President of the Pilots Association know in specific terms what I am referring to when I speak of the attentions of Carpizo and his henchmen.

Despite all this they still say Moussavi did not prove "his case"! In the light of all that I have said above, I would have thought the case has proved itself and does not need help from me to prove it. It was not and it should not have been "my case" to prove in the first place. I was the witness, and the witness to one small part of the scandal- that is the solicitation for a bribe at the Nikko. That, as is conveniently forgotten by those who hide behind this complacent formula, is only one aspect of the whole scandal, and on reflection, by no means its biggest issue. By far the more important aspects are the other issues found here.

First there is the corrupt award of the tender. All the companies, and their embassies, as well as the SENEAM employees who spoke to El Economista and later wrote to Salinas and Carpizo, with a copy to me said so. This aspect of it is Caso's case, not Moussavi's case. I would have thought given that Caso was thrown out of the government, that everyone concerned with this tender loudly protested it, that a senior diplomat was quoted as saying "there are many things here that smell like smoking guns", should

convince even the most sceptical that what I have said about this aspect of the case should be taken as proven.

Second, is the specific bribery incident taking place at the Nikko and the events leading up to it. Despite the efforts of Carpizo to muddy the waters and confuse the issue we have documentary evidence, to be found in Carpizo's own files that I reported these events at the time, as and when they were taking place. The Chairman of IBM says this in his letter to the Inspector General. I reported them long before I could possibly have known that we had lost, or even that we could possibly lose. As IBM's protest letters and Boyd's letter of 16 December 1992 and the briefing for the press makes clear, we had been told verbally by SENEAM that our computer system was the best and we would be awarded the contract. What possible reason could there be for my wanting to invent a story like this, at the time? What possible motive could I have?

The suggestion that I made up the story to get the million dollars for myself, I hope I have effectively demolished in the passages dealing with the "IBM testimony"<sup>103</sup>. In a nutshell, it is simply not credible that if this was my objective, I would report that the men wanted a "political contribution to Solidarity"<sup>104</sup>, the payment of which was both illegal under US law, and forbidden under my contract with IBM. On the contrary and much more likely I would report that this was a consultancy fee to be paid to a group of professional advisers, expert in matters of air traffic control and knowledgeable about the specific problems of Mexico. That is what I would have reported, not matters that could not possibly be catered for given the constraints under the law, and the terms of my contract. I also showed that the figures mentioned are proved to be wrong by simple arithmetic. Finally, the same IBM, whose Mexico President had said on Television that they had never received any

<sup>103</sup>Pages.....

<sup>104</sup> Let there be no doubt that this is exactly what I reported to IBM as even Carpizo does not try to deny. The word "political contribution" is explicitly spelt out. See M.F. p 18 in quotation from Swope's "testimony", voluntary no doubt. These men would have sold their mothers to appease the Mexican government. As for Boyd and Swope, they knew that their jobs, and livelihood were at stake if they refused to do as they were told. I know this from sources inside IBM who have told me of the atmosphere in IBM in the early days of the scandal. The pressure to toe the line and at the very least be "economic with the truth", was according to my sources simply unbearable.

demand for payments permitted its spokesman Bill Prater, to tell the press later that " We have no reason to doubt Dr Moussavi's word"<sup>105</sup>.

Third the suggestion that the men at the Nikko were not government officials. They may not have been, but their behaviour and the circumstances surrounding their whole posture and position strongly suggested that they were, to a degree that would be granted by any impartial court- not one under Carpizo's boot. The men were extremely knowledgeable about the tender. They had with them confidential government documents. They were willing to conduct the meeting in the crowded lobby of a busy hotel, with absolutely no fear of being apprehended. They specifically asked for a political contribution to Pronasol. Finally, they were unable to demonstrate that they were not government officials, when it was clearly in their interest to do so. They had a million dollar incentive to do so, but could not. These I would have thought are enough to prove the point that they were government officials asking for a bribe.

But what of the rest of "the case"? Is the rest of it proved? The rest is of course not my case at all. It is Marie Elena Vazquez Nava's case. It is Carpizo's case. And what do we have there? Does the record show anything other than base lies, unprincipled distortions, the visible manipulation of the facts, lies, lies and more lies, all of it designed to fool the people of Mexico? Does it not show the total lack of respect for the most elementary principles of due process and the rule of law? Does it not show an Attorney General who far from being the watchdog of the Mexican Constitution has proved himself to be nothing other than Mr Salinas's lapdog? ? What does the record show?

We have the Inspector General of the country telling the people on day one, that the honour of the government has been libelled. This is repeated on day two. We have the government forcing the President of IBM Mexico into the TV studios to make statements which are proved to be false, by the fact that they are shortly contradicted by the parent company. We have the Minister going on TV to call me a liar, and threaten me with jail just 72

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<sup>105</sup>The Mexico Report, Vol. II, 5 March 1993, No 4, p.2, quoting Bill Prater's interview.

hours after the scandal has broken out, when no conceivable investigation could possibly have taken place. We have the Contralora showing every sign of desperation to bring the scandal to an end, by opening and shutting a farcical investigation the sum total of which is half of one page fax. We have Procurador Carpizo sitting on the file and doing absolutely nothing about his constitutionally mandated duty to investigate the crime of attempted extrusion. We have his spokesman telling the press on numerous occasions that "there is nothing to investigate". We have him do a 180 degree U turn, when the "uncle" of his master is sued in a London court. We have an Attorney General who lying through his teeth, and forgetting what his spokesmen have been saying just two weeks before, coming out to pretend that he has been investigating, amassing documents, and now has two "hypotheses", to guide his investigation. He does this even though he is in possession of documents which prove that his highly libellous and defamatory statement can not be true, but goes ahead anyway and does it in the loudest possible way, so as to cause maximum damage to the witness to the crime, now being investigated. As for that investigation, we discover shortly that it is far more an attempt to investigate the witness rather than the crime. We see questions such as

What is your net worth?

How much money do you have?

Who are your friends in Mexico?

What other businesses do you have in Mexico?

How many properties do you own and in what

countries?

in a hurriedly drafted questionnaire sent to London, more as a public relations effort than a meaningful investigation led by a neutral Attorney. We see them at the same time continuing with the campaign of defamation and the stirring of xenophobia in the population against me, through the government controlled media. The Attorney General, ignoring totally the mass of evidence which tells him it is I who has been pushing for an investigation from day one tells the press that if I do not co-operate with his investigation I would be prosecuted!



All this and much more, and they still say "Moussavi did not prove his case"! It seems that nothing short of flying to Mexico City, with three pairs of handcuffs, setting up a base of operations in the Nikko and organising a full scale manhunt designed to arrest the men by myself, alone with my limited resources, and delivering them to the cellars of the Procuraduria will satisfy the grand inquisitor of the justice of my case. I am to do all this, with the limited the resources of a middle ranking businessman- "no high executive" as Caso's lawyer put it - and do it in Mexico, while I was officially public enemy number one- until Sub Comandante Marcos took over that position from me- and to do it in the face of government harassment, character assassination and intimidation, which they have managed to extend to my own country. Nothing short of this would do for the likes of Carpizo, whose representative tells Chairman LaFalce that he still wants "definite proof". Is there no limit to the vulgarity of men like Carpizo? When are they going to stop treating the people of Mexico and I as imbeciles?

I ask the people of Mexico, and all the other viewers of your programme to consider the behaviour of the Grand Jurist and ask themselves whether this is the behaviour to be expected from a credible Attorney General who, in his thirst for power and position, had not sold his soul to his now badly humbled and largely exposed master. I ask them to stand back and compare the record of the Salinas government and its Attorney General, thus far, in this nasty affair, with the behaviour to be expected from a government, operating within a framework of law and intent on stamping out "corruption in high places".

Would such a government;

-lean on and pressurise the employer of someone who, acting in good faith, with the best will towards that government<sup>106</sup> and on the instructions of his employer, takes his and his employers

<sup>106</sup> ask the reader to look at the tone of my letters to Carplzo and Gamboa and judge for himself what this says about my early attitude towards the Salinas government. I was in record as having said "Carlos Salinas is a truly world class statesman; I consider him to be one of the greatest living statesmen of the 20th Century". That should give an indication of the mass of goodwill that I felt towards these people.

concerns to the public domain? Is this how a law abiding government would behave?

Or would such a government seize the opportunity provided by the presence of an actual witness to a corruption case, in order to clean up a Ministry renowned for its corruption in the international business community?

Would such a government;

-mobilise all its efforts to discredit the witness to the crime who has naively come forward in the belief that he is helping such a government catch the criminals who give it and Mexico such a bad name? From all that we have seen above can there be a shadow of doubt that the Mexican government's sole objective from day one has been to suppress the scandal by discrediting me?

Would such a government

-try and intimidate the witness by threats against himself and his young children?

Would such a government

-do its utmost to avoid any investigation of the crime but when forced into going through the motions of an inquiry, seize the opportunity to investigate the witness, rather than the crime?

Would such a government

- send one of its senior diplomats to try and bribe the witness into silence, as this one has done in the Ibarrola episode?

Would such a government.....?

I now put all these questions to Jorge Carpizo. There were many, who like me, afflicted as we were by the curse of "Salinisitis", at the time stored great hope in Carpizo's arrival at the helm of the judiciary of Mexico. We hoped against hope, that this

represented the beginnings of a break with the past. Today, I can only say "alas for illusions." Through his handling of the IBM-Caso scandal, Carpizo has proved, once again the time honoured political truth that men who fool themselves into thinking that they are reforming a corrupt system from within, end up being corrupted themselves. A dirty deed done with clean hands does not become clean. It is the hands that become dirty.

Carpizo has proved, in practice, that he is nothing more than another facet of the Salinista charm campaign, designed to obfuscate the reality of his rule, an ugly crony capitalism, implementing with methodical precision, to be expected from Harvard trained economist, the task of looting the state and the national heritage for the brotherhood to engage in a "free trade" of it all amongst themselves. This is the reality that was dramatically exposed by the people of Chiapas on January 1st. It is also the reality that the likes of Carpizo are brought in to obfuscate.

That is not to deny that Carpizo had the makings of being a great man. He was already a grand academician, in his days at the UNAM, who might well have gone on to become a great man, too. He was a jurist of international stature, who could have gone on to bring credit to the name of his great country and his legendary people. He could have done all this and much more.

Instead he chose to become an agent of crony capitalism the reality of which now lays bare before the world. He became a tool of Salinism, and a usurper who is the worst practitioner of all that Carpizo had attacked in his tome on "Presidentialism". Instead of attacking that system in his practise, he became its most skilful and intelligent partisan. Carpizo rather than becoming the watchdog of the Mexican Constitution became the servant of the man most responsible for the rape of that Constitution. He became an active accomplice of the man who had perpetrated the greatest electoral fraud against that Constitution and the people of Mexico in living memory. Carpizo far from reforming Salinism, was "reformed" by it and stripped of his reformist ideas. He did not know it but when the master brought him into the government, the intention was that he should do no more than catch a handful of drug dealers for the

benefit of American television cameras. But as the great jurist that he once was before becoming the latest victim of the legendary "co-optive" capacity of Salinism, he surely meant by "reform" more than that. He surely had in mind the emergence of the rule of law, the institutionalisation of due process, and the implementation of guarantees of basic rights, so clearly enshrined in the Mexican Constitution, but even more clearly violated by his master in Los Pinos Palace. This much and a great deal more was expected of him by those who welcomed his arrival at the helm. Alas for illusions, alas!

And yet, by a strange twist of fate, one that no one could have predicted, Carpizo has been given a second chance. He has been catapulted by the events in Chiapas into the role of key man, and the centre of the political universe in Mexico. It is he above all, much more than his now utterly discredited master, or the his handpicked candidate, who now holds the house of cards together. It is Carpizo who will decide whether the people of Mexico will at long last have the chance to rid themselves of the menacing shadow of the brotherhood in the forthcoming elections. It is Carpizo who has the chance, by ensuring a clean vote, that the people are delivered from the nightmare of Salinism. Will he rise to the occasion, expel the curse of Salinism from his soul, return to the promise that he had in his days at UNAM, and deliver his people? Or will he prove once again the age old adage that once a clean man serves a corrupt system he does not clean that system, but corrupts himself? Has he reached the point of no return? As one who is utterly in love with Mexico and its people, I for one earnestly hope not. I say to Carpizo;

"Be not afraid of greatness,  
Some men are born great,  
Some achieve greatness,  
And some have it thrust upon them"

William Shakespeare, Twelfth night.

**This is your chance. Seize it to redeem yourself. Mexico will accept no less.**

**Kaveh Moussavi  
Oxford**

**27 January 1994**

## Documents list.

1. MEXICAN AIR TRAFFIC CONTROL AGENCY AGREEMENT (19/6/92)
2. NOTES OF BILL SWOPE'S CONVERSATION (17/6/92)
3. BILL SWOPE'S HANDWRITING CONSIDERING ISSUES/QUESTIONS OF TENDER (17/7/92)
4. PROOF OF IBM'S AUTHORIZATION TO TRAVEL TO MEXICO (4/11/92)
5. PROOF OF SUSPICION BY IBM OF POSSIBLE FRAUD IN THE ADJUDICATION OF THE TENDER (16/12/92)
6. LETTER FROM AMERICAN EMBASSY TO THE SECRETARIA DE LA CONTRALORIA GENERAL DE LA REPUBLICA (SECOGEF) (11/1/93)
7. IBM MAIL: PROTEST TO SENEAM FOR ADJUDICATION OF TENDER (12/1/93)
8. IBM MAIL: INCONFORMITY ABOUT TRANSLATION OF LETTER ACTUALLY SUBMITTED TO SECOGEF (15/1/93)
9. IBM MAIL: SUSPICION OF CORRUPTION (18/1/93)
10. IBM MAIL: IDENTIFICATION OF KOBEH AS CORRUPT AND IN THOMPSON'S POCKET (20/1/93)
11. TRANSLATION OF LETTER FROM RODRIGO GUERRA (IBM-MEXICO) TO SECOGEF (LUIS VAZQUEZ CANO) OF ORIGINALLY IN SPANISH (4/2/93)
12. VERBATIM OF BROADCAST BY TELEVISA ON THE AIR-TRAFFIC TENDER AND IBM-MEXICO'S REPRESENTATIVE (RODRIGO GUERRA) (4/2/93)

13. LETTERS BY WILLIAM J. LASALLE TO MOUSSAVI ,  
SENT FIRST TO THE SECOGEF  
(4/2/93)
14. PRESS BULLETIN BY SECOGEF: A PARTIAL AND BIASED  
INVESTIGATION  
(5/2/93)
15. PROOF THAT THE PROCURADURIA GENERAL DE LA  
REPUBLICA HAD LETTER FROM MOUSSAVI TO LASSALLE  
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(5/2/93)
16. LETTER FROM GERALD W. EBKER TO SECOGEF  
(11/2/93)
17. LETTER FROM SECOGEF (MANUEL GALAN J.) TO  
ROBERT X. PERRY Jr.  
(12/2/93)
18. REPLY FROM ROBERT PERRY Jr TO SECOGEF  
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19. PRESS BULLETIN BY IBM-MEXICO  
(17/2/93)
20. PRESS BULLETIN BY SECOGEF  
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21. THE "MOUSSAVI FILE" IN THE PROCURADURIA  
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(STARTING DATE: 22/2/93)
22. COPY OF LETTER FROM "COMITE TECNICO OPERATIVO  
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Y SEGURIDAD DEL CONTROL DE TRANSITO EN EL  
ESPACIO AEREO MEXICANO" TO PRESIDENT CARLOS  
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(17/2/93)
23. LETTER FROM MOUSSAVI TO JORGE CARPIZO (PGR)  
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24. CERTIFICATION OF LETTER FROM SECOGEF (MANUEL  
GALAN) TO ROBERT X. PERRY Jr  
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25. LETTER FROM MOUSSAVI TO EMILIO GAMBOA  
(SECRETARY OF STATE FOR TRANSPORT AND  
COMMUNICATIONS)  
(16/4/93)

26. VERBATIM OF PRESS INTERVIEW WITH ANDRES CASO,  
FORMER SECRETARY OF STATE FOR TRANSPORT AND  
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(3/5/93)

27. COPY OF LETTER FROM MOUSSAVI TO MARTIN BRITO,  
CONSUL GENERAL OF MEXICO IN ENGLAND

(5/5/93)

28. COPY OF LETTER FROM MOUSSAVI TO EDUARDO  
IBARROLA, HEAD OF THE CONSULAR SERVICE OF THE  
SECRETARIA DE RELACIONES EXTERIORES

(7/6/93)

29. COPY OF LETTER FROM MOUSSAVI TO CONSUL  
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(11/6/93)

30. TELEFAX FROM COUNSUL GENERAL MARTIN BRITO TO  
MOUSSAVI

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31. COPY OF LETTER FROM MOUSSAVI TO CONSUL  
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COMPLAINT AGAINST AN OFFICIAL OF THE MEXICAN  
GOVERNMENT"

(17/6/93)

32. COPY OF LETTER FROM MOUSSAVI TO PRESIDENT  
CARLOS SALINAS DE GORTARI

(25/6/93)

33. LETTER FROM ANDREW SMITH (M.P. OF THE HOUSE OF  
COMMONS) TO MOUSSAVI

(25/10/93)

34. ARTICLE BY MIGUEL ANGEL GRANADOS CHAPA  
ABOUT THE MOUSSAVI CASE

(26/10/93)

35. COPY OF LETTER FROM GREGORIO G. CANALES,  
MINISTER FOR LEGAL AFFAIRS OF THE MEXICAN  
EMBASSY IN WASHINGTON D.C. TO THE HONORABLE  
JOHN J. LAFALCE, CHAIRMAN OF COMMITTEE ON SMALL  
BUSINESS

(4/11/93)



36. Letter from President of Martin Marietta to the Financial Post  
Nov 24 1993

## MEXICAN AIR TRAFFIC CONTROL AGENCY AGREEMENT

(I)

This agreement is entered into between the IBM International Air Traffic Corporation (hereafter "IBM"), Rockville, Maryland, USA, and Whitehall Management Services, Ltd. (hereafter "agent"), Santon, Isle of Man, to define their relationship with respect to the Mexican Air Space Navigation System (hereafter "SENEAM").

