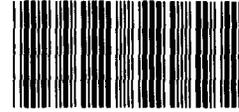


GAO

Testimony



143750

For Release  
on Delivery  
Expected at  
10:00 a.m. EDT  
Tuesday  
April 30, 1991

Occupational Safety and Health  
and Child Labor Policies of  
the United States and Mexico

Statement of  
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Education and Employment Issues  
Human Resources Division

Before the  
Subcommittee on  
Employment Opportunities  
House of Representatives

and

Subcommittee on Labor-  
Management Relations  
House of Representatives



**SUMMARY OF TESTIMONY BY FRANKLIN FRAZIER**  
**ON OCCUPATIONAL SAFETY AND HEALTH**  
**AND CHILD LABOR POLICIES OF THE UNITED STATES AND MEXICO**

In considering a potential free trade agreement between the United States and Mexico, Members of Congress have raised questions about the similarities and differences between U.S. and Mexican worker protection standards and enforcement. This testimony compares the two countries' laws and their enforcement strategies in two areas: (1) occupational safety and health and (2) child labor.

United States and Mexico have similar laws protecting workers. Both countries have laws and regulations restricting the work of children and both regulate essentially the same safety and health hazards, but there are differences. We cannot conclude that either the United States or Mexico has substantially more protective laws and regulations--each country has some regulations that are more protective than those of the other. However, in the United States, both child labor and safety and health laws and regulations can be more protective in some states than in others, while in Mexico, these laws and regulations are uniform throughout the country.

Enforcement strategies and responsibilities differ. The Mexican government's approach to obtaining compliance with labor laws places much more emphasis on negotiating workplace solutions to identified problems than on detecting violations and applying sanctions. For example, joint labor-management committees are required at worksites, employers are given advance notice of inspections, and sanctions such as civil penalties or closing of the worksite are applied only when employers repeatedly refuse to correct problems. In contrast, the U.S. Department of Labor seeks to encourage voluntary compliance but also attempts to target inspections to likely violators and assess civil or criminal penalties sufficient to constitute a deterrent.

Both countries' enforcement strategies have vulnerabilities. The success of the Mexican government's approach of relying on collaborative efforts at the worksite level depends on a workforce not only knowledgeable about its rights and possible workplace hazards but also free to participate actively in negotiations with employers. In addition, the nature of inspections in Mexico may provide less intense scrutiny of employers' compliance with child labor and safety and health laws than do the more specialized inspection procedures used in the United States. For example, in Mexican worksite inspections, a single inspector must check for any labor law violations--not only those related to safety and health and child labor but also those governing wages, vacation time, work breaks, and collective bargaining. On the other hand, the U.S. attempt to deter violations through inspections is limited by infrequent inspections and limited criminal sanctions.

Textile and apparel industries illustrate both similarities in laws and vulnerabilities of enforcement strategies. For example, the maximum allowable noise levels for an 8-hour shift are the same (90 dB), although the maximum allowable level for a 1-hour period is lower in Mexico (99 dB compared with 105 dB). In the United States these levels would be checked in an OSHA inspection, but OSHA rarely inspects factories in these industries. In Mexico, joint labor-management committees are supposed to check noise levels monthly, but our observations lead us to question how often this requirement is met in factories in these industries.

Mr. Chairman and Members of the Subcommittees:

I am pleased to be here today to describe occupational safety and health and child labor laws and their enforcement in the United States and in Mexico. You asked us to conduct this comparative study because of your concern about the scope of the proposed free trade negotiations between Mexico and the United States. As you know, members of Congress and interest groups have questioned whether worker protection standards and enforcement may differ so much between the two countries that Mexican industry gains a significant trade advantage by minimizing its compliance cost. Thus, you asked us to describe at these hearings the similarities and differences in U.S. and Mexican (1) laws and regulations and (2) enforcement strategies, and to illustrate them using the textile and apparel industries.

