

103
**NORTH AMERICAN FREE TRADE AGREEMENT:
"BUSINESS AND POLITICS IN MEXICO"**

Y 4. SM 1:103-55

North American Free Trade Agreement... **HEARING**

BEFORE THE

**COMMITTEE ON SMALL BUSINESS
HOUSE OF REPRESENTATIVES**

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

WASHINGTON, DC, OCTOBER 27, 1993

Printed for the use of the Committee on Small Business

Serial No. 103-55



AUG 11 1994

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1994

73-842 CC

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

ISBN 0-16-044505-1

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NORTH AMERICAN FREE TRADE AGREEMENT: "BUSINESS AND POLITICS IN MEXICO"

WEDNESDAY, OCTOBER 27, 1993

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The committee met, pursuant to notice, at 9:20 a.m., in room 2359-A, Rayburn House Office Building, Hon. John J. LaFalce (chairman of the committee) presiding.

Chairman LAFALCE. The Small Business Committee will come to order. In a series of nine hearings since 1992, our Small Business Committee has examined the North American Free Trade Agreement, NAFTA, from numerous perspectives to determine how it will affect the small business community.

Supporters of the proposed agreement contend that it is good for American business. It is therefore appropriate to examine the climate United States firms will encounter when exporting to or operating in Mexico to determine if that climate will, in fact, maximize opportunity for U.S. companies and their workers.

To ensure a comprehensive examination of this important issue, our committee has heard from a wide range of witnesses from both Mexico and the United States, including small business owners, academics, labor unions, business organizations, consultants, and human rights activists.

What the committee has discovered to date is disturbing. Our committee has received credible testimony which depicts a society in which the rule of law does not always govern and in which political, legal, and human rights are often abused.

These are not abstract concerns for American business. It has now been seriously 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.

Recent press reports in the Financial Times and other reputable publications have focused attention on charges that the procurement process in Mexico may be tainted. Specifically, the recent award of a prestigious contract for Mexico's air traffic control system was accompanied by charges of attempted bribery and other irregularities in the procurement process. A March 1993 article in the Financial Times noted that: "An agent acting for IBM claims he was told that the tender would be called off unless he paid money. According to the agent, Mr. Kaveh Moussavi, three men, apparently Mexican officials, arranged to meet him in his hotel. They initially asked for \$1 million and then for lower amounts."

I underscore the fact that neither Mr. Moussavi or the principal for which he was agent, IBM, paid any bribe. I also emphasize that the tender was canceled and subsequently reissued. In addition, the press reports point out that those companies who lost the bid have formally complained about alleged irregularities in the tender process.

As the press reports note: "At least the bitter complaints and report of requests for money in a hotel room feed a common, if still to be substantiated, view that favoritism and corruption cloud awards of many Government contracts in Mexico. Critics of NAFTA have long argued that as long as corruption plays an important part of business, companies that play by the rules will not benefit fully from such market opening."

The articles further note: "The issues of transparency and accountability in the awarding of Government contracts are not likely to go away."

Nor should they. U.S. companies will only have a chance to obtain a fair share of any business opportunities NAFTA would allegedly open up if the business climate is open and honest and the procurement process objective and above reproach.

This morning the committee will therefore focus on the alleged exposure of businesses attempting to do business in Mexico to political corruption, bribery, death threats, and imprisonment.

The committee's witness, Mr. Moussavi, whom we will swear in, will recount his experience in efforts to obtain a contract for Mexico's air traffic control system on behalf of an American client. This publicized case, including the defamation of and threats against Mr. Moussavi and his family, illustrates the hazards of trying to operate in an environment in which some would argue that corruption and bribery appear to be standard operating procedures.

This case raises three important issues at least that the committee would like Mr. Moussavi to address. The first is the system of Government procurement and how actual practices in Mexico will affect the detailed provisions of Chapter 10 of NAFTA on Government procurement, which includes tendering procedures and qualification of suppliers.

I would like to call the committee's attention to a letter written to President Salinas on March 17, 1993 by the Operative Technical Committee for Improvement of the Conditions of Quality and Safety of Traffic Control in Mexican Air Space, an arm of the Mexican Government, which made disturbing allegations about the procurement process in this particular case.

[The March 17, 1993 letter referred to by Chairman LaFalce appears in the appendix.]

Chairman LAFALCE. The second issue our committee wishes to explore is the implications of this case for how small- and medium-size U.S. companies, new to market in Mexico, may be pressured to operate if they are to succeed in this environment. We must consider whether it is feasible to expect the U.S. Foreign Corrupt Practices Act to be adhered to, and respected by, U.S. businesses seeking export contracts and investments in Mexico in such a potentially adverse environment.

Third, this case also raises critical questions about the safety of the air traveling public in and out of Mexico. We must recognize

that any corruption or irregularity in the procurement system reaches beyond the business venture itself and has serious substantive policy consequences.

Press reports have revealed the quantum increase in flights to Mexico which are guided by very unsafe, very outdated, and inoperative control systems. Public safety was a major concern raised in the letter from the technical committee to President Salinas. The concern is not simply any alleged business corruption, but the implications for public safety.

Our committee had planned to hear from a second witness, Mr. Adolfo Onofre, the owner of a computer consulting firm in Mexico City. In the course of investigating the computer model that was to be used for the 1988 Presidential election in Mexico and publishing an article on this subject in his newsletter, The Computer World News Letter, Mr. Onofre was imprisoned on three occasions on minor and major criminal charges. While in prison, his residence was ransacked and his personal papers, passport and birth certificate, were stolen. Both as president and managing director of his own company and simply as an owner of personal property, Mr. Onofre has sustained substantial loss because of the Mexican Government's actions.

The committee had hoped to hear the details of his investigation and the actions on his part which apparently led to the Mexican Government's reprisals against him. Unfortunately, because of problems procuring a visa, problems that I think are the fault of the U.S. Government in this instance, Mr. Onofre will not appear. We will hopefully have testimony from him for the record.

[Mr. Onofre's statement appears in the appendix.]

Chairman LAFALCE. I reserve the right to have him before this committee at some future time.

The personal experiences of these businessmen, if reflective of the overall business environment in Mexico, should sound a warning bell for U.S. business. The committee and the Congress have a right to be concerned about how U.S. business, particularly small- and medium-size business, will fare in the Mexican business environment which is being described.

It is the committee's hope that the testimony being put before the committee today will give us greater insight as to whether NAFTA will truly advance the interests of U.S. business in Mexico, and enable U.S. companies to seek out new opportunities in the kind of objective, open and fair business climate they have every right to expect.

Now, before we hear Mr. Moussavi's testimony, I am going to call on others to make opening testimony if that is their desire, but before we proceed any further, Mr. Moussavi, I would like to swear you in. Could you just stand and raise your hand and repeat after me.

[The witness was sworn.]

Chairman LAFALCE. I call the Ranking Minority Member, Mrs. Meyers.

Mrs. MEYERS. Thank you. Mr. Chairman, I have no opening statement. I would like to just make a few brief comments. I have no reason to believe or disbelieve what Mr. Moussavi is going to say. I appreciate his being before us this morning. I do understand

that IBM is not endorsing what Mr. Moussavi says and would like to request that a statement be requested from them for the record, if that is all right with the Chairman.

Chairman LAFALCE. Well, not only is it all right, but I specifically told IBM that they could do that, so they didn't have to ask you. I had personally, through my staff, told them that. In fact I had told them they could testify if they so desired.

Thank you.

[The IBM statement appears in the appendix.]

Mrs. MEYERS. I must say that some people I have talked to at home, business people of integrity and who incidentally are very strong supporters of NAFTA, say that corruption in Mexico is standard and that they themselves have been solicited for bribes, which they have not paid. However, they believe that NAFTA would improve the situation, and obviously this is a situation that is of great concern to all of us.

I would like to apologize to the committee. I am going to have to be absent for about the next 5 or 10 minutes and I have asked Mr. Hefley to serve as Ranking Member of the committee.

Chairman LAFALCE. Surely. I also want to make somewhat of an apology. We had originally scheduled this hearing for 10 o'clock and it was only at the last minute, about 2:30 or 3 o'clock yesterday, that we moved it up to 9:15.

That is because President and Mrs. Clinton decided that they were going to have a press conference in Statutory Hall at 10:45 and they have invited certain Members, including myself, to be there standing with them by 10:30.

So at about 10:20, we are going to recess this hearing and then reconvene hopefully about a quarter after eleven. That is why we rescheduled it to 9:15.

Do any of the Members have any statement they wish to make before we begin? Mr. Johnson?

Mr. JOHNSON. Thank you, Mr. Chairman. I just want to make a couple of short comments. Today's hearing focuses on business practices and instances of corruption in Mexico, and I would like to point out that allegations of unfair business practices and corruption are not limited to Mexico alone. Allegations of corruption exist right here in the United States and other nations as well. In the case of Mexico, it is undeniable that President Salinas has made a commitment to reducing corruption and to steadily improve Mexico's economy.