Agent agrees that it will render services to IBM exclusively with respect to SENEAM. Agent and IBM agree that, except as provided elsewhere herein, this agreement and all information regarding this agreement shall be kept confidential and not disclosed to third parties.

IBM and agent agree that, should IBM choose not to bid for any component project of SENEAM, the agent shall be due a cancellation fee of \$100,000.00. If IBM bids on any individual project of SENEAM, no cancellation fee shall be payable to the agent. IBM reserves to itself the exclusive right to make the bid decision. If there are no SENEAM procurements during the first twelve months of the term of this agreement, or if the SENEAM procurements do not contain multiple air traffic control center upgrades which require flight and radar data processing and are consistent with an IBM solution, no cancellation fee shall be payable to the agent. IBM shall make bid/no bid decisions within fifteen (15) U.S. working days after receipt of formal Request for Proposal documentation. The cancellation fee, if payable, shall be paid by IBM within thirty (30) days of receipt of an invoice from agent.

IBM agrees to reimburse the agent for expenses not to exceed \$7,500.00 for the period April-August 1992. Agent agrees to provide reasonable documentation of expenses at IBM's request.

The agent shall perform the following specific tasks in support of IBM's efforts with respect to SENEAM:

1. Marketing Support
2. Competitive Analysis
3. Logistics Assistance

Agent agrees that these services shall be performed by Dr. Kaveh Mousavi and such other persons as IBM and agent deem appropriate. Mr. William Swope is the IBM point of contact for all guidance and direction under this agreement.

In consideration for these services, IBM shall pay to the agent a sum equal to 6.5% of the value of the contract awards made to IBM. The value of these awards shall be considered as the net total of:

1. Initial Award Value
2. Priced Options
3. Unpriced Options Subsequently Definitized
4. Subsequent Modifications to any of the above, which shall include changes of scope.

Payments shall be made in a similar manner to the payments made to IBM by its customer, on approximately the same calendar schedule. Payment to the agent shall be made in US dollars. Payments shall be made in accordance with contract schedules, which may survive the effective period of this agreement.

Any financing arrangement between Mexico and IBM or third parties for SENEAM projects shall have no bearing on the terms of this agreement.

Agent hereby certifies and warrants that it will be at all times in total compliance with all the laws of Mexico. Failure of the agent to comply with such laws shall nullify this agreement.

Agent hereby certifies and warrants that it will be at all times in total compliance with all applicable laws of the United States, particularly export control laws and the Foreign Corrupt Practices Act. Failure of the agent to comply with such laws shall nullify this agreement. Agent hereby agrees that it will not re-export directly or indirectly any technical data provided by IBM nor the direct product of such data in contravention of US export control laws.

The Agent hereby represents that, in his performance as Agent, he shall adhere to the highest ethical principles and shall observe IBM's worldwide policy of not making payments or gifts (monetary or otherwise) to anyone for the purpose of influencing decisions in favor of IBM or for any other purpose connected with IBM. Agent further agrees that he will immediately report to his IBM contact any forms of extortion or bribery to which he finds himself subjected in the course of his business dealings involving IBM or IBM products and services.

The Agent shall maintain complete and accurate accounting records of his transactions in performance of this agreement and shall, on IBM's request, make his relevant business records available to IBM or to an outside auditor chosen by and paid for by IBM in order that Agent's compliance with the foregoing obligations may be verified. If any such audit, at IBM's expense, causes additional expenses to the agent, such additional expenses will be reimbursed by IBM.

All applicable taxes due on payments made to the agent are to be paid by the agent. IBM assumes no tax liability of any kind as a result of this agreement.

IBM and the agent agree that the terms of this agreement may be made available to the responsible Mexican authorities.

This agreement is effective upon signature and shall have a term of three years. This agreement is renewable, upon mutual agreement of the parties, for an additional three year period.

This document constitutes the the total agreement between the parties. All modifications, amendments, changes, additions or codicils to this agreement must be executed by both parties in writing to be valid.

This agreement is governed by the laws of the State of New York.

IBM International Air Traffic Corp.  
Rockville, MD

Whitehall Management, Ltd.

By: J. P. Murray

By: K. Moussavi

Name: J. P. Murray

Name: K. Moussavi

Date: June 16, 1992

Date: June 19, 1992

Bill scope

17/6/92

(II)

Roger Boyd - lead Manager on the project.

Notes to introduce - 301-~~640~~ 640 2555

Juan Jose <sup>OR ~~DOCTES~~ DOCTES</sup> DOCTES; in SENEAM;  
in the Technical Director; - Personal Man; "Technical";

- Documents, that SAT, has;
- Order of Battle of SENEAM + phone directory.  
Need to know + people there;
- Agreed for IBM with SENEAM.
- Mission participation plans; :-  
specifically, individuals; f participation;  
↳ details - copy to Madrid.

A formal <sup>180</sup> ~~180~~ <sup>180</sup> ~~180~~ :-  
A formal <sup>180</sup> ~~180~~ <sup>180</sup> ~~180~~ :-

A formal - SENEAM, col f 180; :-

- Tables will be public tables only installation.
- IBM Mexico, Egypt; - Egypt or Spain.
- Base: Cayman - 26<sup>th</sup> of June;
- Hawaii - Hilton Hotel:

SATI; part of the  
table



Bill Wolfe's workshop, (+. 10). 72.  
Lester

## ISSUES / QUESTIONS

1. COPY OF ATC SPECIFICATION  
"UNOFFICIAL" ENGLISH VERSION - page

2. WHAT IS REAL SCHEDULE?
- RFP RELEASE DATE?
  - RESPONSE?
  - EVALUATION PERIOD?
  - AWARD?

What the sign of Mitchell of 15<sup>th</sup> Dec. ←

3. PREFERRED TEAM MEMBERS  
Are there any specific groups to be invited?

4. BUDGET

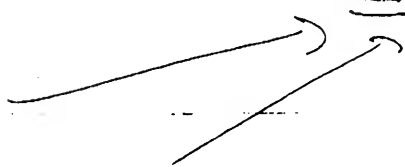
- TOTAL
- PHASE 1 - 4
- 7 PROJECTS WITHIN PHASE 1.

5. 27/28 July Mtg in Mexico City

6. WHO'S WHO?

- PRIVITIZATION?
- EVALUATION PERIOD
- FINAL PHASE / SCORES, SELECTION ? vs  
max or  
Week?
- WHO CAN WE TRUST?

head & etc →



# IBM

International Business Machines Corporation

2201 Corporate Boulevard  
Rockville, MD 20850

November 4, 1992

Kaveh Moosavi  
56, Old Road  
Oxford, OX3 1LL

Dear Dr. Moosavi: *KAVEH*

Pursuant to our telephone conversations, our agreement and your fax, dated 4 Nov 1992, I authorize you to travel to Mexico this weekend and, furthermore, IBM will reimburse your expenses for said travel.

Best regards,



William Swope

Despite Carpizo's lies and leaks to the puppet journalist Granados, this document proves that IBM authorized me to go to Mexico to investigate the Solicitation for bribes for a day fees.

IBM



International Business Machines Corporation

9201 Corporate Boulevard  
Rockville MD 20850

November 4, 1992

Kaveh Mousavi  
56, Old Road  
Oxford, OX3 7LLDear Dr. Mousavi: *KAVEH*

Pursuant to our telephone conversations, our agreement and your fax, dated 4 Nov 1992, I authorize you to travel to Mexico this weekend and, furthermore, IBM will reimburse your expenses for said travel.

Best regards,

William Swope

*Proof that IBM authorized me to  
go to Mexico City to investigate  
the Solicitation!*





16 December 1992

②

See the page to the U.S. Ambassador to  
FR: Roger Boyd - SENIAM TBM Executive  
Kaveh,

The opening of bids was enlightening and worrisome. I am now relatively certain that the cancellation of the previous bid was engineered by someone with influence who needed some way to lower their price. Any combination bid with IBM is now the highest priced one. It is most certainly the one with the greatest capability as well. Mexico will pay handsomely at some time in the future for the functions we are delivering with our system that our competitors do not have such as:

- airspace reservation
- electronic flight strips
- satellite navigation
- all software written in a single language
- all software currently operating on hardware of choice

These are but a few of the extras that were not required in the specification that are included in our offer but which will not be considered as part of a "low price" shootout for compliant bids.

Following are the prices (in millions US) that were made public today at the opening:

COMPANY	RADARS	NON-RADAR	TOTAL	IBM NON-RADAR	COMPANY/IBM TOTAL*
ALLENIA	7.9	17.7	25.6	19.2	27.1
TOSHIBA	5.4	19.4	24.8	19.2	24.6
SIEMENS	5.8	15.9	22.7	19.2	26.0
THOMSON	7.8 (14.1)	13.2 (14.7)	21.0 (14.7)	19.2	27.0
CALMAQUIP	10.0	12.7	22.7	19.2	29.2
RAYTHEON	9.8	11.9	21.7	19.2	29.0

\* IBM solution plus radar cost form the radar company

The above illustrates the problem. Any combination with IBM data processing now becomes the highest price solution (except for Toshiba which probably doesn't have a chance anyway). This was not the case in the last bid. In fact, in the last bid, Thomson was at 33M for data processing and 9.5 M for radars. If the bueracrate make the decision based on price, it will be hard to select the "best all around system for Mexico". SENIAM selected IBM and Thomson as the best solution for the previous bid. Now with these changes, it puts this selection within their budget.

I will call you at 7am (Mexico time) to discuss where to go from here. I have also attached a chart we plan to brief the US Ambassador with tomorrow.

Aug. 700KUSD...  
New Program  
Lance...

Reduced by 50% (C. S.)



AMERICAN EMBASSY  
U.S. AND FOREIGN COMMERCIAL SERVICE  
MEXICO



Enero 11 de 1953.

Hic. Juan Manuel Galán Jiménez  
Director de Inconformidades  
Secretaría de la Contraloría  
General de la República  
Insurgentes Sur 1735  
México, D.F.

Estimado Hic. Galán Jiménez:

Hemos intentado comunicarnos con su oficina por vía telefónica desde principios de esta mañana, y nos ha sido imposible lograrlo. En base a nuestra conversación con el Hic. Luis Vázquez Cano y las conclusiones de la misma, nos urge exponerle el caso de las inconformidades sometidas por todos los participantes norteamericanos en la licitación del SENRAM para la compra de sistemas de control de tráfico aéreo. Dada la urgencia del caso, rogamos nos disculpe por avocarnos a contactarlo por este medio.

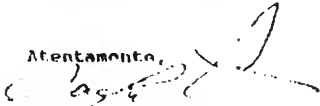
Posiblemente ya sea de su conocimiento que las empresas IBM, Calmaquip/Westinghouse y Raytheon Canada Ltd. (la totalidad de la representación norteamericana) ya se han inconformado ante los procedimientos seguidos y las decisiones tomadas por el SENRAM en su selección de proveedores de equipos de radar y de monitores de tráfico aéreo. Dada la complejidad del caso, nos preocupa que la Secretaría de Comunicaciones y Transportes (SCT), sin previa advertencia de su entidad y sin conocimiento de la presentación de estas inconformidades pueda proceder a la firma de contratos antes de que puedan ustedes analizar las causas de estas múltiples inconformidades.

Las empresas norteamericanas sostienen que han ofrecido a México la más alta tecnología por los más convenientes precios. Sin claras explicaciones se han cerrado y reabierto etapas de esta licitación, y con aún menor transparencia, se ha concluido con la selección de proveedores que distan de ofrecer la tecnología o las ofertas financieras a largo plazo de mayor conveniencia para el estado.

A fin de aclarar estas circunstancias y de resguardar los intereses comunes de toda Norteamérica en un área tan importante y sensible como lo es el control del tráfico aéreo mexicano, solicito de la forma más encarecida su ágil intervención en el análisis de las inconformidades ya ante la Contraloría y la notificación a la SIT del proceso que pretenden seguir previo a la firma de contratos de suministro que puedan reducir las opciones disponibles al estado mexicano. Dada la prioridad que este caso ocupa en nuestra oficina, estare a su entera disposición para cualquier reunión que considere pertinente. De igual forma, desde este momento le aseguro nuestra absoluta disponibilidad para aportar cualquier información que consideren pertinente al proceso de análisis de las inconformidades sometidas a su consideración.

Sin otro particular, aprovecho la oportunidad para renovarle nuestras de aprecio y respeto.

Atentamente,



Carlos F. Poza  
Consejero Comercial

CFP/rml.



VII

12/01/93

FAX DELIVERY:

03 TOTAL PAGES INCLUDING COVER

DISTRIBUTED BY **IBM MAIL EXCHANGE**

WORLDWIDE ELECTRONIC MAIL SERVICE

TO: : Dr. Moussevi

FROM: . Roger Boyd

SUBJECT: Protest

FAX REFERENCE CODE: 030122251840

IF YOU HAVE ANY PROBLEMS RECEIVING THIS FACSIMILE  
PLEASE CONTACT THE SENDER.



To: FAX --IBMAIL  
cc: BOYD --WMAVM7

FROM THE DESK OF: Bill Conyers 840-3633 WMAVM7 (CONVERSB)  
subject: Protest

Regards,  
Bill Conyers

•• Forwarding note from BOYD --WMAVM7 01/12/93 16:42 •••  
To: CONVERSB--WMAVM7

From: Roger Boyd International Air Traffic Control  
subject: Protest

attached is the letter sent to Mexico for translation. I am having the Spanish version which was actually sent to the Contraloria translated from Spanish back to English to see if there have been any substantive changes. This will not be available until tomorrow.

Please fax this information along with the following text to:

Dr. K Mousavi 01144885750065  
Mr. Saei Lali 01144717083889

ORIGINAL ENGLISH TEXT

: SENEAM/SCT and/or SECOGEP

Reference: Letter to Mr. Roger Boyd from Ing. Roberto Kobeh González dated December 28, 1992

The purpose of this letter is to protest officially SENEAM's award decision regarding International Bid No. SGRM-04/92 INT. We seek:  
a) to have an award made to IBM for the projects IBM bid based upon our compliance and the totality of the evaluation criteria or; b) to have our bid costs refunded. The bases for our protest are contained in the following points.

Contrary to the evaluation reported in the referenced letter, IBM believes it is fully compliant with the specification. IBM requests a copy of the evaluation model and assessment of the IBM offer. In addition, IBM requests a copy of the detailed technical analyses performed by SENEAM and Martin Mariette of Canada explaining the alleged non-compliance.

2. The selected vendors do not comply with the SENEAM requirements. That is, they have been unable to interface Thomson radar data processing systems with Alenia radars. In particular, the Thomson system in Mexico City has been unable to interface to the Alenia

✓ N.B.

terminal radar since it was installed. This fact is well known and is documented in a November 20, 1988 U.S. Air Force document (prepared with the full cooperation of SENEAM) entitled "Air Traffic Data Interchange Between The FAA and SENEAM" on page 4-3.

Clear case of Corruption

3. Part of the evaluation criteria appear to have been ignored. Section 8.2 of SGRM-04/92 states "the criteria used to make the award will include compliance with each specification and condition included in the bidding document and the best operational conditions, quality, cost and delivery schedule." There is no evidence that consideration was given for best operating conditions, quality and life cycle costs. It appears that only acquisition costs were considered. For example, the best operating conditions and quality would have to include the following characteristics which have been identified by SENEAM in meetings and documents. These do not appear to have carried any weight in the award process.

- a) Demonstrated ability to interface to multiple radar manufacturers
- b) Demonstrated compatibility with US systems
- c) In-country (Mexico) spare parts maintenance personnel and manufacturing
- d) Un-interrupted operation during transition
- e) Centralized maintenance and control systems
- f) Simulation and training systems
- g) Recording and playback functions
- h) President Salinas quality award to IBM Mexico in November 1982
- i) Modern system designed to use satellite positional information
- j) State-of-the-art Flight Data Processing system consistent with stated objectives of SENEAM with capabilities such as direct air processing, airspace reservation, conflict detection with reserved airspace and other flight plans

Sincerely,

Roger E. Boyd  
Mexico ATC Program Manager  
IBM International Air Traffic Control

Mail Routing: 2A47, Rockville, Md  
Telephone: 301-840-2538; Tia Line 791-2535, Fax 301-840-2136

The "Winners" do not have any of the above. How could that be? They paid the right people of course.



15/1/93  
VIII

FAX DELIVERY:

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**DISTRIBUTED BY IBM MAIL EXCHANGE**

**WORLDWIDE ELECTRONIC MAIL SERVICE**

**TO: Dr. Mousavi**

**FROM: Roger Boyd**

**SUBJECT: Translation of Spanish**

**IF YOU HAVE ANY PROBLEMS RECEIVING THIS FACSIMILE  
PLEASE CONTACT THE SENDER.**



To: FAX --IDMAIL

FROM THE DESK OF: Bill Conyers 440-3633 HMAVM7 (CONYERSB)  
 Subject: Translation of Spanish

Regrade,  
 Bill Conyers  
 \*\*\* Forwarding note from BOYD --HMAVM7 01/15/93 13:33 \*\*\*  
 To: CONYERSB--HMAVM7

From: Roger Boyd International Air Traffic Control  
 Subject: Translation of Spanish

Bill,  
 Please fax this to:  
 Dr. Mousavi  
 011 44 865750055

and

Bati Lall  
 011 44 717083889

Kevin and Bati, this is a translation of the Spanish version of the letter that was actually submitted to the Contraloria by IBM Mexico lawyers. I am not happy with they decided to submit. It is quite different from what we originally sent them.