Because of the short time since your March 1, 1991, request, we were limited in the amount of data we could collect and analyze. Thus, we relied on interviews, research studies and other documents, statistical data from enforcement agencies, and a few visits to manufacturing facilities in the United States and Mexico. In the United States we interviewed representatives of the Department of Labor enforcement agencies and Bureau of International Labor Affairs; the Office of the United States Trade Representative; state labor offices in California, Georgia, New York, and Texas;<sup>1</sup> and textile and apparel unions and trade associations. In the Republic of Mexico we interviewed federal labor officials, including the Mexican Secretary of Labor and Social Welfare; state labor officials in the border state of Chihuahua; representatives of organized labor, industry, and the American Chamber of Commerce in Mexico City; U.S. Department of State officials in Mexico City and Ciudad Juarez; and academics.

Our general conclusions are that (1) the United States and Mexico have similar laws protecting workers and (2) their enforcement strategies differ, with both having vulnerabilities.

#### BACKGROUND

The population of the United States is about 3 times that of Mexico, approximately 247 million compared with 83 million. The estimated formal U.S. workforce is 4 times that of Mexico, 126 million compared with 32 million. Mexico's population is much younger; almost half, about 39 million, are under age 18, while

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<sup>1</sup>We selected these states to illustrate state child labor laws, standards, and enforcement. We selected these four states because they have relatively large numbers of textile or apparel establishments or, in the case of Texas, have a significant number of twin plant operations with Mexico.

in the United States about one-fourth, about 63 million, are under 18.

In both countries, there is concern about ways to protect the safety and health of workers and limit the work of children so as to protect their health and well-being. The issue of child labor is especially relevant in Mexico, given the larger proportion of children in the population.

### SIMILAR REGULATIONS PROTECT WORKERS

Both the United States and Mexico have laws and regulations restricting the work of children, and both regulate essentially the same safety and health hazards, but there are differences. We cannot conclude that either the United States or Mexico has substantially more protective regulations--each country has some regulations that are more protective than those of the other. However, in the United States, both child labor and safety and health laws and regulations can be more protective in some states than in others, while in Mexico, these laws and regulations are uniform throughout the country.

### Government Agency Responsibilities for Setting Standards and Regulations

In the United States, the major federal laws regulating these areas are the Fair Labor Standards Act (FLSA) and the Occupational Safety and Health Act. These are administered, respectively, by the Department of Labor's Employment Standards Administration and Occupational Safety and Health Administration (OSHA).<sup>2</sup> Additional implementing regulations and standards addressing specific hazards are promulgated by the Department and codified in the Code of Federal Regulations.

The FLSA regulates the employment of children in interstate commerce in all states.<sup>3</sup> In addition, all states have laws that regulate the employment of children. For those children covered

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<sup>2</sup>Safety and health protection for some workers is covered by other laws and enforcing agencies. For example, the Federal Mine Safety and Health Act of 1977, enforced by the Department of Labor's Mine Safety and Health Administration, protects coal and non-coal miners. However, we will focus on OSHA because of its more general coverage of workers.

<sup>3</sup>Any employer with gross receipts of \$500,000 or more is regulated by the act, regardless of the nature of the business. Children working for smaller employers are determined to be engaging in interstate commerce--and thus be regulated by the act--depending on the nature of the work. The work of children on family farms is not regulated by FLSA.

by both the FLSA and state laws, the law setting the more stringent standard must be observed.<sup>4</sup>

In the U.S., states that operate their own OSHA-approved safety and health programs (as described below) may have laws and regulations that are more protective than the federal ones, but they may not be less protective. In all other states, the same federal safety and health regulations apply.

In Mexico, child labor and safety and health protections are included in the Constitution. They are further specified in the Federal Labor Law, in a comprehensive set of regulations, and in 21 sets of administrative guidelines published by the Secretariat of Labor and Social Welfare. These laws and regulations apply uniformly throughout the country and in all industries.

### Comparison of Child Labor Laws and Regulations

Mexico and the United States both restrict the work hours of children, but these restrictions differ. In both countries, hours are restricted up to age 16. However, Mexico also restricts the hours that can be worked by 16- and 17-year-olds.<sup>5</sup> For 14- and 15-year-olds, the United States has stricter prohibitions on night work while Mexico has stricter prohibitions on total hours worked in nonschool weeks. Specifically, U.S. federal law prohibits work at night for a 12-hour period during the school year (between 7 p.m. and 7 a.m.) and for a 10-hour period during the summer, while Mexico prohibits night work for an 8-hour period in nonindustrial work and a 10-hour period in industrial work. In the United States, 14- and 15-year-olds may not work more than 18 hours in a school week or 40 hours in a nonschool week; in Mexico, 14- and 15-year-olds may not work more than 36 hours in any week.