The U.S. State Department says the quickest way to reduce corruption in Mexico is to increase international trade, which exposes a country's regulatory and enforcement practices. NAFTA does address Government procurement and opens a significant portion of this market to participating NAFTA countries.

Chapter 10 of the agreement establishes a bid protest system allowing suppliers to challenge the various procedures. This section also calls for each country to exchange procurement data and to share this information with suppliers by keeping the rules of trade open and transparent to all involved parties.

NAFTA will help to expose and expel corruptive practices.

Thank you, sir.

Chairman LAFALCE. Are there any other Members who have an opening statement? No.

All right, I hope all the Members have received, not only the letter from the Mexican Technical Committee to President Salinas, but also the letter of October 15, 1993 from Mr. Moussavi to President Clinton, which gives in summary form his experiences in connection with this contract.

It is my intention too that copies of both those letters be given to the media. It is my hope that they have them also.

With that, Mr. Moussavi, the floor is yours. We await your testimony.

TESTIMONY OF KAVEH MOUSSAVI, OXFORD, UNITED KINGDOM

Mr. MOUSSAVI. Thank you, Mr. Chairman. Mr. Chairman, sir, distinguished members of the committee, I am much obliged, that it was made abundantly clear—

Chairman LAFALCE. Could you move the microphone a bit closer to you, please?

Mr. MOUSSAVI. I am indeed obliged that it was made abundantly clear that I am here under a congressional subpoena. This may have surprised some of the people in this room.

I was very much a willing witness until approximately 3½ weeks ago. Frankly, I have here documents which summarize the measures which the British police have taken to protect me and my family. The threats against my children have increased to a level where the special branch of Scotland Yard have had to arrange for a new threat evaluation.

My family is now under around the clock protection by the British police. It was in those circumstances that despite the enormous feeling of outrage that I felt at the treatment by the Government and a President for whom I had the greatest admiration, I am on record in *El Financiero* and other newspapers in Mexico for having said repeatedly that I regarded Carlos Salinas as one of the greatest statesmen of the late 20th century. I was seriously thinking of accepting defeat.

I was by no means anti-NAFTA, and I certainly am not anti-NAFTA now. I am not anti-Mexican, and I have never been anti-Mexican. My love and affection for the people of Mexico is so profound that one of my children is indeed named after Emiliano Zapata, the great hero of the Mexican people.

When it comes to the Government of Mexico, alas for illusions, however, Mr. Chairman, and the distinguished members of this committee. But for the subpoena, it is highly improbable that I would have been here today.

I would like the record to reflect that I hold the President of Mexico, Carlos Salinas de Gortari personally responsible if anything untoward were to happen to a member of my family over the next coming weeks. I have absolutely no doubt about this. I have never been threatened in my life by anybody, never, over any issue, and I know that the Mexican Government, I know from very reliable sources, they have started the massive campaign of smear, libel and character assassination against me.

They are going to try and come up with all sorts of things. I challenge them to produce a single document, a single witness who will testify to the slightest black mark on my reputation and character.

With that opening remark I wish to put to you some of my experiences here that are, I believe, extremely relevant for the constituents of this committee. This is the Small Business Committee.

Some of the things I will say might be very unpleasant, however, they have to be said.

I am under some obligation to IBM. We have settled our problem with them, so I will not be focusing on IBM. I notice that they have made a statement. That is fine. They are entitled to that. I am not here to talk voluntarily and willingly about IBM's responses.

This much, however, I will put into the record. At the end of this hearing, I have no doubt whatsoever, honorable members, that you will be forced to think about—at least you will go away and consider that if this is what the Government of Mexico is capable of doing to a \$75 billion company, one of the jewels in the business community of the United States of America, if this is what they are able to do to them—I am not going to say they perjured themselves and they lied, I will just let the record speak for itself—what hope is there in such circumstances for your constituents, the honorable members of the Small Business Committee? I propose to put the bare facts of the case before you, Mr. Chairman, ladies and gentlemen.

I will then proceed to put the meat on the bare bones of those facts. I will then move to an analysis and examination of the responses of the Government of Mexico to anyone who dares to come forward and openly stick their neck out and risk everything they have because they trusted the Government of Mexico and call a spade a spade, anyone who dares to expose corruption.

Corruption appears to be an extremely sensitive point to the Government of President Carlos Salinas de Gortari. We will see the reason why. The bare facts of the case, ladies and gentlemen, are as follows: On June 19, 1992, I was appointed as a consultant to IBM Corporation to assist with their air traffic control contract which we knew was going to be put out by SENEAM, the relevant organization of the Mexico's Ministry of Transport and Communications.

On August 27th, SENEAM put out a formal request for proposals. IBM and six other multinational corporations were invited to participate in this tender. It was recognized in Mexico that sufficient expertise did not exist in the country to be able to meet the particular requirements at that moment.

We were given approximately a month in which to prepare our bids. On September 28, 1992, IBM Corp., my client, put in his bids, as did the other competitors. The other competitors were the nationalized state company Thomson of France, the nationalized state company, Alenia of Italy; a subsidiary of Toshiba of Japan; Plessey-Siemens of the United Kingdom and Germany; Raytheon of Canada; and Calmaquip Corp. of Miami. The bids were in.

On November 19, 1992, the Government of Mexico formally announced that none of the contenders were compliant with the requirements of the tender. This in itself was a rather strange spectacle, seeing that what, at the end of the day, with all due respect

and love that I have for the people of Mexico, is still a Third World country, telling some of the leading companies of the United States, Canada, Japan, and Europe, who are on the leading edge of technology, that their bids were not compliant.

This in itself was enough to raise an eyebrow or two within the business community who were involved with this business or had made it their business to watch this particular tender.

A few days later, I believe on December 2, 1992, the Government of Mexico requested further proposals and the companies were given 2 weeks in which to put their proposals through. This in itself was again an indication that perhaps something was amiss.

You simply do not ask corporations to participate in a tender which is this complicated and give them only 2 weeks. I must confess at that time we did think that this clearly was a ploy to give the people with insider information a significant advantage over the rest.

In any event, the bids went in. On December 16, 1992, the bids were opened and it was an enlightening experience indeed to see the bids and how they were opened. I will come to that when I put the meat on the bare bones that I am giving you at this stage, ladies and gentlemen.

On December 22, 1992, in a letter addressed to all the companies, SENEAM announced that the award had gone to Thomson, the two nationalized companies of France, Thomson CSF and Alenia of Italy. The letter, though dated December 22, arrived at the offices of IBM Corporation in Mexico on December 28.

Yours truly, as the agent, happened to have taken my children on holiday. I was in Kenya. I did not even know that we had lost the tender until January, 8, 1993. I plead with the Members to remember these dates because when we come to consider the acts of defamation and libel and character assassination that the Government of Mexico, and in particular, Jorge Carpizo McGregor, the attorney general of Mexico, the apparent jewel in the crown of reformist ambitions and pretensions of the Government of Carlos Salinas, the defamation that he and they have engaged in, the date is extremely significant. It will show the nature of the judicial system of Mexico beyond a shadow of doubt.

These, ladies and gentlemen, are the bare bones of the facts. When I returned from Kenya, we made a decision with IBM, who were utterly outraged at their treatment, that we would file a protest. The protest had gone in. Of course the Government of Mexico dismissed this protest. Evidently we were not the only people who protested.

Every single company, without exception, with the obvious exception of the winners, protested. The U.S. Embassy formally wrote to the Government of Mexico and protested the irregularities in the tender. I have the document which I request, Mr. Chairman, I be permitted later to put into the record. The British Embassy—

Chairman LAFALCE. Without objection, so ordered.

[The material submitted by Mr. Moussavi appears in the appendix.]

Mr. MOUSSAVI. The British embassy did the same. The Canadian Government went even further. Mr. Michael Wilson, the Trade Minister, formally wrote to Andres Caso Lombardo, the former

Minister of Transport and Communications of Mexico protesting the manner in which the tender had been conducted.

Needless to say, the Government of Mexico dismissed these protests. IBM corporation and I were outraged for two reasons. The first was clearly that there were irregularities. The second, it was the considered opinion of the experts in IBM that the issues of safety had been very seriously undermined and compromised as a result.

IBM is on record on this point of safety, and I would be happy to read the documents there to you. We decided, with consultation with Messrs. Roger Boyd, William Swope, and with William Conyers of IBM Air Traffic Control Division that we draft a fact sheet and release it to the Financial Times of London, initially.

We did this. I briefed the Financial Times. On January 20, they did a 2-week detailed investigation of the case themselves and the day before they published their report, Mr. Steven Fiedler, the editor of the Financial Times Latin America desk, reported to me that he had not found a single person who is willing to talk favorably about this tender. His words were, "People say this thing stinks."