Comptrollers General Registrar of the Federation  
 Instituto de Estudios 4328  
 Mexico, D.F.  
 Direction of protests and sanctions

Roger Boyd manager in charge of IBM International Air Traffic Corporation, indicates Legaria 953 Colony Irrigation 11500 Mexico, D.F. the address where to listen and receive all type of notes and also authorizes to listen and receive notes to Mr. Oscar Lowell. Through Mr. Lowell, I come to present the protest on the International Public Bid 36RM-04/92 for computing equipment. Requested by the Aero Mexican Space Navigation Services (SENEAM) and following I include the following facts:

1. Contrary to the evaluation reported in the reference letter # 0172 of December 29, 1992. IBM considers to fully comply with all the specifications. IBM requests a copy of the evaluation model and the assessment of the IBM offer. Besides, IBM requests a copy of the technical analysis prepared by SENEAM and the Martin Mariette Co. of

NOTE  
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 IBM  
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Canada explaining the alleged non-compliance.

2. The selected vendors do not comply with the SENEAM requirements.

That is, they have been unable to interface the Thompson Data Processing systems with the Alenia Radars. In particular, the Thompson system in Mexico City has been unable to interface with the Alenia Radar Terminal since it was installed. This fact is well known and is documented on page 4-3 in a document dated November 30, 1988. The document's name is "Air Traffic Data Interchange between the FAA and the SENEAM".

3. Part of the evaluation criteria appears to have been ignored. Section 5.2 of SBRM-04/82 states "free the analysis and evaluation of the offers, the selection criteria will be established to select the vendor. Meeting each one of the specifications and conditions obtained on these bases. At the best operation conditions, quality, costs and delivery schedule". There is no evidence that consideration was given to the best operation conditions, quality, costs and delivery schedule. It appears to be that only the acquisition costs were considered and not the following characteristics identify of high importance by SENEAM:

- a. Demonstrated ability to interface to multiple radar manufactures.
- b. Demonstrated ability with US systems.
- c. Maintenance and spare parts manufacturing personnel in country (Mexico).
- d. Un-interrupted operation during equipment transition
- e. Centralized maintenance and control systems.
- f. Simulation and training systems.
- g. Recording and reproduction systems.
- n. President Carlos Salinas de Gortari quality award presented to IBM Mexico in November 1992.
- i. Modern systems designed to utilize satellite positional information
- j. State-of-the-art technology on the Flight Data Processing systems consistent with the objectives required by SENEAM with capabilities such as, direct route processing, conflict detection with reserved airspace and other flight plans.

I appreciate to:

Only - Submit this letter with the purpose to comply the legal process

---

Protect what it is necessary  
Mexico, D.F. January 7, 1993

Roger E. Boyd  
Mexico ATC Program Manager  
IBM International Air Traffic Corporation

Mail Routing: 2447, Rockville, Md  
Telephone: 301-840-2635; Tis Line 701-2535; Fax 301-840-2138

(IX)



o: FAX --IBHMAIL  
c: BOYDOR --WMAVM7  
MURRIANJ--WMAVM7

SWOPE --WMAVM7  
CORCORAN--WMAVM7

FROM THE DESK OF: Bill Conyers 840-3833 WMAVM7 (CONYERS) *SMW WPI*  
Subject: Protest Facts Sheet

BASES FOR PROTEST

1. SENEAM's assessment of IBM's technical compliance was flawed. IBM is fully compliant in areas identified as deficient by SENEAM.
2. Cancellation of initial procurement
  - a. Controller's justification was that no vendor was fully compliant
  - b. SENEAM verbally assured acceptability of proposed systems.
3. Reduced or diminished requirements on the 2nd procurement
  - a. Disadvantaged vendors that had full functional offers to the initial procurement *Did so better*
  - b. Presented difficult technical challenges for the vendors selected for the 2nd procurement. *It is because of complex*
  - c. Inadequate statement of requirements relative to those of a modern Air Traffic Control system. *Relatively easy to compare those to that of modern information.*
4. Part of the criteria appears to have been ignored. Section 8.2 of SBRM-04/92 states "the criteria used to make the award will include compliance with each specification and condition included in the bidding document and the best operational conditions, quality, cost and delivery schedule" There is no evidence that considerations were given for best operating conditions, quality and life cycle cost. It appears that only acquisition costs were considered.

Schedule Of Events

Initial RFP Released	8/27
Response Submitted	9/20
Cancellation of Initial Procurement	11/18
Issue 2nd RFP	12/03

8/27  
9/20  
11/18  
12/03

*Ten days after Morrison was asked for a bid. the AIRRCo.*

*for the  
Attributable to by my letter to them  
without much further*

Response to 2nd RFP

12/16

Award  
Protest

12/28

1/07

## Major Requirements Changes

## Requirement: Dual LAN's at TRA's

- . 1st Tender 1.D-3.8 & 3.9 specified Dual LAN Connections
- . 2nd Tender 1.D-2.2 specified simplex LAN connections
- . Impact on operational ATC system- This lowers the reliability and availability of the new system.

*Down to make to  
Kurt Smith  
1/10/07*

## Requirement: Map and general information display

- . 1st Tender 1.A.3-3.11 requested a second display on the Radar controller workstation. In addition to information display, capabilities were requested to record and input video images.
- . 2nd Tender 1.A.3-2.8 and 2.10 deferred to the future the 2nd monitor and capabilities.
- . Impact on operational ATC system- This will reduce to some extent the amount of radar data that is available to the radar controller when maps are being viewed.

## Requirement: Simulation

- 1st Tender 1. A. 3-2. 18 defined a requirement for simulation for training purposes.
- 2nd Tender 1. a. 3-2. 18 identified simulation as a future capability.
- Impact on operational ATC system- Training is essential to transition and safe ATC operation of the new Mexico system. Potential training alternatives are inadequate for controllers that must manage an environment with life threatening consequences.

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## Requirement: Maintenance &amp; Control Capabilities

- 1st Tender- 2. 21 Defined the requirement for centralized alarms, commands and information retrieval.
- 2nd Tender- 2. 18 identified this as a future need.
- Impact on operational ATC system- Without a centralized maintenance and control facility, detection, diagnosis and repair will be lengthened, thus increasing the mean time to repair. This will in turn reduce the reliability and availability of the new ATC system.

//

## Requirement: Transition strategy and associated Facilities

- 1st Tender 1. D-2. 10 and 1. A. 3-2. 18 transition must not disrupt the operational system and the detailed transition plans agreed to by SENEAM and the selected vendor.
- 2nd Tender 1. A. 3-2. 17 detailed transition plans to be agreed to by SENEAM and the selected vendor.
- Impact on operational ATC system- Air Transport safety can be compromised in Mexico if consideration is not given to uninterrupted operation during transition. Implementations to achieve the continuous availability will require hardware and resources beyond those specified in the tender.

Regards,  
 Bill Conyers

**IBM**

29/1/93

P.L. 77  
75To: FAX --IBMMAIL  
cc: SMOPE --MMAVM7

BOYDR --MMAVM7

FROM THE DESK OF: Bill Conyers 840-3833 MMAVM7 (CONYERSB)  
Subject: Please FAX to Kevah and SatiRegards,  
BillThe following note from BOYDR --MMAVM7 01/20/93 17:21 see  
in 840-3833- MMAVM7  
to SMOPE --MMAVM7Roger Boydr International Air Traffic Control  
Please FAX to Kevah and Sati

This is the text of a letter we sent to the US Embassy in Mexico.

We thought you might be interested in it. We would like to know how  
you ended out with the FT.Also, we have never asked you about your discussion with Kevah. ~~How did~~  
he react to the notion that he was in Thompson's pocket?Mr. Carlos Pose  
Commercial Officer  
U. S. Embassy  
Mexico City  
Mexico

January 20, 1993

Subject: Mexico Air Traffic Modernization

Dear Carlos,

We have identified the documentation we would like to see with regard to  
the procurement.1. Since we were told by SEMEAM that we were one of the companies they  
judged to be compliant, we do not understand (or agree with) the notice of  
non-compliance. Therefore, we want to see SEMEAM and Martin Marietta  
technical analysis on the four points of non-compliance in the notice.IBM has identified  
Kobeha Gupta and  
Thompson's pocket

2. We stated in our protest that we did not believe the selected vendors could comply with the requirements. Therefore, we would like to see Thomson's response to section 1.A.3 of the requirement and the SENEAM and Martin

Merlette technical analysis of their response.

3. As we stated in our protest letter, we require the detailed evaluation information from SENEAM, Martin Merlette and SCT against all the evaluation criteria including weighting factors.

Please arrange a specific time and place for us to review the relevant documentation with the appropriate authority. If we should do this directly, please advise.

Sincerely,

Mr. William S. Swope  
Senior Marketing Representative  
TRM Federal Systems Company

Mail Routing: 2A97, Rockville, Md  
Telephone: 301-840-2525; Tis Line 701-2525; Fax 301-840-2130

XI

Los suscritos, CARMEN CORONA DE ALBA y JOSÉ ANTONIO JIMÉNEZ FRIAS, peritos traductores del idioma inglés al español y viceversa, designados en esta fecha por la Dirección General de Servicios Periciales de la Procuraduría General de la República, HACEN CONSTAR: que han tenido a la vista una fotocopia certificada de un documento escrito en español, que traducen al inglés como sigue:

94  
FORMA CC

IBM IBM of Mexico, S.A.

ANNEX 3

Office of the President and General Manager

Mariano Escobedo 595, 11560 Mexico City, D.F.

February 4, 1993.

Luis Vázquez Cano  
Undersecretary "A"  
Inspector General's Office  
Present

Dear Mr. Vázquez,

In your letter dated yesterday, in which you request to clarify the article published in the British newspaper "Financial Times" on February 3, 1993, regarding statements attributed to Mr. Kaveh Moussavi, Marketing Director of IBM, I would like to state the following.

Mr. Moussavi was hired by the Air Traffic Control Group of the IBM Mexico City Systems Company to render his services in marketing and participation in tender SGRM-04/92 called by SENEAM.

At no time, whether during or after the bidding process, did IBM request whatsoever from Mexican Public Officials for the payment of contributions of any kind in connection with the bid, or anything of the kind.

I regret any confusion or problems that may have resulted from statements made by Mr. Moussavi of his own accord.

With nothing further, I assure you of our highest and distinguished regards.

Sincerely,  
(signed) Rodrigo Guerra B.

Enclosed (seal which reads:) Inspector General's Office. FEB. 4, 1993 O. UNDERSECRETARY "A".

RESPECTUOSAMENTE  
México, D.F., a 13 de abril de 1993

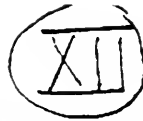
CARMEN CORONA DE ALBA

JOSÉ ANTONIO JIMÉNEZ FRIAS

see P9K  
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Contradict  
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Ed. Keel's let  
letter!!



México, D. F., 4 de febrero de 1993.

Versión de la nota aparecida en el noticio ro de televisión "24 HORAS", conducido por el C. Jacobo Zabludovsky, referente a la nota aparecida el 3 de los corrientes en el periódico británico Financial Times, relacionada con la Convocatoria Internacional para la adquisición de radares.

**C. JACOBO ZABLUDOVSKY** -: El influyente periódico inglés Financial Times, publica en los últimos días noticias sobre México, que llaman la atención.

Dicen estas noticias que un representante, o ex-representante o representante ocasional de IBM denunció un intento de soborno de supuestos funcionarios mexicanos en un concurso para renovar el sistema de control aéreo en el aeropuerto de la Ciudad de México. Tratamos de hablar con todas las partes involucradas. Esto fue lo que obtuvimos:

**ENTRA EL C. REPORTERO** -: La recuperación de la economía mexicana ha propiciado la saturación de los corredores aéreos del aeropuerto de la Ciudad de México. Alrededor de 700 vuelos salen y llegan cada día a este aeropuerto.



NOTICIAS 274 HORAS  
FINANCIAL TIMES

Para modernizar los sistemas de cómputo y dar un servicio más ágil y eficiente, la Secretaría de Comunicaciones y Transportes publicó en agosto y diciembre del año pasado una convocatoria internacional para la adquisición de nuevos equipos.

Siete empresas presentaron posturas: IBM y Calmaquip, con equipo Westing House, de los Estados Unidos; Raytheon, de Canadá; Siemens, de Alemania; Toshiba, de Japón; Thompson, de Francia, y Alenia, de Italia.

Después del análisis, la Secretaría de Comunicaciones adjudicó el contrato a dos empresas europeas: Thompson, de Francia, y Alenia, de Italia.

Ayer miércoles, el periódico Financial Times publicó una nota que asegura que las empresas IBM, Westing House y Raytheon se quejaron de irregularidades en el proceso de adjudicación del contrato.

En esa nota el señor Kavah Mousavi, representante de IBM, acusó a tres supuestos funcionarios del gobierno mexicano de haberle pedido un millón de dólares, o una donación al Programa Solidaridad como requisito para otorgar el contrato a IBM.

NOTICIERO "24 HORAS"  
FINANCIAL TIMES

env.  
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Sin embargo, ni el representante de IBM ni el periódico Financial Times dan nombres o pruebas de este supuesto intento de soborno.

Hoy "24 Horas" investigó: el señor Rodrigo Guerra, Presidente de IBM en México, aseguró que las declaraciones del señor Kavsh Moussavi no tienen validez:

EL C. RODRIGO GUERRA -: La IBM no tiene ninguna queja, nunca hemos sido abordados por funcionarios mexicanos; no tenemos ninguna noticia; las declaraciones que hizo esta persona fueron exclusivamente a título personal.

PROSIGUE EL C. REPORTERO -: Lo que aceptó el Presidente de IBM en México, es que IBM presentó desde enero una queja ante la Contraloría de la Federación para saber por qué razón se había otorgado el contrato a empresas europeas y no a IBM.

Hace unas horas, el señor Luis Vázquez Cano, Subsecretario "A" de la Contraloría General de la Federación, habló a los micrófonos de "24 Horas" sobre las acusaciones del agente de IBM contra funcionarios mexicanos:

EL C. LIC. LUIS VAZQUEZ CANO -: El día de hoy ya hemos recibido la respuesta oficial del Gerente General y Presidente de IBM de México, en donde de una manera contundente señala que en ningún

NOTICIERO "24 HORAS"  
FINANCIAL TIMES

ENV.  
4.-

momento ha recibido, por parte de servidor público mexicano alguno, la solicitud del requerimiento de pago en dinero o en especie por parte de esta licitación, ni por ninguna otra causa.

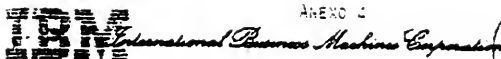
CONTINUA EL C. REPORTERO:- El señor Vázquez Cano explicó que es un procedimiento normal el que empresas de diversa índole, o por distintas causas, presenten su inconformidad ante la Contraloría cuando piensan que sus intereses han sido afectados.

Informó que en este momento la Contraloría analiza las inconformidades que presentan las empresas. Dijo que se citará a cada una para que expliquen sus quejas y que el resultado se conocerá en los próximos días.

Todas estas declaraciones responden a la nota que publicó ayer el periódico Financial Times. Según la agencia de noticias ANSA, este mismo periódico publicó, hoy jueves, otra nota en la que asegura que el señor Michael Wilson, Ministro de Comercio de Canadá, habría enviado una carta al señor Andrés Caso, Secretario de Transportes de México.

En la carta, dice ANSA, el señor Wilson solicita garantías de que el proceso de otorgamiento del contrato ha seguido los procedimientos adecuados.

AREXO 2



RECTOR DE LA ACCION, LA FOJA PARTES DE LA AL

One of the Vice Presidents and Counsel Federal Systems Company

6000 Rockledge Drive, Bethesda, Maryland 20817

February 4, 1993

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Dr. Kavsh Moussavi  
56 Old Road  
Oxford, OX3 7LL  
Great Britain

Dear Dr. Moussavi:

In an article in the Financial Times dated February 3, 1993, certain statements were attributed to you regarding requests for money you allegedly received from Mexican officials during the course of your representation of IBM in the Mexican Air Space Navigation System (SENAM) tender. The Government of Mexico has asked IBM to contact you for the purpose of obtaining any evidence in your possession that would substantiate this very serious allegation. We ask that you come forward immediately with any evidence you may have. In the event that you have no such evidence, I request that you state that fact to me affirmatively in writing.

next day

If you wish to discuss this matter further, I can be reached at (301) 493-1315.

Very truly yours,

William J. LaSalle  
William J. LaSalle

WJL:ka

PROCURACI

DEPT

SECRET



Office of the Vice President and Counsel  
Federal Systems Company

6060 Rockledge Drive, Bethesda, Maryland 20817

February 5, 1993

Dr. Kaveh Moussavi  
56 Old Road  
Oxford, OX3 7LL  
Great Britain

Dear Dr. Moussavi:

In an article in the Financial Times dated February 3, 1993, certain statements were attributed to you regarding requests for money you allegedly received from Mexican officials during the course of your representation of IBM in the Mexican Air Space Navigation System (SENEAM) tender. The Government of Mexico has asked IBM to contact you for the purpose of obtaining any evidence in your possession that would substantiate this very serious allegation. We ask that you come forward immediately with any evidence you may have. In the event that you have no such evidence, I request that you state that fact to me affirmatively in writing.

If you wish to discuss this matter further, I can be reached at (301) 493-1515.