Restrictions also differ regarding the age at which children can work. Mexico's child labor restrictions are greater than those of the United States for children under age 14 in that Mexico prohibits employment entirely for this age group. U.S. federal law permits limited employment such as the hand harvest of short season crops as early as age 10. In addition, some states allow children not covered by FLSA (that is, not engaged in interstate commerce) to work before age 14. For example, Georgia permits children to work at the age of 12 in occupations that require age

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<sup>4</sup>Although we do not have a good estimate of how many children are not covered by FLSA, we believe that relatively few children, other than those working on family farms, are exempt from coverage.

<sup>5</sup>In Mexico, factory work at night is prohibited for anyone under age 18.

14 in the federal law. The United States has greater protection for minors age 16 and older in that Mexico's occupations restrictions apply only to those below the age of 16 while the U.S. restricts employment in hazardous occupations to age 18 under federal law, and to age 21 under some state laws.

U.S. and Mexican laws also differ regarding the need for work permits. Children under age 16 in Mexico must obtain a physician's certification of their capability to work and a work permit from federal labor authorities before beginning their employment. U.S. law does not require work permits but does require that employers be able, if requested, to furnish proof of the age of employees. Three of the four states we examined require some form of work permit up to age 18. California also requires that those wanting to employ children under age 18 obtain a permit to do so.

### Comparison of Safety and Health Laws and Regulations

Laws regulating safety and health in the U.S. and Mexico are similar in placing responsibility for workplace safety and health on the employer--as U.S. law puts it, for employers "to furnish . . . a place of employment . . . free from recognized hazards that are causing or are likely to cause death or serious physical harm."

Both countries' regulations also address the roles of employees, but Mexican law puts more responsibility on them. Mexican occupational safety and health regulations require the establishment of joint labor-management committees. These committees are responsible for monitoring compliance with all labor laws, including workplace safety and health requirements, and resolving any issues that may arise. Mexican Labor Law also provides that workers may be fined for failing to comply with safety and health requirements. U.S. law specifies that workers must comply with applicable standards and regulations, but contains no provision for fining them for noncompliance. OSHA has distributed guidelines encouraging, but not requiring, employers to establish worksite safety/health programs that include employee involvement, but there is no requirement for joint committees.<sup>6</sup>

Both the United States and Mexico have specific laws, standards, and regulations regarding safety and health hazards, which cover a wide range of hazards. Some address specific practices such as providing fire protection, medical services and first aid and handling hazardous material. Other standards govern special

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<sup>6</sup>However, some groups, such as the AFL-CIO, have urged that joint labor-management committees be required in this country.

industries such as pulpwood logging, sawmills, and textiles. Another type of standard governs exposure to toxic and hazardous substances. Our comparison showed that most of the specific hazards addressed in the U.S. standards were also addressed in the Mexican regulations or guidelines. However, the only standards we compared in detail were those we will discuss later as they apply to the textile and apparel industries.

#### ENFORCEMENT STRATEGIES AND RESPONSIBILITIES DIFFER

The U.S. and Mexican approaches to enforcement differ substantially. The Mexican government's approach to obtaining compliance with labor laws is to place much more emphasis on negotiating workplace solutions to identified problems than on detecting violations and applying sanctions. This conciliatory approach takes the form of mandatory joint labor-management committees, advance notice to employers of inspections, and application of sanctions such as civil penalties or closing of the worksite only when employers repeatedly refuse to correct problems. In contrast, the U.S. Department of Labor seeks to encourage voluntary compliance but also attempts to target inspections to likely violators and assess civil or criminal penalties sufficient to constitute a deterrent.

#### Enforcement in Mexico

Although enforcement of labor laws in Mexico is the responsibility of either federal or state authorities, depending on the industry,<sup>7</sup> the general enforcement strategy in each case has the same two primary components: (1) employer and worker identification of workplace problems through the mandatory joint workplace committees and (2) inspections by government agents, which emphasize conciliation of differences but may include the application of sanctions if employers repeatedly refuse to comply.