On February 3, the article appeared. I would like to correct that, Mr. Chairman, because in your previous statement you said that the article appeared on the 3rd of March. In fact the Financial Times report appeared on the 3rd of February.

That, ladies and gentlemen, is the point at which the sky caved in, all hell broke loose and Kaveh Moussavi's life became a pocket version of hell. I propose now to give you the meat and the events that took place behind the scenes.

On April 28, 1992, I took a senior air traffic control officer of IBM, Mr. William Swope, to SENEAM to have a discussion with the people there about the problems and about the program that they were going to be launching.

We were very kindly given a detailed briefing. Mr. Swope spent a day there listening to the various problems the air traffic controllers had and we made a number of pages of notes and so on.

The next day I returned, I took 93 pages of notes, having by now discussed with about 15 to 20 officials of SENEAM altogether the problems that they had. One of the most salient problems that they discussed with me was the failure and the inability of the radars—and I don't wish to be technical here, but if you want to, we can discuss the technicalities later—the inability of the radars that had been installed by the Italian company, Alenia back in the late 1970's and early 1980's and their inability to communicate and to speak with the Thomson computers. They indicated to me that this was a problem.

It was a problem increasingly because of the reforms that Carlos Salinas has brought into Mexico. There was a lot of capital flowing there. With capital, a lot of businesses have gone there. The number of flights have increased and so on.

They were telling me that while they could handle the problem by radio contact with incoming aircraft and while the aircraft were 60, 70, 80, or 90 a day, now there were something like 600 aircraft coming in every day to Mexico City alone. It was well nigh impossible for them. They repeatedly said to me, Mr. Moussavi, Mexico City Airport is an accident about to happen.

Well, of course I told them, don't worry, IBM is going to take care of that problem. Alas for illusions, as they say.

I returned to London, having briefed IBM at length about the follow-up, the discussions, and so on. Within a matter of 3 or 4 weeks, my office started receiving unsolicited offers of "assistants," from individuals that we had no idea, we had never heard of them, to help us win the prospective tender.

It was quite apparent to me, without wishing to sound too immodest, as someone who has been in the trade as it were, that these were the kith and kin, as it were, of Government officials who were trying to solicit a bribe to "assist" with this tender.

My standard answer was, it is strange you are trying to help me with a tender that hasn't even been launched yet. We have seen no request for proposals so what exactly are you offering?

I know the game quite well in Mexico, Mr. Chairman, ladies and gentlemen. In any event, on June 19, IBM agreed that they would sign a contract with me to keep them briefed of developments and basically how business is done in Mexico.

As I said, in late August, the request for proposal was requested and IBM, my clients, submitted that, and that is when things started really moving.

One particularly persistent gentleman with the assumed name of Gustavo Aleman, repeatedly called and started telling me that, well, we are not going to be able to stand a chance of winning this tender unless we took on some "assistance."

My answer to him was, it is going to be funny because I am supposed to be the assistant and if I delegate to an assistant and then he delegates to another assistant and he delegates to another, there is going to be no gravy left for anybody at the end of the day, so what exactly are you proposing?

I will spare you the gory details of what he was saying, but the long and short of it was that you will not get very far without our "help."

I am on record, and of course I challenge IBM to deny this before this committee, and remember that I am under oath, at the risk of perjuring myself, I am on record of having informed IBM regularly, punctually, and on time of solicitations for money and assistance long before the events that are being described in the press took place on the morning of November 9 at the Nikko Hotel in Mexico City. Indeed, by late October, my controllers at IBM were sufficiently worried, to tell me to go and investigate. I have seen a scandalous and libelous article in the newspaper, "El Financiero," an article written by another puppet journalist, again, accusing me of all sorts of things yesterday.

It seems the Mexican Government is really worried about my testimony because, once again, they are bringing all sorts of things into the press. They say that IBM did not know about this. On the contrary. IBM knew and authorized me, they permitted me to fly down to Mexico City, I have a letter from them, telling me to go to Mexico to investigate. I will put this letter into the record which proves that IBM authorized me to go.

I told them that what I would like to do is to get down there and investigate the precise nature of these solicitations.

Mr. Swope wrote to me and said, you are fully authorized to go down, and let us know what happens.

Ladies and gentlemen, I arrived in Mexico City on the evening of November 8, 1992 and checked into the Nikko Hotel. Mr. "Gustavo Aleman" knew that was where I was going to be. I had said, if your people have anything to say to me, I am going to be there, if they would like to see me.

My conditions are, one, my contract with IBM says quite explicitly and to the lasting credit of IBM, I will say they and I, we certainly saw eye to eye on this issue, that we would not pay any bribes. Indeed, my contract is a highly ethical document.

I would be happy to put that into the record too. I think, Mr. LaSalle, the attorney for IBM actually, he may well have taken out verbatim bits of the Foreign Corrupt Practice Act and put them into the contract. That was perfect and it was not least, because of and in light of the briefing that I had given to IBM executives, that this is the climate of business in Mexico.

On the evening of November 8, I had a long telephone call from "Gustavo Aleman" in which he told me what was going to happen the next day. I said I am here with baited breath. In the early hours of the morning, I received a telephone call from a gentleman in the Nikko Hotel who asked to come up to my room. I didn't know who this gentleman was, I turned down the request and I said I would meet him in the lobby.

When I came down to the lobby, there were three men in the lobby and they seemed to know who I am, and we shook hands, and I introduced myself. They said we know who you are, you are quite a legend, Mr. Moussavi. Thank you, very much. I give them my card.

I noticed they were reluctant to give me their cards. I asked them for their names and they prevaricated. They were equivocal. They asked to go upstairs to my room. I said no. We sat in the lobby there and then.

I would ask the panel just to think about the spectacle of three men sitting in the busy lobby of the Nikko Hotel at approximately 8:30 in the morning with absolutely no fear that the police might be there—or maybe they knew the police are there and given the nature of the Mexican Government, that wouldn't really worry them too much. They were all on the same side.

I said, gentlemen, fine, I am here at your disposal, but I really need to know who you are. Mr. Moussavi, why do you need to know who we are? Isn't it more important that you should know what we can do for you?

I said, well, that is interesting, it is important, but how do I know you are not Thomson's agents. How do I know you are not here to discredit me and my client, IBM? How do I know this is not a conspiracy? One of them joked and said, Mr. Moussavi, "so you are not a commercial agent, you are a secret agent, as you ask these kind of questions."

I said, well, maybe I take that as a compliment. So could I see who you are, gentlemen? At which point one of them who had a briefcase, opened it, pulled out a mass of documents, put them on the table and said, "credentials, my visiting card." I said, "well, that looks like a pretty heavy visiting card to me, can I see what

they are?" He put his fist on it, said, "you can see what they are. There are documents of your bid, part of them, that is Thomson's, that is Alenia's, etc." So there was absolutely no question in my mind that these were gentlemen who were either Government officials or extremely close to Government officials, and I said, "fine, what are you proposing?" They said, "\$1 million."

Chairman LAFALCE. You saw copies of the bids that had been submitted for the air traffic control system?

Mr. MOUSSAVI. Correct, sir. Copies of correspondence with the various companies and so on. This was on the morning of November 9, 1992.

One of the men asked at that point, "Mr. Moussavi, do you want to know the name of my grandmother or do you want to know what I can do for you?" I said, "you may be able to do many things for me, but there are certain things I cannot do for you for two reasons. One is I represent an American company and there is a thing called the Foreign Corrupt Practices Act which explicitly forbids payment of contributions, bribes and so on."

They took this as a bad joke. I said, "fine, that is one aspect of the problem. The other aspect is the character and the nature of my contract with my client, IBM Corporation." They said, "well, why don't you go and talk to IBM and come and tell us." I said, "I know what the answer is going to be. They are not willing to pay." "Why did you come down here then," they asked. I said, "I came down here to find out whether you people are Government officials or whether you are genuinely people with the expertise, the kinds of expertise that will assist me in the continuation of this contract," because, Mr. Chairman, ladies and gentlemen, this wasn't just a one-of contract. This would have gone on. There would have been upgrades, there would have been backups, there would have been further supplies and so on, so it was quite reasonable to think that it would be nice to have somebody who has got first class information about what the problems are, and this was the upgrading of only a certain number of centers.

There were many airports that hadn't been touched, and they were going to be upgraded. So in other words, the contract was going to run. I said to them, "the purpose of my coming here is to find out exactly who you people are. If you are Government officials, I have a problem. I cannot pay Government officials. This money is going to end up in the pockets of you people and it is going to end up in the pockets of the officials of SENEAM." At which point one of them said, "I promise you, this money isn't for us, it is going to solidarity, or pronasol."