Very truly yours,

William J. LaSalle

William J. LaSalle

WJL:kn

*The part of IBM published this  
but did not publish my reply  
sent on the SARS Day.*

*Hypocritical Swine  
pretending that  
this has  
gone on  
and  
6  
then!*

02/0

SE1842019420

EL FINANCIERO SA

28.02.93 04:33

SECRETARIA  
DE LA CONTRALORIA  
GENERAL  
DE LA FEDERACION

**BOLETIN DE PRENSA**

No. 12

MEXICO, D. F., 5 DE FEBRERO DE 1993.

EL GOBIERNO MEXICANO HA ACTUADO Y ACTUARA CON TODO EL RIGOR DE LA LEY EN LOS CASOS EN QUE SE COMPRUEBEN ACTOS DE CORRUPCION

EL GOBIERNO MEXICANO HA ACTUADO Y ACTUARÁ CON TODO EL RIGOR DE LA LEY DE LLEGARSE A COMPROBAR ACTOS DE CORRUPCIÓN, SEÑALÓ LA LICENCIADA MARÍA ELENA VÁZQUEZ NAVA, SECRETARIA DE LA CONTRALORÍA GENERAL DE LA FEDERACIÓN.

LA TITULAR DE LA SECRETARÍA DE LA CONTRALORÍA AFIRMÓ QUE EL GOBIERNO MEXICANO ESTÁ INVESTIGANDO Y PROCEDERÁ CON TODA ENERGÍA Y CON APEGO A LA LEY, EN CASO DE COMPROBARSE LAS ASEVERACIONES ATRIBUIDAS AL AGENTE DE IBM, KAVAN MOUSSAVI, APARECIDAS EN EL PERIÓDICO BRITÁNICO FINANCIAL TIMES, EL PASADO 3 DE FEBRERO, EN EL SENTIDO DE QUE TRES HOMBRES, SUPUESTAMENTE SERVIDORES PÚBLICOS MEXICANOS, CONCERTARON UNA CITA CON ÉL EN EL HOTEL NIKKO DE ESTA CIUDAD, E INICIALMENTE LE PIDIERON UN MILLÓN DE DÓLARES, Y POSTERIORMENTE CANTIDADES MENORES, TODO ELLO DURANTE EL PROCESO DE LA LICITACIÓN PÚBLICA INTERNACIONAL CONVOCADA POR LOS SERVICIOS A LA NAVEGACIÓN EN EL ESPACIO AÉREO MEXICANO, DEPENDIENTE DE LA SCT, PARA LA ADQUISICIÓN DE RADARES.

LA LICENCIADA VÁZQUEZ NAVA HIZO ÉNFASIS DE QUE EN EL CASO DE QUE SE LLEGARA A COMPROBAR QUE ALGÚN SERVIDOR PÚBLICO SOLICITÓ DINERO O PAGO ALGUNO, SE APLICARÁN HASTA SUS ÚLTIMAS CONSECUENCIAS LAS LEYES CORRESPONDIENTES; AL TIEMPO QUE SEÑALÓ QUE LA SECRETARÍA A SU CARGO HA ESTABLECIDO LA COORDINACIÓN NECESARIA CON LA PROCURADURÍA GENERAL DE LA REPÚBLICA PARA QUE INTERVENGA DE INMEDIATO, DE COMPROBARSE ALGUNA IRREGULARIDAD.

**DIRECCION GENERAL DE COMUNICACION SOCIAL**

**Kaveh Mousavi**  
 Tel: 0065 743374 Fax: 0065 730048



Without Prejudice

3 February 1983

For the attention of Mr William Lassalle

Dear Sir,

I acknowledge the receipt of your facsimile of today. As approximately 11.35 GMT today, Mr Haffey of your company informed me that all links between IBM and myself were being unilaterally severed by IBM. I was asked not to speak to any IBM officer except three named legal personnel. In the interests of consistency and clarity and to avoid any misunderstandings, I will therefore be communicating only through my legal advisors, who will shortly be in touch with you.

However, to oblige the Mexican Government for the leadership of which I have the highest regard, I confirm herewith that I did indeed receive requests for money while I was acting as IBM's agent in the SENEAM tender. The evidence for this is overwhelming. I contend that IBM are in possession of some of this evidence, and vociferously challenge IBM to deny this. The rest will be presented through the proper channels.

Considering that the issues raised here are the likely subject of legal action, I shall be most obliged if you would refrain from making any further attempt to contact me directly.

Yours faithfully,

Y.M.

in  
 Private

K. Mousavi

→ PGR had this. But did not  
 release it to the Press - why release IBM's  
 letter?

DE IGUAL FORMA, DESTACÓ QUE DE RESULTAR FALSAS LAS DECLARACIONES DEL SEÑOR KAVAH MOUSSAVI, SE PRESENTARÁ UNA DEMANDA EN SU CONTRA, Y SE SOLICITARÁ LA REPARACIÓN DEL DAÑO CAUSADO AL TRAVÉS DE LAS INSTANCIAS Y CONDUCTOS DE LEY, YA QUE NO SE TOLERARÁN DIFAMACIONES QUE LESIONEN A LA ADMINISTRACIÓN PÚBLICA MEXICANA. \*

LA TITULAR DE LA SECOGEF INFORMÓ QUE AL TENER NOTICIAS SOBRE LA NOTA INFORMATIVA DE FINANCIAL TIMES, ESTABLECIÓ CONTACTO CON EL PRESIDENTE Y GERENTE GENERAL DE IBM DE MÉXICO, INGENIERO RODRIGO GUERRA, Y LO COMINÓ A REALIZAR LAS ACLARACIONES Y APORTAR LOS ELEMENTOS DE SOPORTE EN SU CASO, DE LO ASEVERADO POR EL SEÑOR MOUSSAVI.

EL DÍA DE AYER, EL PRESIDENTE DE IBM ENVIÓ RESPUESTA A ESTA CONTRALORÍA, SEÑALANDO QUE EN NINGÚN MOMENTO, DURANTE O POSTERIOR AL PROCESO DE LICITACIÓN, IBM RECIBIÓ REQUERIMIENTOS DE DINERO POR PARTE DE FUNCIONARIOS PÚBLICOS MEXICANOS, ASIMISMO AFIRMÓ QUE EL SEÑOR MOUSSAVI NO ES FUNCIONARIO DE IBM, Y QUE LAS DECLARACIONES QUE VERTIÓ FUERON A TÍTULO PERSONAL.

FINALMENTE, LA CONTRALORA DE LA FEDERACIÓN AFIRMÓ QUE NO OBSTANTE LO MENCIONADO POR IBM, LA CONTRALORÍA HA REQUERIDO A DICHA EMPRESA LA PRESENCIA DEL SEÑOR KAVAH MOUSSAVI EN MÉXICO PARA QUE RATIFIQUE Y APORTE PRUEBAS EN TORNO A LAS DECLARACIONES VERTIDAS, TODA VEZ QUE DICHA PERSONA FUE CONTRATADA POR EL GRUPO DE CONTROL DE TRÁFICO AÉREO DE LA COMPAÑÍA DE SISTEMAS FEDERALES DE LA CORPORACIÓN IBM, PARA PROPORCIONAR SERVICIOS EN LA LICITACIÓN MENCIONADA.

-- 000 --

\*. The words of a neutral investigator are  
 doubt, My dear Holmes!!!  
 Neutral, impartial, unbiased report for due process.



**Kaveh Moussavi**

Tel: 0865 742374 Fax: 0865 750065

Without Prejudice

5 February 1993

For the attention of Mr William Lassalle  
 Vice President and Counsel  
 IBM Corporation

I. These days I suffered from  
 terrible  
 - Salinosis

Dear Sir,

I acknowledge the receipt of your facsimile of today. At approximately 11. 35 GMT today, Mr Haffey of your company informed me that all links between IBM and myself were being unilaterally severed by IBM. I was asked not to speak to any IBM officer except three named legal personnel. In the interests of consistency and clarity and to avoid any misunderstandings, I will therefore be communicating only through my legal advisors, who will shortly be in touch with you.

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Considering that the issues raised here are the likely subject of legal action, I shall be most obliged if you would refrain from making any further attempt to contact me directly.

Yours faithfully,



K. Moussavi



*International Business Machines Corporation*

the Chairman and Chief Executive Officer  
Federal Systems Company

640 Rockledge Drive, Bethesda, MD 20817

February 11, 1993

Lic. Luis Vazquez Cano  
 Undersecretary "A"  
 Secretariat of the General Controllorship  
 of the Federation  
 Insurgentes Sur No 1735  
 Col. Guadalupe Inn.  
 01020, Mexico, D.F.

Dear Mr. Vazquez:

I am the Chairman and Chief Executive Officer of IBM's Federal  
 Systems Company. Because of the regrettable situation  
 surrounding International Public Tender No. SGRM-04/92, summoned  
 by the Secretariat of Communications Transportation through the  
 services for the Navigation in the Mexican Airspace (SENEAM), for  
 the acquisition of radars and operation centers, I conducted an  
 investigation, the results of which are as follows:

On several occasions beginning in late October 1992, and  
 continuing into mid-November 1992, Dr. Kaveh Moussavi advised  
 two marketing representatives from the IBM International Air-  
 traffic Corporation (IATC) -- which reports to the Federal  
 Systems Company and submitted the proposal to SENEAM -- that  
 he had been approached by individuals in Mexico and told that  
 IBM's chances for winning the SENEAM contract would increase if  
 IBM were to make some type of contribution. The IATC employees  
 advised Dr. Moussavi that IBM's business conduct policy prohibits  
 such behavior, and IBM did not make nor intend to make any  
 contribution.

In part from Dr. Moussavi's oral assertions that the approaches  
 occurred, IBM has no evidence that would verify his statements on  
 his subject. Other than Dr. Moussavi's statements, at no time  
 has IBM approached directly or indirectly by members or agents of  
 the Government of Mexico, or anyone else, with any request for  
 any contributions of any kind in connection with this bid.

IBM takes its business conduct policies and matters of this kind very seriously. The two employees appropriately rejected the requests related to them by Dr. Moussavi, and, as a result, took no further action.

Based on the results of my investigation, IBM has terminated its agency relationship with Dr. Moussavi, and IBM has no other contract with him.

Very truly yours,

*Gerald W. Ebker*

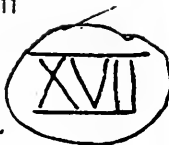
Gerald W. Ebker

G-2:kn

SECRETARIA  
DE LA CONTRALORIA  
GENERAL  
DE LA FEDERACION

ANEXO 11

SUBSECRETARIA "A"  
DIRECCION GENERAL DE  
RESPONSABILIDADES Y  
SITUACION PATRIMONIAL  
OF. NO. 220/00114



MEXICO, D.F. A 12 DE FEBRERO DE 1993

ROBERT X. PERRY JR.  
WILKES, ARTIS, HEDRICK Y LANE  
ABOGADOS  
1000 CALLE K, N.W.  
WASHINGTON, D.C. 20006-2866

EN RELACION A SU COMUNICACION DE ESTA MISMA FECHA, DIRIGIDA AL LICENCIADO LUIS VAZQUEZ CANO SUBSECRETARIO "A" DE LA SECRETARIA DE LA CONTRALORIA GENERAL DE LA FEDERACION, Y EN ATENCION A QUE DE LA MISMA SE DESPRENDE QUE EL ASUNTO EN CUESTION PODRIA SER COMPETENCIA DE LA DIRECCION GENERAL DE RESPONSABILIDADES Y SITUACION PATRIMONIAL A MI CARGO, A LA QUE LE CORRESPONDE PRACTICAR DE OFICIO O POR DENUNCIA DEBIDAMENTE FUNDADA LAS INVESTIGACIONES QUE SOBRE EL INCUMPLIMIENTO POR PARTE DE LOS SERVIDORES PUBLICOS DE LAS DISPOSICIONES A QUE SE REFIERE LA LEY FEDERAL DE RESPONSABILIDADES, LE SOLICITAMOS QUE EL MENCIONADO SR. KAVEH MOUSSAVI, DE RESPUESTA A LAS PREGUNTAS SIGUIENTES:

¿ CUALES SON LOS NOMBRES DE LAS PERSONAS POR LAS QUE DICE FUE ABORDADO Y REQUERIDO PARA SOLICITARLE HACER UNA CONTRIBUCION ?.

¿ TIENE CONOCIMIENTO DE SI ALGUNA DE ESTAS PERSONAS SON O NO SERVIDORES PUBLICOS ?. EN CASO AFIRMATIVO FAVOR DE PROPORCIONARNOS SUS CARGOS Y A QUE DEPENDENCIA O ENTIDAD PERTENECEN

APRECIAREMOS QUE DICHA CONTESTACION SE BRINDE DE INMEDIATO AL TELEFAX NUMERO 534-65-11 EN ESTA CIUDAD DE MEXICO, DISTRITO FEDERAL, Y SIMULTANEAMENTE POR CORREO CERTIFICADO.

ATENTAMENTE  
EL DIRECTOR GENERAL

LIC. MANUEL GALAN JIMENEZ

## WILRES, ARTIS, HEDRICK &amp; LANE

CHARTERED

ATTORNEYS AT LAW

1000 K STREET, N. W.

SUITE 1100

WASHINGTON, D. C. 20003-2836

(202) 457-7600

300 WOODBURY METRO CENTER  
SUITE 800

BETHESDA, MARYLAND 20814-3000

11000 BARDON HILLS ROAD

SUITE 800

FAIRFAX, VIRGINIA 22030-8000

SEE WILAM  
1003-27-7910BART, JR.  
1900

February 18, 1993

Lic. Manuel Galan Jimenez  
El Director General  
Secretaria de la Contraloria General  
de la Federacion  
Subsecretaria "A"  
Direccion General de Responsabilidades  
Situacion Patrimonial Of. No. 220/00134  
Mexico, D.F.

004773

This is in response to your letter of February 12, 1993 in which you asked my client, Kaveh Moussavi, to provide the names of the persons who requested a payment of money and to state whether they were government employees. This letter also supplements my earlier letter of February 12, 1993.

As I advised in my letter, Mr. Moussavi is willing to cooperate with the Mexican government in its investigation of this matter. However, it is difficult for us to cooperate in an investigation where the investigating government seems predisposed not to accept the allegations of corruption. If the Mexican government wishes to have Mr. Moussavi's continued cooperation, we must be assured of the government's good will toward him and of its willingness to conduct the fair investigation that his allegations deserve.

In response to your questions of February 12, 1993, Mr. Moussavi does not know the names of the three men in question because they did not identify themselves. Mr. Moussavi assumes, but he does not know with certainty, that these men are Mexican government employees. Certainly, there are a number of circumstances indicating that they were government employees:

- They were most knowledgeable of the details of the tender;
- They said that making the requested payment would make it more certain that IBM would win the award of the contract, and they indicated an ability to influence the contract award;

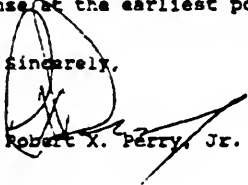
ES. ARTIS. HEDRICK & LANE  
CHARTERED

Lic. Manuel Galan Jimenez  
February 18, 1993  
Page 2

- When Mr. Moussavi refused to make the requested \$1 million payment, they suggested a contribution to the government's anti-poverty program;
- In evaluating the legality of the requested payment, Mr. Moussavi asked them to demonstrate they were not government officials, but they were not able to do that; and
- During the hour-long discussion these men gave every impression of being government officials. They showed no fear of being arrested. They were willing to conduct the meeting openly in the lobby of the Nikko hotel. When Mr. Moussavi excused himself to make a telephone call to his principal they made no effort to leave, but calmly waited for him to return.

I look forward to your response at the earliest possible date.

Sincerely,



Robert X. Perry, Jr.

XPJr:sgf

- See Also FEESEVA Minuta f. (XIX)  
General Control

**IBM DE MEXICO ACLARA SU POSICION ANTE LA CONTROVERSIAS  
SUSCITADA POR EL CASO DE SENEAM**

México, D.F., 17 de febrero de 1993. Durante los últimos días, diversos medios de comunicación nacionales, han informado sobre un artículo publicado en el diario británico "Financial Times", el 3 de febrero pasado en el que aparecen declaraciones atribuidas al Dr. Kaveh Mousavi, agente comercial trabajando para la Corporación IBM.

Debido a la controversia ocasionada por esta situación, es importante resaltar lo siguiente:

1. El Dr. Mousavi nunca ha sido empleado de IBM, él fue un agente comercial contratado por la Corporación Internacional de Control de Tráfico Aéreo (IATC) de la Compañía de Sistemas Federales de IBM, ambas empresas de nacionalidad y con domicilio en los Estados Unidos de América, con el objeto de ofrecer servicios de soporte a la comercialización en relación con la participación de IBM en la licitación pública internacional no. SENEAM-04/92, convocada por SENEAM, organismo descentralizado de la SCT. El papel de IBM de México en esta propuesta, se concretaba a proporcionar a IATC los productos estándares que su ofrecimiento a SENEAM requería.

2. Por lo que respecta a las declaraciones que el Dr. Mousavi hiciera en el sentido de haber recibido una supuesta solicitud de dinero por parte de aparentes funcionarios mexicanos queremos establecer lo siguiente:

A. IBM fue contactada en los Estados Unidos por el Dr. Mousavi, a través de conversaciones con dos representantes de ventas del IATC, de que había sido abordado a fines de 1992 en México, por individuos que le informaron que las oportunidades de IBM de ganar el contrato de SENEAM aumentarían si IBM hacía algún tipo de contribución.

T 03/1

SOLIMEX18489

EL FINANCIERO SA

18.02.93 01/21

## Comunicado de Prensa

IBM de México, S.A.  
Oficinas Centrales Mariano Escobedo 508  
11500 México, D.F.