Mexican government regulations place primary responsibility for enforcement of labor laws, including those requiring safe and healthful working conditions, on the joint workplace committees. According to the regulations, the committees are responsible for training employees on occupational safety and health risks and identifying and preventing such risks from becoming problems. Further, the regulations require that these committees inspect the workplace once a month and look for workplace hazards ranging

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<sup>7</sup>The Constitution establishes exclusive federal jurisdiction over 24 industries or types of firms. The 24 industries specified are among Mexico's largest, including petroleum, petrochemicals, railroads, food processing and textiles. States are responsible for enforcing the law in all industries not under federal jurisdiction.

from the cleanliness of bathroom facilities to the noise, vibration, and fumes from machinery used in the plant. If the employer does not correct the identified hazards, the committee reports this fact to either federal or state enforcement officials. According to information provided by the U.S. Department of State, the Directorate General of Federal Labor Inspection typically sends an inspector to verify the reported violation.

The second portion of the Mexican government's enforcement strategy involves conducting workplace inspections. The Directorate General of Federal Labor Inspections, within the Secretariat of Labor and Social Welfare, is the federal government agency responsible for conducting workplace inspections. The Directorate employs about 600 full-time inspectors, including about 300 college seniors fulfilling their public service requirement. About one-half of the inspectors work in the Federal District of Mexico (Mexico City) and the remainder are employed in regional offices. Each of the 31 Mexican states is responsible for enforcing labor laws, but we were unable to obtain the number of state labor inspectors.

Inspections, which are usually announced to the employer 24 hours in advance, may be initiated in several different ways. They may be (1) targeted to a worksite using a combination of injury rates in the industry and the individual firms' history of violations and work-related injuries or illnesses; (2) initiated by requests from workers or other interested parties or by reports from the joint workplace committees, (3) precipitated by accidents, or (4) performed as part of a periodic inspection program. For example, the Director of Inspections at one local office of a state agency told us that his office inspected all worksites once a year, using a list obtained from tax records. In addition, inspectors may return to a worksite to see if employers have corrected problems previously identified.

Workplace inspections encompass all aspects of labor law. Mexican labor inspectors are responsible for assessing compliance with the entire Federal Labor Law, including not only safety and health and child labor requirements but also other provisions such as payment of minimum wages, vacation time, hours and days of work.

Mexican law provides for a variety of sanctions for noncompliance with safety and health or other standards. For example, if within a reasonable period of time an employer fails to rectify a problem, a fine may be imposed. If the employer is found later to have failed to correct the problem, additional fines may be imposed and the workplace may be closed until the unsafe condition is eliminated. Penalties can range from 15 to 315 times the daily minimum salary in effect at the place and time of the violation.

Workplace inspections conducted by the Mexican government were described to us as an attempt at conciliation more than an effort to deter violations by detecting and sanctioning noncompliance. The basic purpose of the inspections is to resolve and mitigate any occupational safety and health problems. Both the federal and state inspection officials we spoke with told us that penalties are only assessed against firms that refuse to mitigate the hazards identified.

We were unable to determine the number of state inspections performed annually or the results of those inspections, and the federal inspection statistics we obtained are incomplete. For federal inspections, a Secretariat of Labor and Social Welfare publication showed that, in the year ending October 31, 1990, federal labor inspectors issued 23,537 notifications of violations in 33,135 inspection reports. However, no information was available about how many, if any, of the notifications were for safety and health or child labor violations.

### Enforcement in the United States

In contrast with enforcement in Mexico, safety/health and child labor regulations are enforced in the United States by different component agencies of the Department of Labor, and states may have separate offices responsible for child labor and safety and health. The Occupational Safety and Health Act vests enforcement responsibility in the Department of Labor, but it also provides that OSHA may approve state-operated programs to enforce safety and health laws in their states. Both the state laws and the state-operated program's policies and procedures must be monitored by OSHA to confirm that they are "at least as effective as" the federal standards and program. For child labor, the Wage and Hour Division of the Labor Department's Employment Standards Administration (ESA) is responsible for enforcement of federal child labor standards; states are responsible for enforcement of their own child labor standards.

The enforcement strategies of both OSHA and ESA rely heavily on voluntary compliance by employers, and both agencies have educational and assistance efforts specifically intended to foster compliance. ESA has recently increased its emphasis on educating the public about child labor laws. In addition, both agencies characterize inspections as also having an educational component. This reliance on voluntary compliance is due in part to the large enforcement task facing the agencies. For example, OSHA and the 25 states that operate OSHA-approved state safety and health programs cover about 88 million workers and about 6 million employers.