So I said, "well, that makes it even more impossible, because political contributions are explicitly forbidden under the Foreign Corrupt Practices Act."

They tried to backtrack and we had a conversation that went in circles for awhile, so to break the deadlock, I said, "gentlemen, I am going to call my controllers at IBM and I am going to tell them." They asked, "you are going to say that on the telephone?" I said, "well, I know how to talk."

I have worked in other countries in which the telephones are not as free as those in the neighboring country to the north of the Rio Grande. So I went up and I telephoned my contacts in IBM and

in very—using extreme circumlocution, I made it absolutely clear what was going on, that I had been asked for a political contribution.

I explicitly stated that these men are in my considered opinion Government officials. I explicitly stated—I say that in the light of the nonsensical material, the libelous stuff that has been written in the Mexican press about me—I explicitly stated that there is a request for a contribution to pronasol, the President's Program.

I thank the lord that I actually made a tape recording of a conversation later on with Mr. Bill Conyers of IBM when I realized that they were going to let me hang out there to dry. I don't blame IBM. I think given the criminal environment in which IBM Corporation has to operate in Mexico—they have a several billion dollar business down there and they have to protect it—I do not blame them for what they did.

I understand that. It is just that it is a little bit hard when you find that you have been called a liar. So I made a tape recording of the conversation, which if anybody doesn't believe that I reported the political contribution, if anybody doesn't believe that I actually stated that these people are Government officials, I would be more than happy to put that into the record with your permission, Mr. Chairman.

The discussion did not go far. Roger Boyd and Bill Swope, both of them knew what the problem was, and we didn't get too far, and I came down and I explained to them that this is my problem. At which point, you may well have read, they pulled out a map and they put it in front of me and said, "Mr. Moussavi, do you know what this map is?"

It was a map of the air traffic control system of Mexico. I said, "is this a geography lesson? Of course I know what this map is." They said, "do you see these circles?" There was a map of Mexico and United States and Guatemala. I said, "yes, I do." "Do you see the gaps, Mr. Moussavi?" "Yes, I do."

"Do you know what those gaps are?" I said—I knew of course what they were trying to drive at, and I acted a true idiot—"no, tell me." "Mr. Moussavi, something like \$100 billion of narcotics finds its way through Mexico to the United States of America every year." I said, "yes, what has that got to do with me?"

"Something like \$17 billion of that stays in Mexico in terms of value added." For the first time, despite thinking of myself as something of a Mexican expert, I learned that Mexico's income from narcotics is more than its income from oil, which says a great deal about what is happening in that country at the moment—or at least so the gentlemen were saying.

The point being, "Mr. Moussavi, you think that your greatest selling point, being IBM's agent, this great Gringo company, is that IBM has won the Federal aviation contract in the United States, and if you win it in Mexico, you will be able to integrate the two systems and that is your greatest selling point. I said, "well, that is quite a winning point, don't you agree, in view of the fact that you want to go into NAFTA, you want to integrate everything else into the United States, so why should your air traffic control be an exception?"

He said, "so, Mr. Moussavi, what you consider to be IBM's biggest selling point, namely its capability to integrate Mexico's air traffic control system with that of the United States, is in the opinion of some people here, powerful people here, is in fact its weakest point."

I asked why? "Don't you see," they said. "These gaps are serving quite a powerful interest here."

So I said, "wait a minute. This doesn't sound serious. This sounds like a joke. One minute you people are private entrepreneurs. Another minute you people are representing pronasol, the solidarity program. You want the contribution to the solidarity program. Now you are telling me basically this money is going to some occult forces who control the Mafia here and it really is intriguing to me that \$1 million bribe should be able to buy off a \$17 billion business. This doesn't make sense."

I think that sort of shook them a little bit. One of them said, "Mr. Moussavi, try to understand, the Americans are taking over this country anyway, and we understand that and NAFTA will probably result in that sort of thing. What we want you to understand is that \$1 million is not going to buy off anybody."

"What it will do, it will show that when you people come into this country, you are going to play the game according to its rules." So I said, "ha, so with \$1 million, I am effectively buying a guardian angel; is that right? Well, I don't really need that."

At which point I was told that I would deeply regret my decision not to pay. I said, "well, life is full of regrets and let this be one of them." I explicitly, Mr. Chairman, explicitly told them, "I don't believe you people would be here, I don't believe you people would be here if you didn't think IBM were winning this tender anyway," and they said, "we will cancel the tender, just like that. We will cancel the tender."

So I said, "fine." I reported this discussion again to Roger Boyd and Bill Swope and we left it at that. Well, lo and behold, on November 19, the Government of Mexico formally announced the cancellation of the tender. I could have accepted any explanation. I could have accepted any reason. They might have said, we have run out of money, the budget isn't right, or we are going to privatize, because that was the previous excuse. There is a debate going on at the highest levels of the cabinet, they don't want to upgrade now, they want to privatize first and then allow the new owners to upgrade the system.

Mr. Chairman, ladies and gentlemen, I would have accepted any excuse for the cancellation of the tender, except the one they actually offered, namely, these, the world's leading companies on the edge of air traffic control technology, are not compliant their equipment isn't good enough. What they are offering isn't what we asked for. That was really a bad joke.

They said, we are going to probably launch another tender shortly, which is, in fact, precisely what they did do 10 days later. When they did that, they gave us 10 or 12 days to prepare new bids, which indeed raised a lot of eyebrows, questions like, "why, that was such a complicated tender, we are only going to get 10 days in which to put our bids in?"

As we submitted our bids, on November 16, 1992, they opened the bids. I received, ladies and gentlemen, the following fax which I would like to just read a bit of into the record. It is from Mr. Roger Boyd, IBM's senior air traffic control officer, who was on the spot. "Kaveh," that is yours truly, "the opening of bids was enlightening and worrisome. I am now—remember, he is writing from Mexico. He is fully aware that faxes are being intercepted and he told me this—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. He goes on and explains why, and he says that it is quite obvious that they have changed the terms of the tender in order to make it easier for "someone with influence." One salient feature of this document, Mr. Chairman, ladies and gentlemen, is that we have the French company protected by Government subsidies totally under the protection of the French Government, able to cut its prices just like that. It is a nationalized Government company, reduces prices by something like 60 percent in 10 days for the same equipment, just like that. That is what Thomson did.

Well, I said to IBM, "welcome to Mexico, welcome to the Mexico that is supposed to be clean." Do we participate in the next tender? I said, "yes, of course we do. We have got to try and win this. We will just try and make it as forceful as possible."

Mr. Chairman, in those days I suffered from a very serious illusion called Salinasitis. It is a particular disease that a lot of people suffer from these days. They imagine that Carlos Salinas is genuinely a reformer. They do not see him as the rescuer of the Mexican oligarchy, in the desperate effort to stop the demand and the desire and pressures for political reform, genuine reforms which can be the only guarantee for the kind of standards that we are looking for. I was one of those. I am on record as being one of those. In repeated interviews I have said that I regarded Salinas as one of the greatest statesmen of the 20th Century. So we participated again, and of course the rest is history, as they say. We participated.

On the 22nd, we were told that we had lost. We got the letter on the 28th. I learned about the fact that we had lost—because I was on holiday—only on January 8. We briefed the press and the Financial Times wrote the story, ladies and gentlemen, on February 3.

What I am going to say next is going to be pretty disturbing, I think. It is going to be disturbing for me. I am going to try and control myself. I am going to ask the Members of this committee to consider the responses of the Government of Mexico, to a forthright allegation of a live witness who—unlike most people who talk about corruption in Mexico, but are unwilling to allow their names to be put forward, is willing to come out and actually say what he saw. I put my hand up in front of Chairman LaFalce and say, yes, I affirm, here I want to ask you whether you believe sincerely in your hearts whether this is the response of a reform Government, whether a Government that has got at the top of its priority the reform of the system of public tenders and the administration and the political system behaves in this manner.

There are documents here which I am going to ask, with your permission, Mr. Chairman, to put into the record of this committee. The Government of Mexico, in less than 24 hours condemned me. They soon put out official statements asking for my extradition from Britain. Already I was a criminal.

Already they regarded me as the person who had broken every rule under the sun. Within 24 hours, they were saying the assumption that I was lying was there totally. Within 48 hours, we had them say, the honor of Mexico's public administration has been libeled, as though public administration is an entity in itself.

It says a lot about the nature of the Mexican Government where civil society has absolutely no existence under this administration and everything that is government is a saint. But you know, the minister did even better, Mr. Chairman, sir. Within 72 hours, Andres Caso Lombardo, the Minister of Transport and Communications, in 72 hours I insist, on February 6, he went on television, denounced me as a liar and said, if I ever set foot there, he is going to put me into prison.

We have the spectacle in which a minister, a member of the executive, has already become prosecutor, judge, jury, and has passed sentence within 3 days.

