

CONSULADO GENERAL DE MÉXICO

New York, NY
July 12, 2004

The Honorable Joseph A. Greenaway, Jr.
United States District Court
District of New Jersey
Martin Luther King, Jr. Federal Bldg.
and U.S. Courthouse
50 Walnut Street
Newark, NJ 07101

Re: Victor Zavala, *et al.* v. Wal-Mart Stores, Inc.
Civil Action No. 03-Civ.-5309 (JAG)

Dear Judge Greenaway:

On behalf of the Government of Mexico, I respectfully request the opportunity to submit this letter of interest and position regarding the above referenced case.

Through this letter, the Government of Mexico wishes to express its strong interest in this case, which involves the legal protection of Mexican undocumented workers. As you may know, one of my Government's top priorities is to secure the rights of all Mexican nationals living abroad, regardless of their migratory *status*, and to provide them with the necessary assistance to achieve that end.

As provided by the Vienna Convention on Consular Relations (VCCR), to which Mexico and the United States are parties, my duties as Consul General include, according to article 5 of the VCCR, to protect, in the receiving State – *i.e.* in the United States – the interests of Mexico and of its nationals, within the limits permitted by international law.

In that regard, several international human rights instruments, including the United Nations International Covenant on Civil and Political Rights (ICCPR) of which Mexico and the United States are also parties, guarantee the equality and equal protection of the law for all persons, without any discrimination on grounds such as "... race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." (Art. 26 of the ICCPR, emphasis added). Pursuant to that provision Mexican nationals, regardless of their immigration *status*, are entitled to avail themselves with the rights and remedies afforded by the domestic laws of a country which is a party to the Covenant.

In the light of said principles, Mexico has thoroughly reviewed the plaintiffs' Memorandum of Law in response to defendant's motion to dismiss, dated May 3, 2004. The legal arguments made by the plaintiffs in that brief fully coincide with the position that my Government has invariably

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taken regarding the protection of human rights – including labor rights – of Mexican nationals residing abroad, regardless of their migratory *status*.

The above view has been brought forth by Mexico before United States' Courts, as well as in international *fora* on several occasions. Thus, on May 2002, Mexico requested an advisory opinion to the Inter-American Court of Human Rights regarding the obligation of all American States to ensure the principles of equality, equal protection of the law and non-discrimination *vis à vis* the denial of fundamental labor rights to undocumented migrant workers, based precisely on their immigration status.

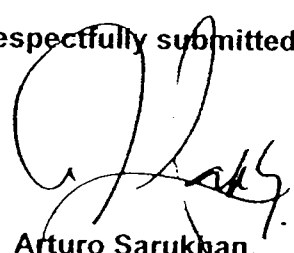
On September 2003, the Inter- American Court rendered its advisory opinion, known as OC-18/03 "*Legal Status and Rights of Undocumented Migrants*", concluding that the principles of equality and non-discrimination are fundamental for the safeguard of human rights in both international and domestic law, and considering that the migratory *status* of a person cannot constitute a justification to deprive him or her of the enjoyment and exercise of human rights, including those of a labor related-nature. Moreover, the Inter-American tribunal found unacceptable that a State subordinate or condition the observance of the principle of equality before the law and non-discrimination to achieve their public goals, including those of migratory character.

For further reference, I am enclosing a copy of this important international precedent, whose relevance for the case at hand is apparent.

In view of the above, the Government of Mexico fully endorses the plaintiff's arguments in said Memorandum of Law, and respectfully request this Court's consideration in that respect.

Please do not hesitate to contact me at your convenience if I can be of help in clarifying or furthering any of the above mentioned issues.

Respectfully submitted,



Arturo Sarukhan,
Consul General of Mexico
in New York.

cc: David Murray
Robert Bernstein
James L. Linsey
Gilberto Garcia