The other major component of both agencies' enforcement strategy is conducting inspections; issuing citations and assessing

penalties; and, in the case of safety and health inspections, verifying that employers have abated (corrected) the identified hazards. This component is intended not only to find and correct problems but also to constitute a deterrent, that is, to encourage employers to comply with the law rather than take a chance on being detected and sanctioned for noncompliance. A significant feature of this approach is that inspections are usually unannounced.<sup>8</sup> The Congress recently acted to increase this deterrent effect by significantly raising penalties for both child labor and safety and health violations: the Omnibus Budget Reconciliation Act of 1990 included a sevenfold increase in OSHA maximum penalties and raised the maximum penalty for nonwillful child labor violations from \$1,000 to \$10,000.

Safety and health and federal child labor inspections are similar in giving priority to inspections where there is a specific reason to believe there may be violations. OSHA's highest priority is to alleged imminent danger situations, accidents involving a fatality or catastrophe, complaints alleging serious violations that threaten physical harm, or referrals describing a potential serious hazard. However, some inspections are targeted to worksites in industries that are considered especially hazardous, such as construction, manufacturing industries with above-average injury and illness records, and industries with a history of health hazards. For all its FLSA inspections, ESA has traditionally relied heavily upon complaint-driven investigations.<sup>9</sup> To better detect child labor violations, however, it has recently channeled more of its enforcement effort into directed investigations and strike forces because of a concern that child labor violations are less likely to generate complaints.

The maximum civil penalties for safety and health violations are higher than those for child labor violations. The maximum penalties for safety and health violations range from \$7,000 for a serious violation to \$70,000 for each willful or repeat violation, and there is a minimum penalty of \$5,000 for willful

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<sup>8</sup>OSHA inspections are, with only limited exceptions, always unannounced. ESA generally informs employers before it comes to inspect for FLSA violations, including child labor violations. However, its strike force efforts targeted at child labor problems have been unannounced.

<sup>9</sup>ESA inspectors check for violations of the child labor provision of FLSA as part of their inspections for compliance with other parts of FLSA, such as its minimum wage and overtime provisions. Thus it considers that all FLSA investigations are child labor investigations because any child labor violations would be noted.

violations.<sup>10</sup> The size of civil penalties for child labor violations depends on whether it is a repeat violation and whether it could be expected to, or has, resulted in harm to the health and safety of the child. At the federal level the maximum penalty is \$10,000 per violation; according to ESA policy, a penalty this high would only be assessed in the case of a child labor violation associated with a fatality or permanent disability.

Available sanctions include criminal penalties, although they have rarely been used. For safety and health violations, if convicted, an employer cited for a willful violation that caused death of any employee can be fined up to \$10,000 or imprisoned for up to 6 months; a second such offense can result in a fine of up to \$20,000 and/or imprisonment for not more than a year. There are also criminal sanctions for giving employers advance notice of an inspection and knowingly making false reports or statements regarding safety and health enforcement. The federal criminal penalty for a repeat and willful child labor violation can include up to six months in prison.

In fiscal year 1990, federal inspectors and inspectors from state-operated safety and health programs conducted over 180,000 inspections. Approximately 2,200 federal and state inspectors conducted nearly 140,000 safety and health inspections. With about 1,100 inspectors each, OSHA conducted about 46,000 of these and state programs conducted about 93,000. ESA's approximately 1,000 inspectors conducted about 41,800 investigations.<sup>11</sup>

#### VULNERABILITIES IN BOTH COUNTRIES' STRATEGIES

Enforcement strategies in both the United States and Mexico have vulnerabilities. The Mexican reliance on collaborative efforts at the worksite level requires a workforce not only knowledgeable about its rights and possible workplace hazards but also free to participate actively in negotiations with employers. And it is possible that the nature of inspections in Mexico reduces inspectors' ability to detect potential problems. On the other hand, the U.S. attempt to deter violations through

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<sup>10</sup>A serious violation is one that includes a substantial probability that death or serious physical harm could result. A willful violation is one that the employer intentionally and knowingly commits.