My desperate pleas with the Mexican Embassy in London were to no avail. You must try to understand how I felt that day. Here I was coming forward. I genuinely and truly believed I was doing a service for the Government of Mexico by saying, this is what happened, please come forward and investigate.

I have on record my British telecom bill, having telephoned the Mexican Embassy 21 times over the next few weeks, pleading with them to come and stop this campaign of defamation against me in Mexico, to come forward and to hear what I have to say.

Needless to say, they did not. In desperation, I retained the services of an attorney in Mexico and I instructed him to sue Andres Caso Lombardo immediately for defamation, to sue Maria Elena Vazquez Nava, the Minister of the Contralera, the Inspector General of Mexico and obtain a general cease and desist injunction from a Federal judge against the Government of Mexico to stop its campaign of libel.

Ladies and gentlemen, do you know what happened? The attorney said, "I find your naivete touching, Kaveh Moussavi, I find your naivete touching." When I asked him to put it in a letter, he said——

Chairman LAFALCE. Who is he again, Mr. Moussavi?

Mr. MOUSSAVI. It is my attorney in Mexico. I tried to retain him, but of course he was intimidated out of it. He simply said, "I find your naivete touching to think that you can get a judicial order against a serving minister of the Government of Mexico." I tried to sue Andres Caso Lombardo, Maria Elena Vazquez Nava and get a general injunction, a court order, to stop the Government from libeling me.

He wrote the following words: "I must tell you that a penal accusation against the current minister hasn't a chance to prosper, and I don't advise you to bring out, if your prospects of business in Mexico." I am going to plead with you to exercise the human capac-

ity for empathy for 2 minutes and put yourself in my shoes at that moment.

Here I am, a passionate and firm believer in Carlos Salinas de Gortari, a firm believer in the virtues of free trade. I am a businessman, I benefit from free trade. I suffered deeply from the illusion that here is a Government that is really trying, trying its best to clean up its act, and I find that I am being libeled in the press, on television and so on. But, they did even better.

They obliged Rodrigue Guerre Botelo, the president of IBM Mexico, to appear on television on the evening of February 4, and to deny that they had ever received a report from the agent. In fact, he denied that I was the agent. He said I don't work for IBM, but recognizing that I have 6-page contract for IBM, he said, I was an adviser to one of their branches and so on.

He totally denied that IBM had had the report, that there was a request for political contribution. He totally denied that this event had taken place. He profusely apologized to the Government of Mexico for the embarrassment that "esta persona," this person, in a very pejorative manner, has caused the Government of Mexico.

I am going to ask you to consider what was I to do? Here was the Government libeling me. Here was the minister threatening to put me in prison and IBM was backtracking.

To the lasting credit of IBM's executives in the United States—I draw a distinction, a massive distinction, and I would like the record to show that I draw a distinction between the behavior of IBM United States and IBM Mexico.

It is a fact that has been attested to and observed by journalists on the scene, journalists who were working for the Wall Street Journal, the Financial Times and others who said, IBM Mexico is talking a different language than IBM United States.

To the lasting credit of IBM United States, they did their utmost, their utmost to oblige IBM Mexico to begin to respect a little bit the norms of legality. Unfortunately, it didn't work. That is why I had to retain the services of Mr. Perry here to begin serious discussions with IBM.

In desperation, ladies and gentlemen, I wrote to the new attorney general of Mexico, Jorge Carpizo McGregor. You see, in those days I was very naive. I pleaded with him. I am just going to read one little piece from that letter. "Dr. Carpizo," I said, "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 Government of Mexico.

"The lead for this was given in less than 24 hours after my allegations appeared in print by the Ministry of the Contraloria." I pleaded, I pleaded with him to order the embassy here in London—or rather there in London, I forget I am in Washington—to take a statement from me. Of course, nothing happened.

Ladies and gentlemen, to this day, I have not even had an acknowledgment of my letter to this grand jurist, this towering barrister, this great academic who is supposed to be the symbol of the great reforms that are being carried out by the president of Mexico at the moment.

In my outrage, I had a moment of relief when Carlos Salinas dismissed Andres Caso Lombardo from his post as Minister of Communications and Transport. I say under oath here, at that moment, I was prepared to drop my campaign against the Government of Mexico.

I was seeking an apology. Naively I imagined that the sacking of Caso Lombardo was a signal that the Government of Mexico wasn't totally immune, totally immune to the pressures of legality and respect for the rule of law. They sacked the minister.

Later I discovered that he had—the minister had had enormous and furious rows with other ministers over the privatization of SENEAM and the airports and so on, and that was probably the main contributory cause for his downfall.

At that moment, I was prepared to drop my case against the Government of Mexico, but to my profound amazement, I learned the next day that Caso Lombardo was going to be appointed Ambassador, of all places, to my country in Britain. This is the sensitivity, this is the subtlety, this is the way the Government of Mexico responds. No. It is a sort of a macho style that says “we will not allow an individual to walk over us” and so on.

They appointed him as Ambassador to Britain.

Of course, I immediately wrote to Her Majesty's Government and I said, I will not allow this man to come here. Already my life is getting threatened. If this man becomes installed in the Belgravia here, the residence, I just hate to think what would happen then.

To their lasting credit, the attitude of Her Majesty's Government was that we will take this under advice.

Chairman LAFALCE. What is the timeframe of this? What month are we in?

Mr. MOUSSAVI. This is April.

Chairman LAFALCE. April 1993?

Mr. MOUSSAVI. Of 1993, yes, sir. I was left with no choice since it was quite impossible to obtain judicial redress in Mexico. I read to you what the Mexican attorney said. I instructed my solicitors in London, Messrs. Peter Carter-Ruck and Partners to issue a writ of defamation against Andres Caso Lombardo for the comments that he had made on television about me.

I am going to ask you to imagine the spectacle of what happened. On April 30, 1992, I issued a writ of summons ordering Caso Lombardo to appear before the high court—

Chairman LAFALCE 1993?

Mr. MOUSSAVI. 1993. I am sorry, sir. To appear before the High Court in London, the Queen's Bench Division on the charge of defamation of my character. This was on 30th of April.

You will note from your diaries that the 30th is a Friday. My writ hit Mexico over a weekend. The reaction of the Government of Mexico, ladies and gentlemen, is not the reaction of a Government that can credibly maintain it is a reformist Government.

The very next day, the Minister of the Interior, Mr. Patrocinio Gonzalez Garrido, and I don't mean some innocuous person, it is not like the Minister of Interior in the United States. It is very much like the head of the FBI and the CIA put together, all rolled into one, this time with a gruesome record that he has, in Mexico he is known as “the assassin of Chiapas.” When he was the gov-

ernor of Chiapas, territory in the south of the country,—a lot of unexplained political murders took place in that time.

Chairman LAFALCE. He was elevated by Salinas to the ministry.

Mr. MOUSSAVI. To the Ministry of the Interior. I am going to ask the distinguished Members of this committee to consider, the very next day, on Mexican television, prime time, Mr. Patrocinio Gonzalez Garrido, Mr. Andres Caso Lombardo, who was by now—he claims to be a private citizen, appear on television. Later Emilio Gamisoa, his successor, Maria Elena Vazquez Nava, the minister of the Contraloria, and representatives of the attorney general's office appear on television, all in one way or another to attack me.

They denounce me. A citizen has got a case against a private citizen, as simple as that. This is how the government responds. I am going to ask you not to consider this to be the behavior of a reformist Government. They appear on television. They denounce me as a liar. Caso Lombardo says immediately that he is resigning his Ambassadorship, how very gracious and generous, he is resigning, in fact, because Her Majesty's Government had told him very clearly, we would not protect you against the writ of defamation. It is not the job of Her Majesty's Government in Britain to protect foreign diplomats against the proceedings of the courts in Britain. Very simple, very straight.

Caso Lombardo was told, in no mistakable terms that his embassy would not be accepted by Her Majesty, the Queen, so appeared on television, pretended that he had acted in an Honorable manner, resigned his Ambassadorship in order to leave his hands free to fight me for my having defamed him. My having libeled him.

This was really an extraordinary spectacle. Well, 3 days later he called another press conference and he said, actually he is not going to sue me if I stop my lawsuit against him. I know him fully well. I have evidence about him ladies and gentlemen, that perhaps if you wish to know about later, I will be able to tell you.

Within that week, President Carlos Salinas de Gortari was advised that under English law it was not me who had to prove anything. Since I had brought the action, it was the Government of Mexico who had to prove that what I was saying was a lie.

They knew that an English judge could not be intimidated. They knew that an English judge could not be bribed, and they recognized that they have a serious problem. So they wrap themselves in the national flag. They beat the drums of archaic nationalism. What do they say? "Moussavi is only a fourth-grade foreign broker. Why are you listening to him?"