**IBM**  
IBM MEXICO

... 2

B. En ningún momento, durante las conversaciones habidas con los representantes de IEM, ni en forma posterior hasta la fecha, el Dr. Moussavi ha presentado pruebas a IEM que respalden sus aseveraciones. En virtud de que IEM considera de primordial importancia el cumplimiento de sus políticas y normas de conducta comercial, y trata asuntos de esta naturaleza con gran seriedad, los empleados referidos, correctamente rechazaron las solicitudes a que se refiere el Dr. Moussavi.

En relación a lo antes establecido, IEM solicitó al Dr. Moussavi que proporcionara información aclaratoria. El mismo Dr. Moussavi envió una comunicación a IEM sin aportar información adicional o evidencia que respalde sus aseveraciones, situación que ya ha sido del conocimiento de la Secretaría de la Contraloría General de la Federación. Por lo anterior cabe concluir que IEM en ningún momento fue abordada por miembros o agentes del Gobierno mexicano para que aportara contribución alguna en relación a esta licitación.

Dados los inconvenientes provocados tanto al Gobierno de México como a IEM, IEM lamenta profundamente este incidente y se ha disculpado con el Gobierno de México al respecto.

En virtud de lo anterior, es pertinente confirmar que la relación comercial de IEM con el Dr. Moussavi ha sido dada por terminada, no teniendo IEM ninguna otra relación de ningún tipo con él.

"Nos hemos puesto en contacto con la Secretaría de la Contraloría General de la Federación, con el objeto de proporcionar y aclarar cualquier información pertinente a esta situación", dijo el Ing. Rodrigo Guerra, Presidente y Gerente General de IEM de México.



# Comunicado de Prensa

IBM de México, S.A.  
 Oficina Carretera México Ecobaco 538  
 17360 México, D.F.

**IBM**  
 IBM MEXICO

... 3

El Ing. Guerra agregó: "Desde 1927, la relación comercial con nuestros socios de negocios, empleados y clientes, entre los que se encuentra al Gobierno de México, ha sido de respeto mutuo, y siempre ha conservado el más alto nivel ético, tanto en el aspecto de negocios, como en nuestros múltiples programas para el apoyo a nuestra comunidad.

"De hecho, nuestra actividad comercial con el Gobierno mexicano ha aumentado significativamente durante los últimos cinco años, con resultados positivos, y en ningún momento hemos incurrido en actos que implicaran el incumplimiento con nuestras políticas y prácticas de conducta comercial, en lo que se refiere a corrupción o a cualquier otra situación indebida o ilegal.

"IBM continuará con sus planes de crecimiento dinámico en nuestro país; tenemos confianza total en México y un profundo respeto por sus instituciones. Esta es una tierra de enormes oportunidades, que ofrece un brillante futuro a la gran mayoría de compañías nacionales e internacionales que operamos aquí", concluyó el Ing. Guerra.

FOR THE ATTENTION  
 of Bob Felt  
 JAMES  
 Robert

SECRETARÍA  
DE LA CONTRALORÍA  
GENERAL  
DE LA FEDERACIÓN



BOLETÍN DE PRENSA

No. 15

México, D. F., 19 de febrero de 1993.

**KAYEH MOUSSAVI NO APORTO ELEMENTOS PARA PROCEDER  
ADMINISTRATIVAMENTE CONTRA SERVIDOR PÚBLICO ALGUNO**

*Subst. 20/2/93*

En relación a las afirmaciones del señor Kayeh Mousseavi, publicadas en el periódico británico Financial Times, el día 3 de febrero del presente año, cabe señalar que la Secretaría de la Contraloría General de la Federación, en la misma fecha, cominó al Presidente de la IMN de México, a realizar las aclaraciones pertinentes con el objeto de proceder en consecuencia.

De acuerdo a lo anterior, el día 12 de febrero, IMN dio contestación a esta Secretaría, en el sentido de que además de las afirmaciones "....." "....." "....." no existen evidencias que pudieran corroborar las declaraciones de esta persona al respecto. Por otro lado, informó que el mismo señor Mouscavi envió una comunicación a IMN sin aportar información adicional o alguna tipo de evidencia.

Asimismo, el propio día 12 de febrero la Secretaría de la Contraloría General de la Federación, solicitó al señor Moussavi, por conducto de su abogado, que informara por escrito los nombres de las personas por las que fue abordado; si éstas son o no servidores públicos; la institución a la que pertenecen.

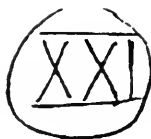
**DIRECCION GENERAL DE COMUNICACION SOCIAL**

Sobre el particular, el día 18, dicho abogado informó a la SECOGEP que su representado dice que "no conoce los nombres de los tres hombres en cuestión porque ellos no se identificaron". También "que supone aunque no lo sabe con certeza, se trataba de empleados del gobierno mexicano".

El señor Muncavi, a pesar de haber sido requerido en varias ocasiones, no ha aportado elementos que permitan instaurar el procedimiento administrativo contra algún servidor público, estipulado en la Ley Federal de Responsabilidades de los Servidores Públicos; el día de hoy, de acuerdo a la coordinación establecida con la Procuraduría General de la República, desde el 5 de febrero, se está procediendo a turnar a esa Institución, la información aportada por IBM y el señor Moussavi.

Esto, con el propósito de que en términos de sus atribuciones y si lo estima pertinente, cite al señor Moussavi, para que proporcione los datos conducentes, le ponga, en su caso los instrumentos que le permitan precisar las mencionadas afirmaciones; y de acuerdo al resultado de lo anterior, la Procuraduría pueda proceder en consecuencia.

Por último, es importante señalar que el gobierno mexicano, desde el primer momento en que se conocieron las declaraciones del señor Moussavi, ha pagado por el esclarecimiento de los hechos aseverados estableciendo comunicación inmediata con IBM de México, así como con el señor Kavah Moussavi.



**PROCURADURÍA GENERAL DE LA REPÚBLICA**

**DIRECCION GENERAL DE AVERIGUACIONES PREVIAS**

**A.P. NÚMERO:** 1267/DO/93.

**DENUNCIANTE:** LICENCIADO MANÚEL GALÁN JIMÉNEZ.  
DIRECTOR GENERAL DE RESPONSABILIDADES  
Y SITUACIÓN PATRIMONIAL.  
SECOGEF

**DELITO:** HECHOS POSIBLEMENTE DELICTUOSOS.

**PRESUNTO RESPONSABLE:** Q.R.R.

**FECHA DE INICIO:** 22 DE FEBRERO DE 1993.



SECRETARIA DE COMUNICACIONES

Y

TRANSPORTES

SENEAM



FORMA CO. 114

México, D.F., 17 de Marzo de 1993.

Lic. Carlos Salinas De Gortari  
 Presidente Constitucional de los  
 Estados Unidos Mexicanos  
 P R E S E N T E.

Deseamos exponer a usted nuestra preocupación por la serie de graves actos y hechos así como los antecedentes, relativos a las licitaciones internacionales (SGRM 01/92 y SGRM 04/92) con vocadas por Servicios a la Navegación en el Espacio Aéreo Mexicano S.C.T. (SENEAM), con el propósito de adquirir equipos para el control de tránsito aéreo en la República Mexicana, consistente en radares y sistemas de procesamiento.

## A N T E C E D E N T E S

En el mes de septiembre pasado se convocó en primera instancia, a las compañías interesadas en proveer equipos para el control de tránsito aéreo, en esta ocasión se inscribieron siete compañías, dos meses después (25 de Noviembre) se declaró desierta, al determinarse que ninguna de las empresas cumplía con el 100% de las especificaciones. El día 3 de diciembre se convoca nuevamente a empresas con el mismo propósito, sin realizarse grandes modificaciones a las especificaciones y equipamiento requerido, para esta ocasión se inscribieron las mismas siete empresas, presentando sus ofertas el día 16 de diciembre, doce días después el 28 de diciembre, SENEAM determina que tres empresas cumplan con el 100% de las especificaciones del equipo radar y solicite una empresa con las del equipo de procesamiento, determinándose asignar los contratos a la empresa de más bajo precio en los radares, Alenia, y los de procesamiento a la empresa Thomson.

La Secretaría de la Contraloría General de la Federación recibió inconformidades de las cinco empresas que no fueron consideradas en la adjudicación. La totalidad de estas empresas aseguran que los incumplimientos imputados no son tales, y que sus propuestas no están siendo debidamente evaluadas y/o interpretadas.

Para el año de 1980 el Gobierno Mexicano ya había adquirido un radar para el aeropuerto de la Cd. de México a la empresa SELLENIA, (ALENIA), así como un sistema de procesamiento para el centro de control a la empresa Thomson, el cual estaba especificado para realizar gran parte de las funciones requeridas para -



SECRETARÍA DE COMUNICACIONES

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los sistemas ahora licitados, sin embargo desde su puesta en operación por técnicos mexicanos, en el año de 1985, estamos seguros varios años después de lo que especificaba el contrato, nunca han operado estas funciones ocasionando que la operación de este centro de control se lleve a cabo básicamente en las mismas condiciones que, las del operado antes de 1985, y que fuera adquirido en los años 60's, con la consecuente ineficiencia operativa y faltas graves de seguridad, con esta misma consecuencia ha operado el radar adquirido a la empresa SELENIA, debido a las continuas y prolongadas fallas, y a la falta de compatibilidad con los sistemas de procesamiento actualmente en operación y que nunca fuera resuelto, como estamos seguros también lo exigía el contrato, y así mismo los prolongados períodos de inoperativos y los requeridos para surtir refacciones y servicios por parte de ALENIA que han llevado a ser de 18 y 24 meses.

El actual sistema de comunicaciones de centro de control implementado por la compañía Thomson, al mismo tiempo de los sistemas de procesamiento, desde siempre ha causado graves problemas de operación y compatibilidad con los instalados en otros centros y subcentros. En el mismo período en que la fueron adquiridos a la empresa Thomson los sistemas de procesamiento y comunicaciones, se adquirieron a la empresa Calmaquip equipos de comunicaciones para los centros de Monterrey, Mérida y cuatro subcentros, los cuales no eran compatibles con los suministrados por Thomson originándose hasta la fecha serios conflictos al no poderse dar una comunicación ágil y segura, entre controladores de vuelo, de los diferentes centros de control.

## E E C H O S

Sr. Presidente estamos seguros que, como para nosotros, para usted, antes que cualquier compromiso personal o político, está la seguridad de las vidas humanas, y las propiedades que dependen de la correcta operación de los equipos y personal que laboramos en SENEAM por ello es que recurrimos a usted para que evite que los contratos producto de las licitaciones mencionadas se asignen como está sucediendo ahora a empresas que anteriormente han incumplido con sus compromisos en tiempo y calidad y que están siendo beneficiadas por causas ajenas a lo enmarcado por nuestras leyes y reglamentos, y más aún evidenciándonos ante la comunidad internacional como un país corrupto y mal intencionado ya que si deseábamos comprar a una marca determinada



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y un nivel tecnológico al alcance de nuestros presupuestos, no teníamos por que convocar internacionalmente pretendiendo que adquiriríamos la mejor tecnología de punta a la empresa que en mejores condiciones nos la ofreciera. Permitanos asegurarle Sr. Presidente que en esta ocasión como en las anteriores, no se está adquiriendo la mejor tecnología y mucho menos en las mejores condiciones económicas, ya que no es posible para ninguna empresa, realizar los cambios necesarios en sus diseños y cotizarlos en veinte días totales, que tuvieron entre haber de clarado desierta la primer licitación y presentar ofertas para la segunda, a menos que estén ofreciendo un sistema que sólo existe en su imaginación y buenas intenciones.

La asignación de los contratos a ALENIA y THOMSON por tanto se dió por razones que distan de ser éticas y ajustadas a razonamientos técnicos, lo anterior lo aseguramos basados en los siguientes puntos:

1.- Se está "pagando" al Ing. Jorge Cedejas Q. promotor de la empresa ALENIA, el hecho de haber purgado una condena por mal comportamiento durante su gestión como servidor público, ya que pudimos darnos cuenta como el Sr. Cedejas sacó provecho de su cercana relación con el Ing. Roberto Kobeh y la Oficial Mayor de la SCI en favor de la empresa seleccionada para proveer los equipos radar, que por los antecedentes de baja calidad y confiabilidad con que han operado en México, y los escasos avances tecnológicos presentados, no debió ser considerada para tal adjudicación.

2.- La evidente y estrecha relación personal del Ing. Roberto Kobeh con la representante de la Cía. Thomson, la que en al menos dos veces al año es su anfitriona en Europa en compañía de familiares y amigos, todo esto desde que el Ing. Kobeh prestaba sus servicios en la Dir. Gral. de Aeronáutica Civil. Se pudo presenciar como un grupo de técnicos autorizados por el Ing. Kobeh y encabezados por los Ing. Juan José Dorantes y Luis J. García Pérez asesoraban a la empresa Thomson en la presentación técnica y económica de sus ofertas, con el único fin de asegurarse que en el papel esta empresa cumpliría con lo requerido por SENEAM, con el compromiso de que ya adentrados en el proceso de instalación y puesta en operación se aceptarían desviaciones a los requerimientos con el propósito de ajustarse a la realidad técnica y económica de Thomson, en varias sesiones de trabajo se propusieron cambios a los requerimientos, tratando de beneficiar a esta empresa, y obstaculizar los cumplimiento de las otras, sobre todo en lo relativo al nivel tecnológico.

TAX



SECRETARÍA DE COMUNICACIONES

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co, sabiendo que si éste era alto las posibilidades de Thomson y Alenia se esfumarían.

3.- El hecho de que funcionarios públicos se presten para promover y comprometer actos de tanta trascendencia, en la seguridad del espacio aéreo mexicano, así como el prestigio y credibilidad de las acciones promovidas por usted en el ámbito nacional e internacional, provocando un claro desacreditamiento del servicio y función pública.

Sr. Presidente no tenemos la intención de abogar por cualquiera de las empresas participantes, simplemente consideramos que los motivos y la forma con que fueron seleccionadas las empresas ganadoras, no garantizan, como ya sucedió anteriormente, que vayamos a contar con los sistemas radar y de procesamiento idéneos para realizar nuestro trabajo en forma segura y eficiente.

Aprovechando la presente oportunidad, solicitamos a usted se investigue, por parte de la SECOGEP, Secretaría de Hacienda y demás instituciones que proceda, el actuar hasta la fecha de los Sres. Roberto Kobeh G. Director General de SENEAM, Juan J. Dorantes Rubio Gerente Técnico, Roberto Espinosa Carrizales Gerente de Administración y los Gerentes Regionales Luis J. García Pérez y Oscar Amable Martínez del C. estamos seguros que una rigurosa investigación de la fuente de alfombras de sus ingresos, los llevarán a varios proveedores y mal uso de los bienes y presupuesto de SENEAM, principalmente del Sr. Kobeh y familia, quien sabemos ha recibido innumerables obsequios y donativos en efectivo por parte de los representantes de Thomson y Alenia, así también ha instruido a personal para beneficiar en diversos procesos de adquisición, a amíagos como el Ing. Cendejas en una licitación reciente de Sistemas de Alimentación Ininterrumpida y la ya mencionada de Radares.

Confiamos sinceramente que usted procederá en este penoso asunto y no permita que seamos seriamente dañados por la equivocada forma de comportarse de estos funcionarios. Estamos seguros que de convocarse en un marco de verdadera transparencia, vendrán y participarán en México para proveer estos equipos, otras muchas empresas que estarán dispuestas a aportar verdaderas tecnologías de punta a precios competitivos. Señor usted estará de acuerdo en el hecho que México no debe justificar sus





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malas compras por su pobre preaupuesto o aceptar precios directos bajos y que a corto y mediano plazo resultan en los más altos, al requerirse de presupuestos elevados para mantenimiento y operación.

Agradeceremos a usted toda acción que se lleve a cabo a fin de evitar los inevitables perjuicios que en las actuales condiciones sufriría nuestro Sistema de Control de Tránsito Aéreo en cuanto a calidad y seguridad ante la creciente demanda de este servicio en el Territorio Nacional.

RESPECTUOSAMENTE.

COMITE TECNICO OPERATIVO PRO  
MEJORAMIENTO DE LAS CONDICIONES  
DE CALIDAD Y SEGURIDAD DEL CONTROL  
DE TRANSITO EN EL ESPACIO AEREO  
MEXICANO. (CSGHYT)

c.c.p. Lic. Jorge Carpizo McGregor .- Procurador General de la  
República.

***Kaveh Moussavi***

56, Old Road, Oxford, OX3 7LL,  
United Kingdom

Tel + 44 865 742374 Fax + 44 865 750065

10 April 1993

Dr Jorge Carpizo,  
Attorney General of the United Mexican States  
Ministry of Justice,  
Mexico D. F.  
Mexico

Dear Dr Carpizo,

I am writing to you on the advice of a journalist at the newspaper "El Financiero", in the hope that you would agree to take up the investigation of the statements that I have made in the Financial Times of February 3rd 1993. The journalist in question assures me that I would obtain a fair hearing from your excellency. The purpose of such an investigation would not only be to clear my name, but also to investigate what I can only assume is a crime in Mexico.

Ever since the publication of my statements I have been the victim of a massive, deliberate, orchestrated campaign of defamation and slander in the Mexican press. This campaign has been unquestionably instigated by the Mexican Government. The lead for this was given in less than 24 hours after my allegations appeared in print by the ministry of the Contraloria. On the morning of the 4th of February they had already concluded that I was a liar who had violated the honour of the Mexican public administration. They managed to put out two press bulletins in the course of 48 hours in which I was condemned. The Minister of Transport and Communications did even better and already on the 6th of February

announced that I was a liar and would be imprisoned. What possible investigation these two ministers could have carried out in such a short time I simply do not know. The question becomes even more urgent when we see that the very first- and up to now the only and the last- questions put to the key witness in this case were drafted and sent on February 12th, i.e. 6 days after Minister Caso passed sentence on me and 7 and 8 days after the Controleria's press releases.