<sup>11</sup>To obtain a complete view of the enforcement effort in these areas, one would have to include the state child labor enforcement efforts because the same workplaces may be investigated by both federal and state child labor inspectors. However, we were unable to obtain comparable data from all states.

inspections is limited by the infrequent inspections and limited criminal sanctions.

GAO has done extensive work analyzing the vulnerabilities of U.S. enforcement strategy. In a recent report we identified the infrequency of inspections and weak sanctions for noncompliance as significant limitations to OSHA's ability to provide an effective deterrent to noncompliance.<sup>12</sup> In fiscal year 1989 only 10 percent of the worksites OSHA identified as high hazard for safety reasons were inspected and only 3 percent of the worksites identified as high hazard for health reasons were inspected. Although recent legislation has increased civil penalties, statutory criminal sanctions remain limited. And the extent to which the increased maximum civil sanctions will provide an increased deterrent will depend on how OSHA uses that authorization to assess higher penalties. Similar problems exist in Labor's enforcement of child labor laws.

Although we were unable to analyze the Mexican government's enforcement strategy as thoroughly as we have the U.S. approach, we believe there are at least two major vulnerabilities. These involve the operations of the joint workplace committees and the thoroughness of the inspections.

First, Mexican workers may not have enough information about workplace hazards and may not be able to use this collaborative mechanism fully. If the labor representatives are either untrained or non-independent, the system is subject to abuse. For example, in those workplaces with "sindicatos blancos," or fake unions, the worker representative on the committee may be selected by the employer, which presents a conflict of interest if violations occur.<sup>13</sup>

In addition, the committees are supposed to be backed up by inspections triggered by reports they send to state or federal government offices, but we were unable to determine what actions, if any, the Mexican government takes in response to those reports. The Director of Inspections at one state office told us that his office would only respond with an inspection if committees continued to report the same problems over several months.

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<sup>12</sup>Occupational Safety and Health: Options for Improving Safety and Health in the Workplace, GAO/HRD-90-66BR, August, 1990.

<sup>13</sup>These are unions created by employers, generally to prevent union organization. Although these unions are officially registered with the federal government, they do not represent the workers in negotiations with employers.

Second, the nature of inspections in Mexico may provide less intense scrutiny of employers' compliance with child labor and safety and health laws than do the more specialized inspection procedures used in the U.S. As we noted earlier, in Mexican worksite inspections, a single inspection would require checks for any labor law violations--not only those related to safety and health and child labor but also those governing wages, vacation time, work breaks, and collective bargaining. In addition, the policy of announcing inspections in advance probably reduces the likelihood of finding certain violations. This may be especially true for child labor violations because it is so easy for children to vacate the premises in advance of the inspection.<sup>14</sup> The Director of Inspections for one local office of a state labor agency told us that they had issued no violation notices in the over 685 inspections conducted by his five inspectors in the first three months of 1991.

#### WORKER PROTECTION IN THE TEXTILE AND APPAREL INDUSTRIES

The textile and apparel industries can be used to illustrate the similarities and differences in U.S. and Mexican (1) occupational safety and health and child labor laws and regulations; (2) enforcement strategies and responsibilities; and (3) enforcement vulnerabilities. We chose these industries for our illustration largely because the U.S. International Trade Commission's February 1991 report on the likely impact of a free trade agreement with Mexico identified them as among the industries that would be affected in both countries.

Textile mill workers perform such activities as preparing fiber and manufacturing yarn, fabrics, carpets, and rugs; dyeing and finishing fiber, yarn, fabrics and knit apparel; coating, waterproofing, or otherwise treating fabrics; manufacturing knit apparel or other finished articles from yarn; and manufacturing felt goods, lace goods, nonwoven fabrics, and miscellaneous textiles. Apparel industry workers produce clothing and fabricate products by cutting and sewing purchased woven or knit textile fabrics and related materials.

The textile and apparel workforce in the United States in 1989 consisted of about 1.8 million workers: 724,000 in textiles and about 1.1 million in apparel. Mexico's textile and apparel workforce totaled about 382,000 workers: 168,000 in textiles and 214,000 in apparel. U.S. textile and apparel industry employment

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<sup>14</sup>The U.S., for example, found far more child labor violations in the ESA fiscal year 1990 unannounced strike force efforts targeted to likely child labor violators than in its--usually announced--regular FLSA investigations (40 percent compared with 13 percent).

is concentrated in the southern states and in California and New York where most apparel is produced. Mexico's textile and apparel employment is geographically concentrated in states along its border with the United States and in major metropolitan areas such as Mexico City, Monterrey, and Guadalajara.