The attorney to Mr. Caso Lombardo actually went on television and said, "why are you giving this man such a hearing? He is not a high executive," as though only high executives have a right to seek judicial redress, as though that is the case. I think that is a damning condemnation. It speaks volumes about the character, the oligarchic nature of the Government of Mexico. It is not a reform Government and their behavior demonstrates this.

But it gets better, Mr. Chairman. Do we want to take a recess?

Chairman LAFALCE. I was going to take a recess in order to participate with President and Mrs. Clinton in the press conference,

but I find this testimony too compelling, and therefore I am not going to take a recess, unless you wish to have one for a brief—

Mr. MOUSSAVI. If I may just go to the men's room?

Chairman LAFALCE. The committee will recess for 5 minutes.

[Recess.]

Chairman LAFALCE. If we could take our seats. As soon as Mr. Moussavi comes back, we will resume our hearing.

Mr. Moussavi, as I said, I considered your testimony so compelling that I am not going to be participating with President and Mrs. Clinton in their press conference scheduled for 10:45 because I don't want to interrupt the flow. I want to give you as much time as you need.

By the same token, my staff has advised me that although the President conference is called for 10:45, it probably won't start until 11:45, so please continue.

Mr. MOUSSAVI. I am most obliged to you, sir.

Mr. Chairman, sir, the response of the Government of Mexico to my exercising the rights that any citizen in any civilized and democratic country takes for granted, namely, to seek judicial redress for a grievance that an individual as a citizen has suffered, was violent. It was extraordinary. It went beyond the bounds of civilized behavior.

I say again there is no anti-Mexican flavor or intonation or implication here. I made it absolutely clear what my feelings for the people of Mexico are. I find them hospitable. I find them gentle. I find them polite. I find them warm. I find them welcoming.

It is just that it would be nice if the Government had a little bit of those attributes.

In any event, my writ of summons against Caso Lombardo sprung a great many people into action in Mexico. I have described the Minister of Gubernaciom, the Minister of the Interior, a man with a ruthless reputation.

Chairman LAFALCE. Caso Lombardo had been head of the Ministry of Transportation, who had been responsible for this contract?

Mr. MOUSSAVI. Yes, sir. For this contract. I do not see why he took such an aggressive position toward me within 72 hours after my allegations had been expressed in the Financial Times. Surely the response should have been that, "OK, he has certain allegations, let's investigate them."

The amazing thing is that they were desperate to avoid an investigation. But lo and behold, this really did shake them.

Attorney General Jorge Carpizo McGregor, whose office had repeatedly said on numerous occasions—and this is a documented fact, the last time on April 16, 1993 to Carmen Alvarez of the newspaper, El Norte, unquestionably a newspaper which is a credit to its country—had said, there is nothing to investigate, there is nothing to investigate.

Repeated requests by the Mexican periodical Proceso—another clear credit to its country—for an investigation, had just met a stone wall. "There is nothing to investigate."

All of a sudden, to my amazement, they suddenly spring into action. Dr. Carpizo's office puts out a statement, extraordinary. Saying that, after all, they have been investigating my allegations.

They have been investigating ever since the Financial Times story came out. Contrary to all that they had said from day one.

But it gets better. They have been investigating and so much so that now they put out on the May 4, 4 days after I issue a writ of summons against Andres Caso Lombardo, gentleman of the press, I hope they can see it—they put out a press statement which in any country would be regarded as a defamatory statement, and here is the attorney general's office, on May 4, 1993 saying, quite contrary to the numerous occasions in which they have said there is nothing to investigate, all of a sudden, what do we have? We have actually been investigating.

Chairman LAFALCE. Could we try to eliminate all conversation at the dais here so we can hear Mr. Moussavi, please? Yes.

Mr. MOUSSAVI. Thank you, sir. All of a sudden, the Procuraduria Gdneral de la Republica, which is the attorney general's office, which on repeated occasions has said there is nothing to investigate, and it is a documented fact reported to the press again and again, suddenly springs to life.

What have they been doing? Well, they say there are now, as a result of our investigations, two hypotheses. One is that Mr. Moussavi is saying the truth, in which case of course we are going to go after these people, and we are going to find them, and we are going to punish them. Then of course they make sure they get the fact that I was a "broker." Broker is a pejorative term in Mexico. They use that. They make sure they get it and they actually underline it. I was out to get some money. I had a commission, as though to be a commission agent is an illegitimate and illegal activity.

But in any case, they are trying to portray the image for the first time—by the standards of the Government of Carlos Salinas de Gortari—they are trying to be fair. They are saying, the first hypothesis is you are saying the truth, in which case, we will investigate. Five or six lines.

The next hypothesis are really punch lines. Please, I am going to plead with you to listen to this bit very carefully. It demonstrates that Carpizo is engaged in the conspiracy to pervert the course of justice. It demonstrates that he is defaming me. He is an active participant in a conspiracy to prevent the truth from coming out.

Chairman LAFALCE. Carpizo is who?

Mr. MOUSSAVI. The attorney general of Mexico, the jewel in the crown of Salinas' claim that he has a reformer Government. He is a great jurist. He has been sold to the American people and to the Members of Congress as a clear break with the past.

What do we see Senor Carpizo saying, Senor Dr. Carpizo, please, let me say?

"Mr. Moussavi, on the other hand, he was a broker," once again. "He had a commission to make," once again. "He was going to make money out of this deal," once again. What happened? He lost the tender. He was furious. He became upset because he lost the tender.

He made up this story in order to embarrass the people who had awarded the tender to somebody else, in which case the attorney general is going to go after him because this sort of thing cannot

be allowed to stand. In other words Moussavi made up this story after he knew that he has lost the tender.

We will punish him and we are going to go after him and so on.

Ladies and gentlemen, the lord works in mysterious ways. I knew what I had done and I knew the truth. One fine sunny afternoon in London—and it is an exceptional day in London there isn't too much sun as you know—a Federal Express parcel arrived from a well-wisher with the following document inside it.

I had seen this document incidentally before, but—parts of it. I will tell you about the circumstances later—the following arrived at my home. It is the entire file of the Government of Mexico's investigation of this affair, Procuraduria de la Republica, so, so, so, so, and so on, as you can see.

Of course I was delighted with the well-wisher saying, "Mr. Moussavi, good luck, I salute you with great admiration for what you are doing for my country," and said, "a simple Mexican working in the attorney general's office."

I went through this file, ladies and gentlemen. To my profound amazement, I find the following documents, which beyond a shadow of doubt demonstrates—

Chairman LAFALCE. Let me follow. In other words, there is some informer or mole or what-have-you—

Mr. MOUSSAVI. Leaked some information.

Chairman LAFALCE. Leaked it to you, fine.

Mr. MOUSSAVI. Incidentally, I will say for the benefit of this committee, I have received something like over 1,000 letters from well-wishers and articles—and documents from well-wishers who want to support my case, and some pretty damaging documents against some very, very senior Mexicans, however, I won't discuss those here.

I received that document which, going through it, I found the following letter dated, ladies and gentlemen, I plead with you to note the date, February 11, 1993 from International Business Machines Corp., the chairman and chief executive office, Federal Systems Co., from Mr. Gerald Ebker, written to the Government of Mexico.

By now of course, IBM and I were, to say the least, not friends, and they had unceremoniously sacked me, but I don't blame them. I think they had a business to protect. They have to operate in a criminal environment in Mexico, and so they have to play by the rules of the game in Mexico. The rules of the Mafia.

Chairman LAFALCE. Mr. Moussavi.

Mr. MOUSSAVI. Yes.

Chairman LAFALCE. I want to make it clear that I would like and expect to have copies of all documents you are making reference to in your testimony to make them official parts of the record.

Mr. MOUSSAVI. Yes, sir. I shall certainly do that.

The following is a letter written by Gerald Ebker to Licenciado Luis Vazquez Cano of the Ministry of Controllershship. It is the Inspector General's office in Mexico, dated February 11.

In this letter, quite unambiguously, and despite the fact that the chairman of IBM is doing his best to drag his feet, he says quite clearly that Moussavi reported the solicitations in October and November. He doesn't give the date. The dates are being put out later.

He says quite clearly Moussavi reported these solicitations in October and November.

I am grateful to Chairman Ebker. He is clearly a honorable man under a great deal of pressure to say things which he does not want to say but feels the interest of his company in Mexico would not be well served, if he does not say them given the nature and the character of the Government in Mexico, and yet clearly he is an honorable man. He has written that Moussavi reported these events in October and November.

I say to Jorge Carpizo, the attorney general in Mexico, this document was already in your file. It was dated February the 11th. You knew that I could not possibly have made up this story after I lost the tender because the chairman of IBM is saying I reported these matters in October and November.