Excellency, is it the case that in Mexico in which an Attorney General of your stature, fame and reputation towers over the legal system, investigations of the crime of attempted bribery are carried out in this manner? Is this not a complete and total violation of all your teachings throughout your long, distinguished and outstanding career that a senior member of the executive should act as prosecutor, judge and jury all at the same time? Is it within the domain of the responsibilities of the executive arm of the state to issue judicial pronouncements? Was Sr. Caso a member of the judiciary which would qualify him to pass prison sentences? I assume that the doctrine of separation of powers continues to be respected in Mexico. Is it not the responsibility of the Attorney General of Mexico to initiate an investigation of a federal crime? On the conclusion of such an investigation am I not correct in thinking that the prosecution of such a case is conducted in a properly constituted court of law? And what of that court of law? Would such a court not be subject to what is recognised in the Mexican judicial system itself as "due process" of law? In such a court is not the accused permitted the right and a chance to conduct a proper defence? And at the end of proceedings, is the verdict not left to a properly constituted jury? And once the jury has reached its verdict- assuming it's a guilty verdict- who is it that decides on what the sentence is to be? Is it not a judge who decides on these matters? And how long does all this take? Is it the norm that the judicial process is so fast in Mexico that the whole thing is completed in 24 hours, in the case of the Controleria and 72 hours in the case of Sr. Caso?

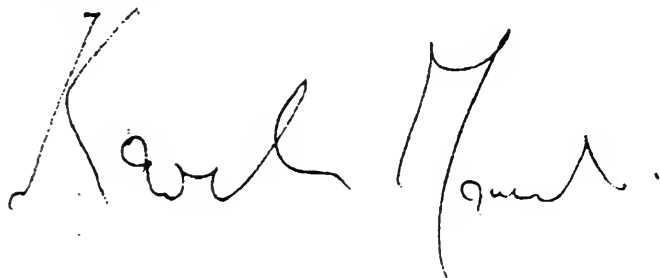
Excellency, despite the enormous suffering that has been inflicted on myself and my family as a result of your government's

sustained propaganda drive against me, I do nevertheless continue to believe in the great project that President Salinas has embarked upon in Mexico. I still have faith in his administration. I trust that when you read this plea for a fair hearing of my side of the story, you will feel able to concede that these words are written in a spirit of utmost sincerity and goodwill towards your government. You would no doubt have known this by reading my statements to *El Financiero*- as indeed you would have learned if you had heard my interview with *Radio Red*, the broadcasting of which was suppressed by the Ministry of the Interior in February.

May I please invite you to open a formal investigation into the circumstances leading up to and including the events that took place on the morning of November 9th 1992 at the Nikko Hotel in Mexico City. I have stated on a number of occasions both publicly and in direct correspondence between my attorney and the *Controleria* that I am anxious to co-operate with the law enforcement agencies of Mexico. My eagerness so to do has become specially urgent in view of the very serious damage that has been inflicted on my name in your country by the government driven press. You may take my total co-operation for granted. You will understand, however, if in the present circumstances I decline an invitation to appear before an examining magistrate in Mexico. The atmosphere of witch hunt that has been instigated by your government against me, does not give me great confidence about my physical safety in Mexico. I therefore invite you to give firm instructions to your embassy in London to agree to see me and to take a full statement from me.

Sir,

I have the honour to remain at your service,

A handwritten signature in cursive script, appearing to read "Karel M. Gunt". The signature is written in dark ink on a light background.



PROCURADURÍA GENERAL  
DE LA  
REPÚBLICA

ANTONIO JIMÉNEZ FRÍAS, peritos traductores del idioma inglés al español y viceversa, designados en esta fecha por la Dirección General de Servicios Periciales de la Procuraduría General de la República, HACEN CONSTAR: que han tenido a la vista una fotocopia certificada de una carta autógrafa escrita en español, que traducen al inglés como sigue:

FORMA C.G. 14



(Mexican coat of arms)  
Secretary's Office  
Inspector General's Office of the Federation

The Sum Total of The  
Mexican Government's investigation!!

ANEXO 11

Undersecretary "A"  
General Bureau of Liability and Property Status  
Official Communication 220/00114

Mexico, Federal District February 12, 1993

Robert X. Perry Jr.  
Wilkes, Artis, Hedrick & Lane  
Chartered Attorneys-at-Law  
1000 K Street, N.W.  
Washington D.C. 20006-2866

Regarding your communication of this date addressed to Luis Vazquez Cano, Undersecretary "A" of the Secretary's Office of the Inspector General's Office of the Federation, and considering that from said communication it appears that the issue in question could fall within the competence of the General Bureau of Liability and Property Status in charge of conducting investigations, either at the government's initiative or based on well-founded claims, regarding non-compliance by public servants of the provisions set forth by the Federal Law on Liability, we need the following information to be forwarded by Mr. Kaveh:

The names of the individuals who contacted him and solicited a contribution.

If they know that said individuals are public servants and if positive, their names, positions held and entity they work for.

Please send your answer immediately by fax to the number 534-6511, Mexico City, Federal District, and simultaneously by certified mail.

The Director General

Manuel Galán Jimenez

RESPECTUOSAMENTE

México, D.F., a 13 de abril de 1993.

CARMEN CORONA DE ALBA

JOSÉ ANTONIO JIMÉNEZ FRÍAS

***Kaveh Moussavi***

56, Old Road, Oxford, OX3 7LL,  
United Kingdom

Tel + 44 865 742374 Fax + 44 865 750065



16 April 1993

**His Excellency E. Gamboa Patron,  
The Secretary of State for Transport and Communications,  
Ministry of Transport and Communications,  
Mexico D.F.  
Mexico**

Dear Mr Secretary,

First and foremost allow me to extend my sincere congratulations to your excellency on your appointment to your new post. You will, no doubt, be aware that I have a special reason for welcoming this change at the top of the Ministry of Transport. It is my sincere hope that your arrival at the helm may usher in an intense investigation into establishing the accuracy, or otherwise, of my statements published in the Financial Times on February 3rd.

Your excellency will, I am certain, not be unaware of the one sided, libellous and highly unfair propaganda drive unleashed in the Mexican press against me in the last two months. Your predecessor, within two days of the publication of my statements made an absurd, if not comical, statement to the press purporting to have carried out a full investigation into my allegations and had concluded that I was a liar and should be thrown into prison. Precisely how he could have carried out such a detailed investigation leading to such definite conclusions, it has never been explained. In any event Sr. Caso by taking such a forceful and public position so early on in the case, ended up boxing himself

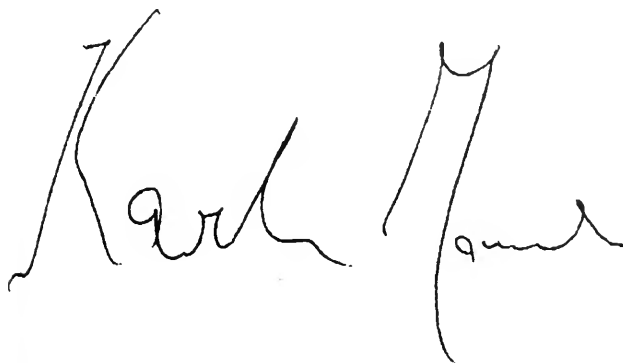
into a position and thereby disqualified himself from presiding over anything like a serious investigation.

That is precisely why I specially welcome the appointment of your excellency as the head of the Ministry of Transport and Communications. Can I hope that you will, as a matter of greatest urgency, order an intense and unbiased investigation into the recent SENEAM tender? In doing so you can most certainly count on my total co-operation as has already been confirmed by my attorney in correspondence with your government.

I therefore request that you order your embassy in London to take a full statement from me. I think you will understand my reasons for not wishing to travel to Mexico in the present climate of witch hunt that has been instigated by the government controlled media. This is the only condition that I would ask you to accept. Otherwise I shall be available to assist with whatever line of enquiry that your investigators might wish to follow.

Excellency,

I have the honour to remain at your service

A handwritten signature in black ink, appearing to read "Karl Gustaf". The signature is written in a cursive, flowing style with long, sweeping lines.



Versión de la rueda de prensa del  
 licenciado Andrés Caso Lombardo,  
 celebrada en el Salón Verde de la  
 Secretaría de Gobernación.  
 México, D.F. 3 de mayo de 1993

-ar. secretario de Gobernación, licenciado Patrocinio González Gar-  
 rido: Buenas tardes compañeras y compañeros de los medios de comu-  
 nicación. Mi amigo el señor licenciado Andrés Caso Lombardo se reunió  
 conmigo en varias ocasiones con el propósito de expresarme sus  
 puntos de vista sobre ciertas determinaciones que él a tenido a bien  
 tomar y que habrá de hacer de manera breve del conocimiento de usted-  
 es.

Al licenciado Andrés Caso Lombardo, le he expresado el respeto del g-  
 bierno y mi comprensión personal, en las actitudes que ha tenido a bien  
 tomar.

Quiero por tratarse de un asunto de declaraciones de tipo personal  
 dejar con ustedes al licenciado Andrés Caso Lombardo y agradecerles  
 su presencia a esta reunión que se realiza como consecuencia de la  
 comunicación que me acaba de hacer don Andrés Caso Lombardo sobre  
 estas decisiones.

(LIC, ANDRÉS CASO LOMBARDO):- Yo quisiera hacer una breve explica-  
 ción. En primer lugar muchas gracias por estar aquí presentes compa-  
 ñeros de los medios de comunicación. Los he molestado a ustedes  
 porque he creído conveniente informar ampliamente a la opinión  
 pública nacional por su amable conducta, que como ustedes están en-  
 terados del mes de febrero se inició una serie de acusaciones, de



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 LIC. ANDRÉS CASO LOMBARDO  
 3 de mayo de 1993

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ataques que el señor Moussavi juzgo convenientes llevar a cabo con motivo del concurso que se hizo en México para adquirir radares y centros de control de tráfico aerero. La empresa que representó Nissho Iwai no fue la ganadora y eso originó una protesta formal que al canalizarse con otras protestas y otras empresas que tampoco resultaron triunfadoras en este certamen originó una protesta que la secretaria de la Contraloría de la Federación dentro de sus atribuciones intervino de tal manera que al término de la investigación confirmó los dictámenes y las decisiones que se tomaron en el seno del comité que evaluó estos equipos. Así, la evaluación de los radares y los centros de control fue llevado a cabo por el (SENEAM), que es el órgano técnico que maneja el control de tráfico aéreo; el Instituto Mexicano de Telecomunicaciones, es el órgano técnico del sector comunicaciones y transportes en materia de telecomunicaciones y se recurrió al dictamen técnico de un experto de una compañía experta en controles de tráfico aéreo como es la canadiense Martín Marieta.

Además la intervención de la contraloría determinó que los concursos se habían llevado a cabo en forma transparente y que en consecuencia las dos empresas que habían ganado, la empresa Thomson CSP y Alenia, la empresa Thomson empresa francesa y Alenia empresa italiana habían ganado por condiciones adecuadas de los equipos y por menor precio ofrecido por ellos.

En concurso se realizó cabalmente en todos sus pasos y no fue objeto de protestas sino de una objeción formal al término de que establece la ley. Ahí intervino la contraloría y dio el fallo confirmando lo que el

LIC. ANDRÉS CASO LOMBARDO  
3 de mayo de 1993

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sector comunicaciones había resuelto en aquel entonces.

Fue entonces cuando a principios de febrero, el señor Mousseavi señaló en Inglaterra, en Londres, que tres hombres aparentemente funcionarios del gobierno de México se habían acercado a él y de habían solicitado un millón de dólares para poder fallar a favor de la empresa que el representaba.

Ante esta afirmación, hicimos de inmediato las investigaciones. La Secretaría de la Contraloría hizo la investigación y la propia Procuraduría General de la República participó en la propia investigación.

Ahora bien el señor Niissho Iwai no ha podido probar, así lo ha manifestado, Mousseavi no ha podido probar.

Nunca que estos tres personajes que él dice le pidieron dinero para orientar el fallo han sido, primero sin existen, segundo lugar, si son funcionarios del gobierno mexicano, y en tercer lugar, si en su afirmación comprueba una serie de hechos que no ha podido demostrar. Pasó el tiempo, en ese momento, había llegado al final de este proceso y fue nominado para un cargo en la diplomacia mexicana. En ese momento el señor Mousseavi debidamente orientado comenzó a endersar una serie de ataques ya no al concurso, sino cambiando de objetivo y de miras a mi persona acusándome de hechos delictuosos y acusando al gobierno de México o una parte del gobierno de México de haber trabajado en forma indebida en esos concursos.

Es cierto que ya la prensa inglesa no volvió a publicar una sola línea y tuvo eco en algunos medios de nuestro país. Pero se siguió actuando, se siguió en una verdadera campaña de nuestros personales con el objeto no de desprestigiar a un servidor público que tiene 48 años al servicio de la administración de nuestro país sino a la administración pú-

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 3 de mayo de 1993

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blica en general y en particular al gobierno de la República. Ante estas circunstancias, ante este problema severo que estamos enfrentando, yo me sentía limitado en mis acciones de defensa, porque naturalmente un funcionario público tiene que tener ciertas limitaciones en sus actuaciones en los medios de prensa y en los tribunales. Por eso, es considerado adecuado declinar la muy honrosa proposición y proposiciones que se me han hecho para representar a mi país en el extranjero, con el objeto de tener toda la libertad, absolutamente, de defenderme u contraatacar las informaciones calumniosas del señor Moussavi.

En señor Moussavi se ostenta, que es un hombre muy elegante que se da a los comisionistas, que participan en los negocios. Este primer en nuestro lenguaje se llama "coyote", Es un coyote de cuarta. lo vamos a demostrar así, No nada más nos vamos a defender, sino vamos a contraatacar severamente y que se haga acreedor ante los tribunales correspondientes de sus juicios calumniosos. No voy a permitir, para eso quedé en libertad, no tengo ningún atadura formal, institucional que me impida defenderme y lo voy a hacer.

Yo he recibido, tengo esa enorme satisfacción, de mis padres, de mis abuelos, apellidos de los cuales estoy profundamente orgulloso, de haber recibido esos apellidos durante 50 años han participado en la vida intelectual y política, obrera de México, dos apellidos limpios Caso Lombardo.

Me propengo en regarlos a mis hijos con la misma limpieza, esa es mi obligación moral y eso está mi tabla ética de conducta.

No voy a permitir por ningún concepto que en el extranjero o en mi país se me calumnie en aras de que estoy propuesto para tal o cual cosa, no hay nada que detenga y por eso lo voy a defender.

Creo que estas es una actitud para los medios de prensa que les pido todas su comprensión, todo su apoyo, para que las afirmaciones de un extranjero de cuarta no manchen, no hagan turburencia en la administración pública de México.

Y ahí sí les pido a ustedes que son el contacto del sector público entre el pueblo y el gobierno nos ayuden con su objetividad. Su crítica por supuesto, su crítica, pero al mismo tiempo, su capacidad de juicio que es tan importante en una prensa libre como la hay en México. En medios libres como los hayen nuestro país.

Les pido entonces que difundan, eso en la forma que estimen conveniente y que me ayuden a mantener en buen nombre de la administración pública de nuestro país y mi buen nombre al cual estoy personalmente obligado a hacerlo.

Muchas gracias;



***Kaveh Moussavi***

56, Old Road, Oxford, OX3 7LL,  
United Kingdom

Tel + 44 865 742374 Fax + 44 865 750065

5 May 1993

His Excellency Martin Brito,  
Consul General of the United Mexican States,  
8, Halkin Street,  
London SW1 7DW

Excellency,

I thank you for both your letters of May 4th in which you have asked me to come to the Consulate to answer the Letters Interrogatory sent by the office of His Excellency the Attorney General of Mexico.

I further thank you for having agreed, because of my insistence, to change the wording of your first letter. I had asked for this change and had said that I would reject your letter, and return it without a response, unless you put in the clearest confirmation that the Consulate General in London had received this letter on the 4th of May. I note that in your second letter you have included the words

"...that I have received today". i.e. 4th of May 1993.

As I explained on the phone, I was insisting on the inclusion of this statement because these are public documents which will go into the archives of Mexico. I wanted the historians of the Salinas administration to be able to learn something about the nature of the system of justice in Mexico in this period. Here we have it - documentary proof that up to the 4th of May 1993 *no investigation worthy of the name had been carried out* by the Government of Mexico into the crime of attempted bribery revealed by me on

February 3rd in the Financial Times. We have here documentary proof that the Attorney General of Mexico has only just begun his investigation today, some 3 months and two days after I first brought the issue into the public domain. For the duration of this period I have used every channel of public communication available to me to plead for an enquiry by the Mexican authorities. These efforts have included no less than 16 telephone calls by me to your Embassy in London, two letters to His Excellency Secretary Gamboa and the Attorney General, at least a dozen pleas through the international and the Mexican press, but all to no avail. And only now has the government of Mexico begun an investigation!

I wonder if it is just a coincidence that the investigation should hurriedly begin precisely five days after I have commenced my legal action against a former Minister of the Mexican Government. Could it be that the Mexican Government panicked when they finally understood that in the English Court not only Sr. Caso Lombardo but they, too, would be on trial? Could it be that they recognised that in an English Court, which can not be influenced, they would not have looked very good if I proved that the sum total of their investigation into my allegations was half of one page- which is what it was.