### Potential Problems in These Industries

In the textile and apparel industries, workers can be exposed to a wide variety of occupational safety and health hazards. In addition, at least in the apparel industry, there appears to be a sizeable likelihood that children will be employed illegally.

Safety and health hazards include potentially hazardous levels of air contaminants that result in dust diseases of the lungs; toxic agents that result in respiratory conditions or skin diseases and disorders; and noise levels that contribute to hearing impairment or loss. Apparel industry workers frequently work in small establishments, which also necessitates particular attention to electrical safety, fire protection, uncluttered walking and working areas, and clear access to exits. In addition, some evidence exists in the United States that child labor violations may be a problem in the apparel industry.

Regarding the risk of child labor abuse, expert sources we consulted indicate that child labor is more likely to be a problem in the apparel than in the textile industries. This is primarily because of the nature of these industries. The textile industry is more likely to involve larger factories with substantial investments in equipment, while much of the work in the apparel industry can be done with sewing machines or hand sewing, which can be done at home or can more readily use the assistance of children. We have no reason to believe the likelihood of problems would be substantially different in Mexico than in the United States.

### Laws, Regulations, and Standards for the Textile and Apparel Industries

Both Mexico and the United States have adopted regulations and standards that protect workers in the textile and apparel industries. Most of these are regulations that protect workers in these industries but are not unique to the industries. For example, general safety and health standards that address hazards occurring frequently in these industries include those for air contaminants, electrical safety, fire prevention, machine guarding, formaldehyde, occupational noise, and hazard communication. However, in the safety and health area, the United States also has a textile industry-specific safety standard and a health standard addressing exposure to cotton dust, while Mexico lacks comparable protections.

Among the range of safety and health standards that each country has adopted for industries, including textile and apparel, there are differences. For example, both the U.S. and the Mexican standard for occupational noise use 90 decibels as the maximum allowable noise level for an 8-hour period. However, Mexico has a more stringent requirement for 1-hour periods (99 decibels) than does the U.S. (105 decibels). Both countries require that any work environment with a noise level above certain levels must have a hearing conservation program in place to periodically check for workers' hearing loss.

The U.S. safety standard specific to the textile industry includes requirements for machinery and equipment safeguarding and work practices such as wearing of personal protective equipment and workroom ventilation. Mexico's contract law for the textile industry, on the other hand, refers to those requirements contained in separate federal regulations and standards for all industries, such as machine guarding or personal protective equipment, but does not specifically detail such safety and health requirements.<sup>15</sup>

U.S. and Mexican protections against the hazards of cotton dust are similar in their permissible exposure levels but different in the additional protective practices required. OSHA's cotton dust standard requires employers to assure that no employee in yarn manufacturing and cotton washing operations is exposed to airborne concentrations of respirable cotton dust greater than 200 micrograms per cubic meter of air, averaged over an 8-hour period. It allows higher exposure levels for certain other textile industry activities. Mexico has a single permissible exposure limit for cotton dust equal to the U. S. minimum level-- 200 micrograms. Because the regulation makes no distinction for different types of textile industry activity, it appears to be stricter than the U. S. standard. However, OSHA's Deputy Director for Health Standards Programs told us that he did not think current technology exists to enable textile industry employers in either the United States or Mexico to achieve this level in the other activities for which OSHA allows higher levels.

In addition to the permissible exposure limits, the U.S. standard also requires specific protective practices that the Mexican law does not require. These include (1) requiring employers to institute engineering and work practice controls where feasible, (2) conducting a medical surveillance program for all employees

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<sup>15</sup>Article 406 of the Mexican Federal Labor Law authorizes unions representing two-thirds of an industry to negotiate with employers a contract that is binding on the entire industry, and this has been done in the textile industry.

exposed to cotton dust, and (3) requiring employers to post warning signs in work areas where the exposure limits are exceeded and notifying employees that respirators are required to be worn in such areas.