We lost the tender, Mr. Chairman, on the 28th of December. I was told about it when I was in Kenya with my children on holiday on January 8. There is a gap of 60 days between November 9, in which I reported these events, and the time at which I knew that we had lost the tender.

Attorney General Carpizo had this document. He chose to ignore it. The reason why he chose to ignore it, I put it to you, is because he didn't want the truth to come out. The truth would have been very, very painful. So what did he do? He suppressed it. But of course he did not calculate that some well-wishing Mexican would actually send me the copy of the file, and I would find out that inside his file there is this document.

Ladies and gentlemen, Jorge Carpizo McGregor has been held out as a great reformer. Somebody said he is the watchdog of the Mexican constitution. By the evidence of the documents that I find in his own file, I find Mr. Carpizo McGregor far from being the watchdog of the Mexican Constitution, is really nothing more than an arm of the executive.

I would describe him as Mr. Salinas' poodle quite frankly rather than the watchdog of the constitution. But it gets even better.

They suddenly jump to action. I receive immediately a telephone call from the consul general of Mexico telling me that they are investigating this matter, would I mind going to the embassy. So I say to the consul, "well, at long last, despite repeated telephone calls from me to you that you should investigate things that have come to light. Only now you investigate."

Just what the attorney general's office says is only a hypothesis, by that evening becomes a fact, according to the controller of Mexico's inspectorate. She gets on television and reads out a statement saying, Moussavi made up this thing because he lost the tender and he didn't get his money, and it is a story that is made up and through the foreign ministry we are going to go after him.

You must understand the atmosphere the Government has created. It was a witch hunt. I can see what 16th century witch hunts are all about. The press, I have newspaper clippings in which the newspapers don't even know how to spell my name and they are asking for my extradition to Mexico.

It should show you, Mr. Chairman, ladies and gentlemen, the depth of the investigation that they had carried out. They don't even know my name, how to spell it, and they are saying we should

extradite him. For what crime? The crime of having refused to pay a bribe, the crime of having blown the whistle, the crime of having refused to get intimidated, refuse to give up the battle to clear my name.

I wrote to the new minister Gamboa, I pleaded with him for an investigation. Nothing happened, Amelia Gamboa was the gentleman who took over from Andres Caso Lombardo when he was sacked. I hear he even has presidential ambitions. God help Mexico when a man like this, who doesn't even return—who doesn't even acknowledge the letters of a citizen who is pleading for an investigation, has aspirations of becoming the president of Mexico.

We have a situation which is a comedy. It is a theater, if it wasn't so tragic it would be a comedy. I arrive at the Mexican Embassy. Here is me having pleaded with them for 4 months for an investigation and the newspapers in Mexico and the attorney general's spokesman is saying, if he refuses to cooperate, meaning me, we will extradite him. If he refuses to cooperate, we will extradite him.

So you know what I did, ladies and gentlemen? I am not a politician, but in that instance, I did become one. I wrote a long placard saying, "At Last," and I turned up outside the Mexican Embassy and I held it to the press, to put out the message that this is the nature of the investigation.

In the embassy something very interesting happened. I looked at the questions. It was abundantly clear to me, abundantly clear that these questions were drafted in a desperate hurry in order to put a whitewash on this thing, but one thing that was positive did emerge from these investigations.

We retained the services of a Scotland Yard photo fit artist who was going to make a sketch, and I described in great detail the description of the men who in the Nikko Hotel on the morning of November 9, attempted to solicit a bribe from me.

These were made in the Mexican Embassy on May 7, 1992.

Ladies and gentlemen, to this day, the Government of Mexico has refused to publish the pictures of those men. When a friendly journalist from Proceso went to the attorney general's office and said, your claims, Mr. Attorney general, to be conducting a serious investigation would have slightly more credibility and substance were you indeed to publish the pictures of the men. Do you know what the attorney general's office said?

They said, "we don't want the men to escape." The logic of that is very clear. Every time the FBI puts out pictures of wanted people, the FBI is engaged in a collusion or conspiracy with potential criminals and actually wants them to escape, and yet, in Mexico, under this Government, they do not think that this is a matter worthy of comment.

By now of course, I know and I have firsthand evidence that President Carlos Salinas de Gortari had been told that because I had sued Caso Lombardo in London, the publicity surrounding this case is not going to go away. They are going to be dealing with a judge who cannot be intimidated, rolled or bribed, so they have a problem.

He was advised that under English law, it is not I who has to prove anything; it is they who have to prove that I was lying. Something very interesting happened.

On the afternoon of May 11, I received a telephone call from Mr. Jorge Castrovalle, the charge d'affaire of Mexico in London. You will understand that Mexico didn't have an ambassador in London because I had sued him and he was not going to come. "Mr. Moussavi," he said, "a senior foreign ministry official, Mr. Eduardo Ibarrola has come from my foreign minister to see you," and I said, "what about?" "To discuss your problem." I said, "my problem, Mr. Castrovalle is very clear, I demand an apology for the defamation of my character, for the libel and character assassination that your Government is engaged in."

He said, "please, let's have a meeting." I said, "well, if you wish to see me, you come to my house." He made an interesting comment. "We better not come to your house because the press are outside your house." I said, "Mr. Minister, how do you know the press is outside my house, are you spying on me? Is there some kind of surveillance here?" He didn't saying anything.

On the evening of the 12th, ladies and gentlemen, and remember that I am under oath, I challenge the Government of Mexico to see if they will do the same thing under oath. I met with Consul General Brito and Mr. Eduardo Ibarrola in a first class, very beautiful, exquisite French restaurant called the Le Manoir, just outside my home in Oxford.

It was abundantly clear to me that the point and purpose of the visit of Mr. Ibarrola was to bribe me into silence. I don't remember totally the verbatim conversation, but the following conversation did take place.

"Mr. Moussavi, what is the matter with you?" "Mr. Ibarrola, what is the matter with you? You have come along way to ask me what is the matter with me." He said, "you are a businessman, Mr. Moussavi, be pragmatic. What you need isn't an apology. You need friends. You need influence, you need power. What have you lost?"

I said, "isn't it enough that I have lost my name? I have been destroyed, nobody has been talking to me in Mexico. My kids are being threatened. Isn't that enough?" At the risk of perjuring myself, Mr. Chairman, ladies and gentlemen, Eduardo Ibarrola said, "tell me what have you lost." I said, "well, for a kickoff, a contract, and he said, how much was that contract worth," and I said, "I think you know very well."

I could see the messages. I could absolutely see it coming, and I said to test him, "well, it doesn't matter. Unknown to the Government of Mexico, I am right now participating in another tender which has got nothing to do with this." I swear on the head of my little boy, Eduardo Ibarrola's words were, "tell me what that contract is, I will see to it that you win it."

I swear on the head of my little girl, my little boy, those were his words. They ring in my ears and I just said, for the first time, I said to myself, "Kaveh Moussavi, your life is in danger. These people are taking this so seriously."

I said, "Mr. Ibarrola, that is very interesting, thank you very much." I just didn't know what to say. The interview ended at that point—well, at the end of the dinner.

The next day they asked me to go to the embassy because I could feel that they were frightened I might expose them. I went to the embassy and they said once again, "what do you want?" I said, "for 3 months through the press, through Proceso, through El Norte, I have been saying I want an apology, and you come here to try to bribe me. It is not going to work. I want an apology from you."

So they said, "OK, what are the terms of that apology." I said, "my counsel, Bob Perry, he has said what he wants." He said, "all right, would you mind arranging for him to send a fax to us."

Mr. Chairman, ladies and gentlemen, I got up and used the Ambassador's telephone to telephone Robert Perry in Washington, DC and ask him to send the format and the wording and apology, and do you know what I saw on the Ambassador's desk? I saw a sheet of paper like this. It said, "Moussavi's possible flights to Washington." I was—I had been invited by Wall Street Journal television to appear on TV.

I also wanted to have a close conference with counsel, so—and I had said if I go to the United States, I am going on television and I am going to repeat everything. They were desperate to stop me from coming to Washington, and I saw British Airways, United, Pan Am—not Pan Am, and other airlines. I am sorry, blah blah blah, very intriguing, very intriguing that they were spying on me.

I telephoned Bob Perry. I asked him and he faxed the wording of an apology to the Mexican Embassy on that evening. These are all documented facts that can easily be corroborated. Ibarrola, I warned him, I said "Mr. Ibarrola, I am going to give you 3 weeks in which to issue an apology. As a sign of goodwill, I am going to suspend my press campaign, I am going to suspend my press campaign for 3 weeks." Mr. Ibarrola, I repeat, was the man who had been sent by the Government of Mexico to bribe me into silence. "I will give you 3 weeks in which to issue this apology. If it does not come, then there are going to be problems."

During that 3 weeks, I kept my word. I suspended my press campaign. Of course, the apology did not come. So I called for a press conference. I exposed the intent of the Government of Mexico to bribe me.