Furthermore, here is documentary proof that for the duration of this period, because there was no investigation, at least two Ministers of the Mexican Government have consistently and deliberately lied to the Mexican people when they said there was no foundation to my revelations. How could they know this if the investigation of my claims is only just now beginning? They lied when they said that they had carried out a full investigation into the crime of attempted bribery. The proof is your letter. These two ministers were Maria Elena Vazquez Nava and Andres Caso Lombardo. The latter minister, specially, lied when, in Saltillo on February 6th, he said to the press

"Yo voy a meter a la carcel a quien hizo esas declaraciones por que carecen de fundamento"

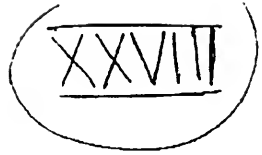
Both these ministers have lied. They and the press- with the honourable exception of Proceso, El Financiero and El Norte- are guilty of misleading the Mexican public. They have participated in

a conspiracy to prevent the investigation of a Federal crime which, by the evidence of your letter, is only just now beginning. They are guilty of a conspiracy to pervert the course of justice. What bigger proof will historians need than the letter of the Consul General of Mexico and the Attorney General's letters interrogatory which, as you confirm, have only just been received by you? Historians will discover that the definition of "due process of law", in this period was turned upside down, so that it meant that first sentence is passed, then a verdict reached and only then, for appearance's sake a perfunctory investigation carried out. The proof of all this is your letter of today. It will stand as a black mark of shame in the contemporary history of Mexico.

Sir, I write these lines to leave a record for future generations. As for your request that I come to the Consulate on Friday 7th of May, I shall be most happy to oblige. How can I not, when it is I who, for months, have been phoning your Embassy pleading for an investigation and offering my evidence. I am specially grateful for the chance as I note, to my amazement, that you are saying in your letter that there is no implied accusation of any kind against me! But for the emblem on your letterhead I would have seriously wondered if this is a letter from a representative of the present Mexican Government. Forgive me if I am a little sceptical, when I see these words coming from an official of the Mexican Government. Just at the very moment that you were writing these words, your government, its ministers, and the controlled press were engaged in a massive, cowardly, unfair, one sided and continuing campaign of defamation against me in Mexico City, aided and abetted by a chorus of PRI Senators, opportunists, charlatans and other subservient hangers on - as you will no doubt have seen by the time you have received this letter.

In any event I look forward to meeting you on Friday, as sceptical as I am regarding the sincerity of your government's intentions, given its record of its "investigations" so far.

Yours sincerely,



***Kaveh Moussavi***

56, Old Road, Oxford, OX3 7LL,  
United Kingdom

Tel + 44 865 742374 Fax + 44 865 750065

7 June 1993

For the attention of Mr Eduardo Ibarrola

Dear Mr Ibarrola,

The purpose of my writing this letter is threefold; first to remind you that it is now three weeks since we met and to draw attention to your lamentable failure to deliver on your promise to secure an apology for me; second to serve notice that I am no longer bound by the undertaking to keep my press campaign on a low key while you continued your efforts; and finally to put on record the essence of the discussions that we had in Great Britain.

I confirm that we met on the evenings of May 12th and 13th. These meetings were organised at the request of your government, through the Mexican Charge' in London, Sr. Castro. I trust that after those two meetings and the several telephone conversations that we had after your return to Mexico, you are absolutely clear on where I stand. In particular I hope that you do not continue to labour under the illusion that I can be bought with a bribe- as was evidently the case, when you were sent by your government to see me. I also hope that you are now positively convinced that I cannot be intimidated with threats, either. Nor can I be co-opted into a corrupt bargain. And if you have misinterpreted my relative silence since our meetings as a sign of fatigue on my part, I urge you to abandon such illusions with great haste. I forcefully repeat here that I can not be bought and will not be intimidated. **I will not give up my campaign to clear my name.** Your government have twice mistaken my goodwill as a sign that I have given up. You would do well to advise your political masters that they would be making a



terrible miscalculation if they are again playing with such illusory notions.

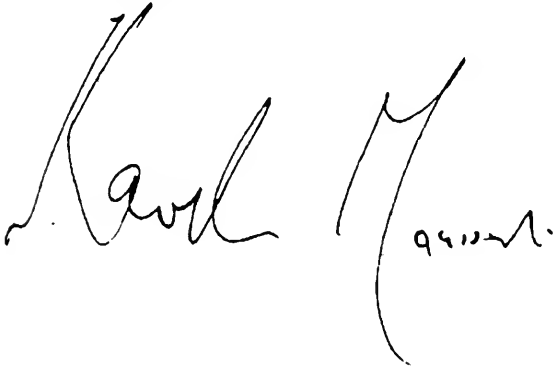
These were points that I repeatedly emphasised initially in the presence of Consul-General Brito and Charge d' Affairs Castro at our meetings. I made these points clear, first, in response to your surprising opening statement in which you told me that you had been sent by your government to find out what I wanted- as though it was not abundantly clear that I wanted an apology. I told you that it might sound incredible and impossible to accept for the sort of politician that had sent you that a man might be interested only in his name and honour, but alas that was what I wanted. I repeated this, for a second time, when you offered your unsolicited advice telling me to be pragmatic and expressed surprise at what you took to be a "fundamentalist" posture- to quote your words directly. I repeated it again, for a third time, when you reminded me that I was a businessman and ought therefore be interested in making money. I again stressed it, for the fourth time, when I told you that, unknown to the government of Mexico, I was participating in another tender at this very moment. You told me at that point that were I to tell you the details of the tender, you would help ensure that I win it!

At the second meeting on the evening of the 13th, in the presence of Messrs Brito and Castro, I put it to you in the strongest terms possible that if you tried to pay me, in lieu of an apology, I would spit on the money and expose the attempt to the press. During that second meeting we telephoned my Washington lawyers from Mr Castro's residence and obtained the wording of an apology which you were going to secure for me. I have no doubt that we can obtain a telephone company confirmation of this. This latter meeting lasted from 7 PM to about 9.30. It was agreed that you would convey to your Foreign Minister in the clearest terms possible what my position was, i.e. that contrary to the malicious rumours invented and spread by your government I was not after money, but a straight, clear and unambiguous apology for the defamatory statements that have been made about me.

Today, some three weeks after our meetings it has become abundantly clear that I was naive to have believed in the sincerity of those who sent you to see me. There can be no doubt at all that next to trying to bribe me into silence, they were simply calculating to

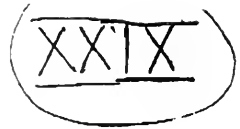
buy time. Both attempts have failed. More than this! You will shortly see the explosive consequences of this miscalculation on the international level.

Yours sincerely

A handwritten signature in cursive script, appearing to read "Karl Marx". The signature is written in black ink on a white background. The first name "Karl" is written in a large, flowing cursive, and the last name "Marx" is written in a smaller, more compact cursive. The signature is positioned below the text "Yours sincerely".

*Kaveh Moussavi*

56, Old Road, Oxford, OX3 7LL,  
Tel 0865 742374 Fax 0865 750065



11 June 1993

For the attention of Consul General Martin Brito

Dear Mr Brito,

Further to our telephone conversation of today I am sending you a copy of the letter that I sent to Mr Ibarrola in Mexico City. I understand that Mr Ibarrola has tried to call me twice. As I told Mr Castro, the Charge', in your presence I will not be talking to Mr Ibarrola. I do not trust him. I consider him to be an accomplice in the conspiracy to neutralise my efforts to clear my name from the malicious defamation inflicted upon me by the Mexican Government.

Should your Government wish to initiate a serious dialogue with me, and one that does not involve a further attempt to bribe me, they will have to appoint a more trustworthy interlocutor than Mr Ibarrola. Please take this in the spirit that it is meant. Any further attempt to bribe me will be exposed to the international press. What I want is an apology. If the government wish to compensate me for the enormous damage that they have caused me, that is a different point and should be handled in a properly documented manner, by an exchange of correspondence with my lawyers. Justice is what I want, not a cheap bribe! Please try to make your government comprehend this simple point.

Yours sincerely



EMBAJADA DE MEXICO  
LONDRES, INGLATERRA



TELEFAX

TO: Mr. Kaveh Mousavi

Fax Nr. 086 375 0086

FROM: Consul General Martin Brito

DATE: 11th. June, 1988

Number of pages including this: 1

Dear Mr. Moussavi,

In accordance with our telephone conversation of this morning, I am pleased to inform you that your message was duly informed to the high authorities in Mexico and also I have sent a copy to Mr. De Ibarrola in Washington.

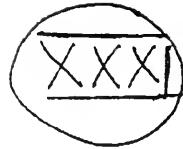
Just five minutes ago I received instructions from the Attorney General to ask you for your cooperation in order to comply with the last part of the questionnaire that was sent to me a couple of weeks ago, in order to have a complete information for the authorities that are investigating the tender. Also they are requesting to have a copy of your contract with IBM and the map that was mentioned in the questionnaire.

Yours very truly,

Consul General Martin Brito

***Kaveh Moussavi***

56, Old Road, Oxford, OX3 7LL,  
Tel 0865 742374 Fax 0865 750065



17 June 1993

Martin Brito, Esq. ,  
Consul General,  
Consulate General of Mexico,  
8, Halkin Street,  
London SW1 7DW

***Request for facilities for the lodging of a formal  
judicial complaint against an official of the Mexican  
Government.***

Dear Consul General,

I am writing to request an appointment to come to the Consulate to file a formal judicial complaint against an official of the Mexican Government. The individual in question is one Eduardo Ibarrola, the "Director General de Asuntos Consular" of the Mexican Foreign Ministry. I wish to enter a judicial complaint against him on the following grounds, all of which are recognised in the Mexican Penal Code.

1. Attempted bribery of a key witness, yours truly, in a criminal investigation, in pursuit of the culprits responsible for attempting to extort moneys by menaces from myself as the representative of one of the bidders in the course of international tender numbers SGRM 01/92 and SGRM 04/92 convoked by the Servicios a la Navegacion en el Esapacio Aero Mexicano SCT.

***Kaveh Moussavi***

56, Old Road, Oxford, OX3 7LL,  
Tel 0865 742374 Fax 0865 750065

18 June 1993

Martin Brito, Esq. ,  
Consul General,  
Consulate General of Mexico,  
8, Halkin Street,  
London SW1 7DW

Dear Mr Brito,

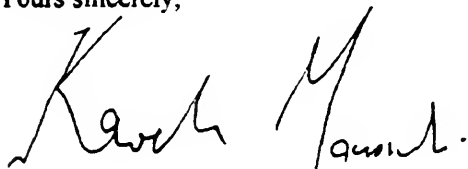
This is a note further to my facsimile of yesterday, in which I served notice that I wished to file a formal judicial complaint against Sr. Ibarrola of the Mexican Foreign Ministry. I did specifically request that you acknowledge receipt of that fax. I have also phoned and spoken to Minister Castro Valle. I tried to reach you on the phone and discovered to my amazement that, for the first time throughout this whole sorry affair, you were not available to speak to me!

Can I please request that;

1. You acknowledge immediately receipt of my fax of yesterday
2. Arrange and let me know the time of my appointment to come to the Mexican Consulate in order to file a formal complaint against Eduardo Ibarrola as stated in my letter of yesterday.

If I do not hear from you on Monday, I will take this as yet further confirmation of the hypocrisy of the Mexican government, and its persistent determination to prevent the truth about this whole affair being revealed to the public.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Kaveh Moussavi'.

2. Interference with the key witness to the Federal crime of attempt to obtain money by extortion and menaces in the course of the said tender.
3. By virtue of the above, active involvement in the ongoing attempt by elements of the government of Mexico to prevent the investigation of a Federal crime- that surrounding the attempt to extort money by menaces in the course of the said tender.
4. Active involvement in the conspiracy by elements of the government of Mexico to prevent the investigation of the Federal crime of attempted extortion of money by menaces in the course of the said tender.
5. Active involvement in the conspiracy to pervert the course of justice.
6. Perjury in having lied publicly about the nature of his mission to the key witness to a Federal crime; having lied about the contents of his discussions with the witness; and having lied about his attempts to persuade the witness away from his demand for a meaningful and serious investigation of the said Federal crime.

In accordance with Mexican law and the relevant articles of the Treaties and Conventions entered into between The United Kingdom of Great Britain and Northern Ireland and the United Mexican States I now expect, require and demand that you set in motion, in as expeditious manner as possible, the machinery to enable me to file a formal judicial complaint against the said Eduardo Ibarrola. I note that the Sr. Ibarrola's diplomatic status avails him of immunity before the English Courts, thereby obliging me to seek redress in Mexico.


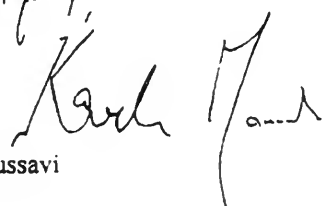
In this context I note that the excuse offered by the Attorney General of Mexico for not having initiated an investigation into the " Moussavi affair", was that I had not formally filed a judicial complaint with the Mexican authorities. In deference to the Attorney General's superior wisdom in these matters, and ignoring for now his own active and documented involvement in the

Mexican government's conspiracy against me, I give, herewith, formal notice that I wish to enter a judicial complaint against Eduardo Ibarrola.

I have no illusions, given the experience of the last 4 months, of obtaining anything like justice from the hand of the Mexican authorities. I have in mind the judgement of Mexican and International public opinion which, I earnestly hope, will follow the progress of this case with methodical precision, as a test case demonstrating the nature of the Mexican judicial system under PRI rule on the dawn of the 21st Century.

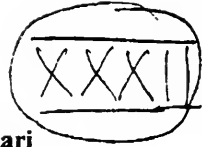
I look forward to your earliest written reply. Kindly acknowledge by return the receipt of this letter, as I note that the Mexican authorities have a particular expertise in denying the receipt of troublesome correspondence.

LA VERDAD OS HARA LIBRES !

Kaveh Moussavi





**His Excellency President Carlos Salinas de Gortari  
Constitutional Head of the United Mexican States,  
Mexico**

**May It please your Excellency,**

**This is a petition, humbly submitted, for  
your gracious consideration, in the hope of redress for  
grievances.**

**Your Excellency will probably be aware, at least in  
outline, of what has come to be referred to as the "Moussavi  
Affair", in Mexico. I will not be so presumptuous as to dwell  
upon the details of this unfortunate story. I will only record  
here the enormous damage that I, and my family, have suffered  
because of the Mexican government's insistence on treating me  
not as the innocent witness to, and the victim of, a crime but as  
its perpetrator, during my representation of IBM corporation  
in a government tender. My involvement in exposing the crime  
of solicitation for a bribe has been presented in Mexico as  
evidence of malicious intent towards the Mexican government.  
My failure to report the solicitation to the judicial authorities  
has been offered as further proof of such malice.**

**The people who have made such accusations ignore the  
fact that I was a contracted agent, working for IBM, and under  
orders as to who I should speak to. They forget that I was not  
a free agent in this regard and that the decision whether I  
would talk to the press or the Public Prosecutor in Mexico was  
not mine to take. There is ample evidence to prove that the  
decision to go to the press was made after full consultation with  
my employers and had their complete and total backing. There  
is also evidence, in the form of my earlier interviews with the  
Mexican media, which prove that I was most favourably**

inclined towards the Mexican Government and its policies at the outset. If, in the last four months my attitude has undergone a change, this is a reflection more of desperation, in this unequal struggle, than of anything else. "More a knave than a rogue", would be an accurate description of my situation.

In my efforts to defend myself against the defamatory statements that have been expressed about me in some quarters, I have been forced to resort to law in the United Kingdom and the USA. I have also had to go to the press in Mexico and elsewhere. I am aware that this has had embarrassing consequences for all concerned. I regret this and earnestly hope that your Excellency will accept it at face value when I say that this had not been my intention at the beginning.

I am now uncomfortably aware that I have reached a stage where the campaign to clear my name is on the verge of being taken over by forces with an agenda of their own. I am also conscious of the fact that once they take over, I will no longer be in control and could, therefore, not hope to bring matters to a halt, at will. I refer, for example, to requests from US Congressional investigators for my testimony. I refer also to, hitherto, extremely circumspect and "off the record" briefings to international organisations such as IATA, not one of whom have been granted possession of, nor permission to use, documents that have become available to me. I refer to the approaches and unsolicited offers of assistance, financial and otherwise, from groups active in Mexican and US politics, who see political mileage in my case. I refer to standing invitations from the US news media to appear in person or contribute in writing. I refer to such diverse forces and activities.

It is not, and has never been, my intention to wage a war of attrition against the Mexican Government- even though I have been openly accused by the press in Mexico of seeking to blackmail that government into granting me monetary compensation. I doubt very much if history has ever recorded a

single case of a blackmailer hiring two top law firms, in the USA and the UK, to put his case to the intended victim. Nor, of course, is there a single recorded instance of my having ever asked for monetary compensation. For the truth is, your Excellency, that given only a fraction of a chance, I would seize it immediately and bring this campaign to a halt, while it is still in my power so to do. But in all honour, I am bound to say that I can not just drop everything and pretend that I have not been libelled, my name and business not destroyed, my family very nearly wrecked by the actions of Mexican officials. I can not simply disregard the enormous damage that has been inflicted on me as a result of the Mexican Government's responses to my revelations. To those responses I have had to react with the result that there has been an ever increasing cycle of accusation and counter accusation.

Throughout this sorry affair my single and over riding concern has been to secure an unambiguous and unequivocal apology, which would clear my name. I now recognise that the wording and format of such an apology, were it to be given, will have to be such as to involve no embarrassment to the Mexican government. I am mindful of that and am certain that such a wording can be found, if the will to find it is there. I will also state that I have never asked for financial compensation for the enormous damage that has been inflicted on me. Nor am I asking for it now. However, should you feel inclined to order the government to compensate me, in a properly documented manner, that would be a gesture which would be gratefully acknowledged and reciprocated in the best way possible. In the meantime, I will be settling the specifically IBM aspect of this case, but this in no way will stop my campaign to obtain redress from the Mexican government. IBM is a different matter altogether and any attempt to silence my voice in this separate matter will not be acceptable to me.