In the child labor area, the standards may permit children to work in these industries at a younger age in Mexico than in the U.S. In the U.S., children below the age of 16 would be prohibited from working in textile and apparel because these are manufacturing industries. In addition, 16- and 17-year-olds would be prohibited from performing certain operations, such as driving forklifts. In Mexico, 14- and 15-year-old children would be prohibited from performing activities considered hazardous, but the law does not specify what those activities would be.

### Enforcement Strategies and Responsibilities Differ

U.S. and Mexican enforcement strategies and responsibilities are the same in these industries as they are for other industries, except that, in the United States, both the federal and some state governments have targeted more efforts specifically to child labor problems in the apparel industry.

In fiscal year 1990, OSHA and state inspectors conducted 1,076 initial inspections in the textile and apparel industries and issued citations for about 4,200 violations. Total initial penalties assessed were \$685,000.

In child labor, during fiscal year 1990, ESA conducted 217 inspections in the textile industry and found only 2 child labor violations. ESA also conducted 1,245 apparel industry inspections and found 12 child labor violations.

In spite of the relatively low number of child labor violations found in routine inspections of these industries, many people are concerned that there is a problem of child labor abuse in some segments of the apparel industry. Their concern is that the segment of the apparel industry which operates in the underground economy may be missed by the usual enforcement efforts, and that child labor abuses are more likely to occur in that sector. As a result, both the U.S. Department of Labor and the State of New York have targeted enforcement efforts in apparel.

In May 1990, Labor initiated a garment industry strike force in the New York City metropolitan area involving several teams of investigators focusing several weeks on the garment industry. This was followed by additional garment industry sweeps in other major metropolitan areas.

New York State has targeted enforcement resources specifically at the apparel industry. The Apparel Industry Task Force had 34

full-time staff dedicated to it for fiscal year 1990. Activities have included a drive to register all apparel manufacturers and targeted child labor enforcement efforts which resulted in an increase in child labor violation detections of over 400 percent.

Enforcement of labor laws in Mexico is the responsibility of the federal government in the textile industry and of the states in the apparel industry. We were unable to obtain any data on the number of inspections conducted by the state in the apparel industry. In 1990, the federal government conducted about 6,000 inspections in the textile industry and issued 1,034 citations for violations.

### Vulnerability of Enforcement Strategies

Our visits to apparel and textile worksites in both the U.S. and Mexico illustrate some of the vulnerabilities in enforcement. For example, in the U.S., we staff observed problems in an apparel manufacturing plant near the Mexican border. According to the manager, he was unaware of significant safety and health requirements, such as the hazard communication standard which requires that information be given to workers about the chemical hazards in the workplace. Although we saw likely safety and health violations, this plant had not been inspected in the 3 years that it had operated. Under OSHA's procedures, OSHA would be unlikely to inspect the plant unless a fatality or accident occurred or someone filed a complaint.

In another apparel plant in a Mexican border town, GAO staff observed likely safety hazards such as broken floor tiles and frayed electrical wires. In addition, discussions with the owner raised serious questions about the effectiveness of the joint labor-management committee and the state inspections in protecting workers. The employees we asked knew nothing about a joint committee, even though the owner insisted that it existed. He said that he picked the workers to be on the committee. He also said that they met every 2 or 3 months but that they did no workplace inspections and were given no instructions about problems to look for.

He did say the plant was inspected regularly by Mexican labor inspectors and he showed us a sample inspection report from 1988. It included the results of interviews with workers, asking them about the employers' compliance with specific labor law requirements such as minimum wages, but it also listed the names of the workers along with what they said about the employer.

GAO's visit to a textile factory further demonstrated that the joint committees do not always follow requirements for their activities. For instance, the plant manager told us that the joint committee did not measure noise levels, because inspectors

do that when they come to the worksite. However, that is specifically listed as a responsibility of the committee in its monthly inspections.

To conclude, Mr. Chairman, we found both similarities and differences in worker protection laws and enforcement strategies in the United States and in Mexico. Each country has relative strengths and weaknesses in protecting its workforce. Unfortunately, each country's worker protection enforcement strategies also contain vulnerabilities that expose workers to health and safety hazards and threaten the well-being of children.

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This concludes my statement. I will be glad to respond to any questions you may have.