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National Report

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Mexicans Were Denied U.S. Rights, Suit Says

By STEVEN GREENHOUSE

Four Mexican unions filed an unusual legal complaint yesterday, charging that thousands of Mexican migrants who pick and pack apples in Washington State are deprived of their basic labor rights, including overtime pay, safety protections and the right to form unions without facing retaliation.

In a complaint filed with the government office in Mexico City that administers the North American Free Trade Agreement, the unions asserted that the United States Government, Washington State and the apple industry had failed to uphold worker rights guaranteed in labor's side accord to Nafta.

The unions are asking the Mexican Government to demand high-level consultations with the United States to highlight the migrants' working conditions, which union officials say are appalling. Mexican and American officials estimate that there are more than 45,000 apple pickers and packers in Washington State, and that at least half come from Mexico.

The complaint charges that the Occupational Safety and Health Administration has flouted Nafta by failing to enforce safety laws to pro-

A complaint on behalf of migrant apple pickers in Washington State.

tect apple workers from pesticides. Pointing to recent failed organizing drives at two packing houses in Washington, the complaint asserts that Federal labor law does little to protect workers from dismissal or other forms of retaliation in unionization drives.

The complaint also says that many workers do not receive the minimum wage and that they rarely receive time and a half for overtime because Federal overtime laws do not apply to farm workers.

"Wages of warehouse and field workers have fallen below poverty levels," it said. "Workers face high exposure to dangerous chemicals, safety hazards and unsanitary conditions in fields and warehouses."

Under the Nafta side agreement, if Mexico finds merit to the complaint

it can demand consultations. If Mexico is not satisfied with the consultations, it can then demand that a panel of experts be formed to examine the complaint. There is a further option of creating an arbitration panel with the power to punish industries that violate Nafta rules.

An official at the Mexican Embassy in Washington said his Government had monitored the treatment of Mexican migrants.

"Our Government has an interest in promoting the protection of the rights of Mexicans, including labor rights," the official said. "But this particular case will of course be analyzed on its merits."

The complaint was filed by the National Union of Workers, a new, left-leaning challenger to the main labor federation, and by the Democratic Farmworkers Front, the Authentic Workers Front and a metal workers union.

This is the 11th complaint brought under Nafta's labor side agreements, with most complaints filed by American unions charging that Mexico has not enforced the right of workers to form unions in northern Mexico. The complaint filed yesterday is the second brought by Mexican unions; the previous one accused the Sprint Corporation of improperly closing a California plant during a unionization drive.

Pharis Harvey, executive director of the International Labor Rights Fund, a group in Washington that helped the Mexican unions bring the complaint, called it "an important step for scrutinizing labor law enforcement in the United States, where there are severe problems of discrimination against workers who try to form unions and where migrant workers face widespread labor and human rights violations."

The Mexican unions brought the complaint with the support of the International Brotherhood of Teamsters, which seeks to organize apple packers, and the United Farm Workers of America, which wants to organize pickers.

American unions have long complained that the Nafta labor side accord is toothless, but American labor leaders see the Mexican complaint as useful to publicize the harsh conditions faced by migrant workers.

"We don't expect this process to improve actual labor standards," said Maria Figueroa, an analyst in the teamsters' research department. "But we think this process can expose the weakness of our own legal system in providing labor protections."

A Labor Department official declined to comment, saying the Federal authorities had not yet seen the complaint.