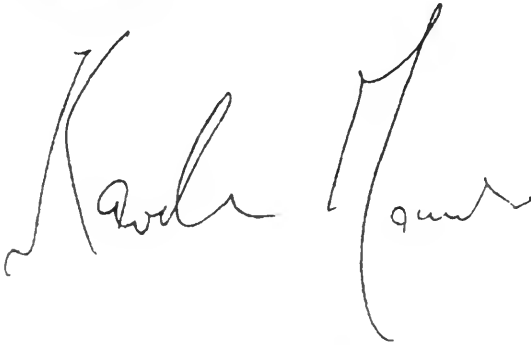
I began this petition with a plea for the intervention of your Excellency as the Constitutional Head of the United Mexican States in solving my case. In concrete terms, my plea

and request is that you instruct the government to order their lawyers to either contact me directly, or my Washington lawyers with a view to settling all outstanding matters between us as expeditiously as possible, before I lose control of this struggle. To demonstrate my goodwill, I will suspend my campaign *from the moment* I hand over this letter to your Embassy for onward transmission and shall await your decision.

I hope and plead for your intervention. I pray.

Excellency, I have the honour to remain at your service.

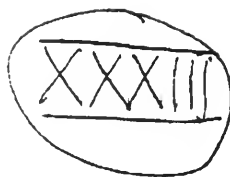
Kaveh Moussavi  
Oxford  
25 June 1993

A handwritten signature in cursive script, appearing to read 'Kaveh Moussavi'. The signature is written in black ink on a white background.



25th October 1993

HOUSE OF COMMONS  
LONDON SW1A 0AA



Mr K. Mousavi,  
56 Old Road,  
OXFORD OX3 7LL.

Dear Mousavi,

Thank for you for your telephone message on Friday, and fax to my London office, which I received this morning. I did try to get you on the phone on Saturday, having returned home from Brussels very late on Friday night.

I have today spoken with Chief Superintendent Burbeck, senior officer in charge of Oxford police. He has assured me that a full Special Branch threat evaluation, commensurate with the seriousness of the threats against you, is being undertaken as a matter of urgency, and that protection measures are in place. I understand also that a Detective Inspector has spent some time with you over the weekend.

I am concerned that everything possible is done to ensure your safety, and have stressed this to Chief Superintendent Burbeck. I can very well imagine how very distressing this is for you and your family.

If there is anything further I can do to help at this stage, please don't hesitate to let me know. I shall be on my London number (071-219-5102) and fax (071-219-5959) this week through to Thursday.

Best wishes,

Yours sincerely,

Andrew Smith, M.P.

With every good wish for your  
returning to Congress.

## PLAZA PUBLICA

■ *Moussavi, de nuevo*

■ *Conclusiones de la PGR*

Miguel Angel Granados Chapa

parentemente, mañana se presentará ante un comité del Senado norteamericano el agente comercial Kaveh Moussavi. Su presencia en el Congreso tiene como propósito denunciar al gobierno mexicano, y en especial a algunos de sus miembros, para disminuir las posibilidades de que se apruebe el Tratado de Libre Comercio. Pero su objetivo fundamental es ejercer presiones en torno a los procesos —o sus prolegómenos— surgidos de su fallido intento de conseguir un contrato de IBM con la administración pública mexicana.

Aunque se conoció hace tiempo la intención de Moussavi de deponer ante comités legislativos en Washington, la oportunidad con que lo hará tal vez apresure la presentación de las conclusiones a que llegó la Procuraduría General de la República en la averiguación previa suscitada por la denuncia del comisionista de nacionalidad británica. Esas conclusiones consisten en, por una parte, desestimar su denuncia sobre una eventual extorsión, y por otro lado, en el ejercicio de la acción penal en su contra, por tres delitos.

Mañana en el número 191 de la revis-

contrato suscrito por ambas partes, que prohíbe de modo terminante "hacer pagos o regalos monetarios o de otra clase a ninguna persona con el propósito de influir en decisiones a favor de IBM", y previene que el agente (Moussavi, en este caso) "inmediatamente reportará a su contacto con IBM cualquier forma de extorsión o soborno a que se encuentre sujeto".

Esto último es lo que, según sus declaraciones, hizo Moussavi en el segundo capítulo de la denunciada tentativa de extorsión, cuando los tres desconocidos le pidieron un millón de dólares, en forma de una "contribución política". Su interlocutores en IBM, Roger Boyd William Swope, aseguran que, si bien Moussavi les telefoneó mientras el suceso estaba transcurriendo (ya que el agente dijo haber interrumpido su conversación con los tres presuntos extorsionados), no les consta que ese hecho estuviera teniendo lugar. Más aún, relataron en forma conteste que Moussavi insistió en aceptar la propuesta de los tres desconocidos, y hasta sugirió el modo: un incremento de su comisión permitiría pagar mordida por su cuenta.

Con la vaguedad con que fue prese-

ua, por tres de ellos.

Mañana, en el número 191 de la revista semanal *Mira*, la columna "Interés público" revela los términos en que concluyó esa averiguación previa. Aquí, hoy y mañana, haremos una síntesis de dicho material. Nos referiremos, primero, a cómo la Procuraduría General de la República desestimó la original acusación de Moussavi, y después a las causas de los juicios que eventualmente se inician en su contra.

Como se recuerda, el origen del episodio fue una declaración formulada al diario londinense *Financial Times*, por Moussavi, y aparecida el tres de febrero pasado. Según su dicho, primero una persona que dijo llamarse Gustavo Alemán, y luego tres desconocidos, le pidieron dinero por favorecer la posición de IBM en un concurso para vender equipo de radares y control de vuelos a un organismo de la administración pública mexicana, Servicios a la Navegación en el Espacio Aéreo Mexicano. La PGR concluye que ese intento de extorsión no se produjo o, al menos, que no existieron los hechos tal como los presentó Moussavi.

Para llegar a esa conclusión contaron de modo principal los testimonios de ejecutivos de IBM, a la que en ese negocio específico representaba Moussavi. Este dijo que tan pronto fue notificado por Alemán de que el contrato podría ser adjudicado a esa empresa internacional mediante una aportación cuyo monto no mencionó, lo hizo del conocimiento de esos directivos. Ellos negaron que así hubiera sido, y Moussavi no presentó la comunicación en que, según su declaración ante el consulado mexicano en Londres, se le autorizaba a explorar esa posibilidad. De comprobar documental-mente su dicho, Moussavi (y con el la

moralidad por su cuenta.

Con la vaguedad con que fue presentada la denuncia, era imposible localizar a los presuntos autores de la extorsión. "No se comprobó la existencia de Gustavo Alemán", asegura la Procuraduría y añade que "la existencia de los tres hombres que solicitaron dinero tampoco se corroboró". Pero eso no se debió sólo a la habilidad de los presuntos delincuentes o a impericia de los investigadores, sino que probablemente Moussavi incurrió en inexactitudes deliberadas. Por ejemplo, la descripción que hizo de uno de los tres desconocidos, coincide en un cincuenta por ciento con la fisonomía del propio director del Seneam, a quien sí conocía, pero al que nunca inculpó directamente.

#### 314 *Cajón de Sastre*

No han sido pocos los casos de candidatos únicos a la presidencia del Colegio de Nacional de Economistas. Pero Enrique del Val lo será a fuerza: estaría fuera de sus cabales quien le hiciera oposición con la nómina de apoyo que ayer se hizo pública. Si bien los secretarios de Estado economistas que han solido ser determinantes en la elección del líder de esos profesionales tuvieron el buen gusto de abstenerse de participar (porque su energía política la dedican en este momento a otros menesteres), lo mismo que el presidente de la República, que también forma parte del colegio, en el lanzamiento de Del Val, en la lista de quienes lo propusieron abundan expresidentes de la propia institución, exsecretarios de Estado, subsecretarios, embajadores, gobernadores, la lidereza de los diputados. Casi todos son miembros del gobierno, pero los hay dedicados a la actividad privada o académica, como Jesús Reyes Heróles

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WASHINGTON D.C.  
November 4, 1993

*Embajada de México*

The Honorable John J. LaFalce  
Chairman  
Committee on Small Business  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

1 I would like to refer to the hearing that took place in the  
2 Committee on Small Business on October 27, 1993, regarding "NAFTA:  
3 Business and Politics in Mexico". During the Hearing, the only  
4 witness, Mr. Kaveh Moussavi, made unfounded allegations regarding his  
5 participation as representative of IBM in a bid to upgrade Mexico's  
6 traffic control system. I respectfully request that the following  
7 clarifications to some of Mr. Moussavi's allegations be included in  
8 the record of the hearing.

9 Throughout the months in which he has been publicizing his  
10 charges, Mr. Moussavi has not been able to provide definite proof of  
11 the allegation that he was approached by what he assumed were  
12 government officials requesting a bribe in order for IBM to win the  
13 bid in question. However detailed and persuasive his account may  
14 seem, Mr. Moussavi simply does not have the facts to back up or  
15 corroborate his assertions.

16 By his account, Mr. Moussavi met at least four times with the  
17 alleged solicitors of the bribe. This fact makes it especially  
18 difficult to understand why Mr. Moussavi has been unable to identify  
19 the persons in question. *LaFalce*

20 It is also noteworthy that after the incident that Mr. Moussavi  
21 refers to, he informed it to Mr. Roger Boyd of IBM. In that  
22 information, as was declared by Mr. Moussavi in an interview with the  
23 Mexican weekly Proceso, he said that if the three men that approached  
24 him were government officials, then no payment should be made. If  
25 they were not government officials, Mr. Moussavi continued, then he  
26 would accede to give them a sum of money that would be deposited in a  
27 bank account from which no withdrawal of the principal could be made  
28 in three years. *Gray!*

29 It cannot escape the Committee's attention that in this  
30 statement, which has not been denied by Mr. Moussavi, he was  
31 acquiescent to provide a bribe, assuming such was requested, with the  
32 only condition that the recipients not be government officials. The  
33 Committee can draw its own conclusions from these statements.

34 Mr. Moussavi is also on record as having been contacted before  
35 the incident in question by a Mr. Gustavo Aleman who offered to help  
36 win the bid and who Mr. Moussavi believes to have arranged the  
37 meeting where the alleged bribe was requested. This was never  
38 reported by Mr. Moussavi to IAH.

39 The Committee should note that Mr. Moussavi's reiterated  
40 contacts and participation in these meetings are at odds with the  
41 requirements of the Foreign Corrupt Practices Act and of Mexico's  
42 laws.

43 By his own assertion, Mr. Moussavi was for many years an agent  
44 to American and other foreign companies seeking to do or doing  
45 business in Mexico. One can assume that during that experience, Mr.  
46 Moussavi did not encounter the widespread corruption whose existence  
47 he claims on the basis of an isolated incident. During this time he  
48 was apparently active and successful.

49 Even if the events described by Mr. Moussavi were to be  
50 verified, it is certainly an exaggeration to extrapolate from them and  
51 taint the business environment in Mexico. Many prominent U.S.  
52 companies have been very successfully engaged in business in Mexico  
53 for decades, always in compliance with Mexico's anticorruption laws,  
54 the U.S. Foreign Corrupt Practices Act, and their own company  
55 prohibitions against the use of improper payments.

56 Mexico takes allegations of corruption very seriously, and has  
57 extended great effort, in cooperation with the U.S. government, to  
58 investigate the incident reported by Mr. Moussavi. Mexico will  
59 welcome any real evidence that will contribute to the ongoing  
60 investigation; but any law enforcement professional would agree that  
61 there is little to work with in the reports of Mr. Moussavi.

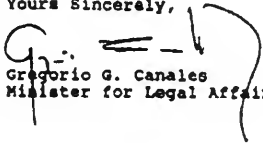
62 During the hearing Mr. Moussavi also made allegations regarding  
63 the radar control system of Mexico, stating that it is set up in such  
64 a way as to allow the transit of drug related air traffic. I am  
65 afraid that Mr. Moussavi's allegations in this case shed light to his  
66 limited knowledge of the technical system of air control in Mexico.  
67 Mexico has a system in place capable of tracing and safely routing  
68 aerial navigation over its territory. In the case of identification  
69 and tracing of flights which are presumed to be involved in drug  
70 traffic, there is a sophisticated Hemispheric Information System,  
71 based in California, in which Mexico and other countries participate.  
72 Thus, Mexico's system is part of a larger international network aimed  
73 at enhancing cooperation in the fight against drug trafficking.

24 Mr. Moussavi also made reference to air traffic safety in Mexico  
25 City's international airport, due to an increase in the number of  
26 flights. It should be clearly noted that there is no technical  
27 reason to support Mr. Moussavi's assertion and his claim lacks any  
28 factual basis. At the same time, the Committee should be aware that  
29 the airport complies with international safety standards and there is  
30 no evidence that the current or proposed Mexican air traffic control  
31 systems could be unsafe.

32 The allegations made of libel and character assassination as  
33 well as threats to Mr. Moussavi's person and family have no factual  
34 basis. The Government of Mexico knows of no such actions. What it  
35 does know, however, is that Mr. Moussavi has used different public  
36 forums, now including the Congress of the United States, to make  
37 unfounded statements about several Mexican government officials.

38 The Government of Mexico can only hope that the distinguished  
39 members of the Committee under your chairmanship will not be deceived  
40 by the allegations in question.

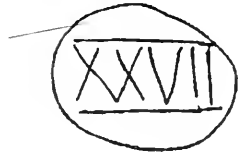
Yours Sincerely,

  
Gregorio G. Canales  
Minister for Legal Affairs

**Kaveh Moussavi**

56, Old Road, Oxford, OX3 7LL,  
United Kingdom

Tel + 44 865 742374 Fax + 44 865 750065



5 May 1993

His Excellency Martin Brito,  
Consul General of the United Mexican States,  
8, Halkin Street,  
London SW1 7DW

Excellency,

I thank you for both your letters of May 4th in which you have asked me to come to the Consulate to answer the Letters Interrogatory sent by the office of His Excellency the Attorney General of Mexico.

I further thank you for having agreed, because of my insistence, to change the wording of your first letter. I had asked for this change and had said that I would reject your letter, and return it without a response, unless you put in the clearest confirmation that the Consulate General in London had received this letter on the 4th of May. I note that in your second letter you have included the words

"....that I have received today". i.e. 4th of May 1993.

As I explained on the phone, I was insisting on the inclusion of this statement because these are public documents which will go into the archives of Mexico. I wanted the historians of the Salinas administration to be able to learn something about the nature of the system of justice in Mexico in this period. Here we have it-documentary proof that up to the 4th of May 1993 no investigation worthy of the name had been carried out by the Government of Mexico into the crime of attempted bribery revealed by me on

February 3rd in the Financial Times. We have here documentary proof that the Attorney General of Mexico has only just begun his investigation today, some 3 months and two days after I first brought the issue into the public domain. For the duration of this period I have used every channel of public communication available to me to plead for an enquiry by the Mexican authorities. These efforts have included no less than 16 telephone calls by me to your Embassy in London, two letters to His Excellency Secretary Gamboa and the Attorney General, at least a dozen pleas through the international and the Mexican press, but all to no avail. And only now has the government of Mexico begun an investigation!

I wonder if it is just a coincidence that the investigation should hurriedly begin precisely five days after I have commenced my legal action against a former Minister of the Mexican Government. Could it be that the Mexican Government panicked when they finally understood that in the English Court not only Sr. Caso Lombardo but they, too, would be on trial? Could it be that they recognised that in an English Court, which can not be influenced, they would not have looked very good if I proved that the sum total of their investigation into my allegations was half of one page- which is what it was.

Furthermore, here is documentary proof that for the duration of this period, because there was no investigation, at least two Ministers of the Mexican Government have consistently and deliberately lied to the Mexican people when they said there was no foundation to my revelations. How could they know this if the investigation of my claims is only just now beginning? They lied when they said that they had carried out a full investigation into the crime of attempted bribery. The proof is your letter. These two ministers were Maria Elena Vazquez Nava and Andres Caso Lombardo. The latter minister ,specially, lied when, in Saltillo on February 6th, he said to the press

"Yo voy a meter a la carcel a quien hizo esas declaraciones por que carecen de fundamento"

Both these ministers have lied. They and the press- with the honourable exception of Proceso, El Financiero and El Norte- are guilty of misleading the Mexican public. They have participated in

a conspiracy to prevent the investigation of a Federal crime which, by the evidence of your letter, is only just now beginning. They are guilty of a conspiracy to pervert the course of justice. What bigger proof will historians need than the letter of the Consul General of Mexico and the Attorney General's letters interrogatory which, as you confirm, have only just been received by you? Historians will discover that the definition of "due process of law", in this period was turned upside down, so that it meant that first sentence is passed, then a verdict reached and only then, for appearance's sake a perfunctory investigation carried out. The proof of all this is your letter of today. It will stand as a black mark of shame in the contemporary history of Mexico.

Sir, I write these lines to leave a record for future generations. As for your request that I come to the Consulate on Friday 7th of May, I shall be most happy to oblige. How can I not, when it is I who, for months, have been phoning your Embassy pleading for an investigation and offering my evidence. I am specially grateful for the chance as I note, to my amazement, that you are saying in your letter that there is no implied accusation of any kind against me! But for the emblem on your letterhead I would have seriously wondered if this is a letter from a representative of the present Mexican Government. Forgive me if I am a little sceptical, when I see these words coming from an official of the Mexican Government. Just at the very moment that you were writing these words, your government, its ministers, and the controlled press were engaged in a massive, cowardly, unfair, one sided and continuing campaign of defamation against me in Mexico City, aided and abetted by a chorus of PRI Senators, opportunists, charlatans and other subservient hangers on - as you will no doubt have seen by the time you have received this letter.

In any event I look forward to meeting you on Friday, as sceptical as I am regarding the sincerity of your government's intentions, given its record of its "investigations" so far.

Yours sincerely,

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