Needless to say, the press campaign started again. He immediately denied it, wrote a letter to the press denying it. But, again, Mr. Chairman, as I said, the lord works in really mysterious ways. That evening, on my fax, were six drafts of Eduardo Ibarrola's denial, which had been sent to me by a sympathetic foreign ministry official, with a note saying, "Moussavi, good luck, I am sick of this Government. I know they tried to bribe you. Here is how they are trying to deny it."

Interestingly, when we put the different drafts next to each other, ladies and gentlemen, there is no question, there is no question, if you see those drafts, you will see that here is a desperate man. He has got a problem on his hands, he is trying to—

Chairman LAFALCE. Do you have the copies of those six drafts?

Mr. MOUSSAVI. They were published in Proceso, yes.

Chairman LAFALCE. Usually when there is a fax, it indicates the number from which it is being faxed.

Mr. MOUSSAVI. Absolutely. It was there, and of course for the protection of that man, I cut the number out, but I have an original copy.

Chairman LAFALCE. You have an original?

Mr. MOUSSAVI. Absolutely, sir. I would request that if you would—if you don't mind, we just put the letters into the record, because I would be worried for the life of the man who sent them to me.

I know that the foreign ministry immediately instigated massive security measures so that if you want to look at documents in the foreign ministry—

Chairman LAFALCE. For the time being, we would at least like those documents.

Mr. MOUSSAVI. Yes, sir.

Chairman LAFALCE. If there is some follow-up subsequent investigation, we may want the original.

Mr. MOUSSAVI. Yes, sir.

Chairman LAFALCE. We would also understand the necessity for confidentiality.

Mr. MOUSSAVI. Yes, sir.

I was faced with a Government that engages not only in conspiracy to pervert the course of justice, as I demonstrated. It engages in bribery, its pretensions to be a Government that seeks reform are hollow.

These are not the action of a Government that has any credibility for its program of—for its program of reform. These are the claims they make. But, ladies and gentlemen, it gets even better.

When Eduardo Ibarrola denied this, the letters came, the drafts. I published them in Proceso.

Chairman LAFALCE. Of course you have made the statement that this individual was acting on behalf of the Mexican Government.

Mr. MOUSSAVI. Absolutely, sir.

Chairman LAFALCE. That is a conclusion on your part buttressed by what, the fact that it was the Consul General who made contact with you?

Mr. MOUSSAVI. He gave me his card. I have his card. He is the head of the Consular Affairs of the Mexican Government. He is used, I gather, for sensitive matters.

Chairman LAFALCE. All right.

Mr. MOUSSAVI. Mr. Ibarrola tried to deny, but as I say, I am a profound believer in providence and certainly in this case, my belief is more than confirmed by the fact that these documents arrived. I published them.

Mr. Chairman, ladies and gentlemen, for a long while, the Attorney General of Mexico had been saying—he had been saying, there is nothing to investigate. Now that I sued Andres Caso Lombardo in London, there was something to investigate. They had been investigating it right at the beginning.

I demonstrated the quality of the investigation they had carried out. Here was a document which completely, totally, utterly demonstrated that the press release that they put out was defamatory. It was malicious, it was a lie and they knew it was a lie. They knew it was a lie because this document, Mr. Ebker's letter of Feb-

ruary 11, 1992, to the Mexican Government, was actually inside their file. Never mind. In their desperation, they did even better.

Now, the excuse was, the reason why we did not investigate was because Moussavi did not file a formal complaint, as though the Attorney General of Mexico does not have a constitutional obligation by his own initiative to begin the investigation of a Federal crime anyway.

I joked with Proceso, I said, if the scandal in this case had been that Minister Caso Lombardo had been thrown out of the fifth floor of the Seneam building and his body had been found, would the Attorney General not begin an investigation if there was no complaint? But of course I didn't get an answer to that. So I said, I will take them at their word.

What I did, Mr. Chairman, sir, I formally filed a complaint against Eduardo Ibarrola at the Mexican consulate. I wrote to the consul and I said the following: "I am writing to request an appointment to come to the consulate to file a formal judicial complaint, a suit against an official of the Mexican Government." I plead with you to pay attention to this. "The individual in question is one Eduardo Ibarrola, the director general Asuntas consular of the Mexican foreign ministry. I wish to enter a judicial complaint of a suit against him on the following grounds, all of which are recognized in the Mexican penal code." I took advice.

One, 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.

Two, interference with a key witness to the Federal crime of attempt to obtain money by extortion and menaces in the course of the said tender.

Three, 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.

Four, 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.

Five, active involvement in the conspiracy to pervert the course of justice.

Six, perjury and lying 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 a manner as possible the machinery to enable me to file a formal criminal complaint against the said Eduardo Ibarrola. I note that Senor Ibarrola's diplomatic status avails him

of immunity before the English courts, thereby obliging me to seek redress in Mexico.

Ladies and gentlemen, that was dated the 17th of June. I wrote a follow-up letter later. To this day, Mr. Chairman, ladies and gentlemen, I have not even received an acknowledgment of this letter. This is the nature of the judicial system in Mexico. This is double-speak at its very, very worst.

The Attorney General of Mexico has run out of excuses. Again and again he has said that he will not—he said he is going to investigate, he will not investigate. There is nothing to investigate. There is something to investigate. He didn't file a complaint. The reason why I didn't file a complaint with the Attorney General of Mexico was because I was working for IBM. It was up to IBM to file a complaint, not me. Who was I to do that?

In any event, this proves that the Mexican judicial system does not work when the Government, when the executive doesn't want it to work. Because, it springs to action the minute they want it to work. It is really funny.

One particular journalist has been writing many defamatory articles about me. He is a journalist who has a Government car. He has a Government driver who takes—I know this for a fact, and I know I am under oath—who takes the children of his mistress to school every morning.

This journalist, who is clearly a puppet of the Government, has written many, many defamatory articles about me. He doesn't do his investigation. He doesn't know the truth. For example, the basic facts of IBM's bid, the fact that it was \$21 million. This man wrote that Moussavi came to extort money out of the Government of Mexico with his American clients who were asking for—who were putting in a bid for \$56 million.

I wrote a response to the press. I said, if this journalist doesn't even know the facts of the tender, then I think I am not going to really bother with him. It is quite clear that he is a lackey. He is writing at the instigation of the Government. What happened? He sued me for defamation. Within a week, the machinery of justice, sprang to action.

Outside my door, ladies and gentlemen, the Mexican embassy's car arrived. I was issued with a formal summons—with a translation, the whole document translated—by a Federal judge issued in Mexico City. I was ordered to appear before the judge on October 25, 3 days ago, in Mexico. That is the nature of the judicial system in Mexico. When they want to act against you, they will mobilize the entire machinery of the Attorney General's Office, the judicial machinery, the foreign ministry, the embassy and they deliver it to you.

Of course, I took service of the writ. I sought out advice from counsel. Counsel advised me to ignore it. The counsel said, there is no question that before a judge in Britain we can demonstrate that this is a kangaroo court, given the whole background to this thing, and if the Mexican Government dares to sue you, well, we will counterclaim, but in England, not in the Mexican courts.

Needless to say, I did not do that. I ignored the writ. I wouldn't be surprised if they find against me, they find me a criminal. I readily admit that by the rules of the Government of Carlos Sali-

nas, yes, I am a criminal. I have broken the law of silence. I have refused to pay a bribe. I have blown the whistle. I have stood up to them and I have said, "no, enough is enough. I will not be intimidated."

They tried to assassinate my character, it didn't work. They tried to bribe me, it didn't work. Now they are bringing in a judicial thing against me. It is not going to work. I have said the only thing that will stop Kaveh Moussavi is if I have a clear, unambiguous apology for the defamation and destruction of my business.

This is a business that, in this case, involves the lives of people who get on airplanes and travel to Mexico. If this had been a tender, ladies and gentlemen, for, I don't know, can you think of one, 5,000 toilet seats for the Guadalajara municipality, I don't think anybody would have been too worried about it. It is a tender that involves the lives of people.

I have no doubt the reason why IBM actually endorsed and supported my attempt to expose this in the press was because they were outraged. They weren't outraged because they only lost a tender. IBM United States—and I make a clear the distinction between IBM Mexico and IBM United States—I believe are a deeply moral company. I know IBM. I know Bill Swope, I know Roger Boyd, I know Bill Conyers, I know William Lasalle to some extent.

These are not men who would be prepared to sit down and watch this sort of thing go over their heads. I suspect that is the reason why they allowed me to go to the press, because they felt—in their protest, they actually say—this tender leads to a life-threatening situation. I don't think a conservative company like IBM would be willing to put that kind of pen to paper very lightly.

I urge you, ladies and gentlemen—I am coming to the end of my testimony—I urge you to consider what I have said. This is not a government that is a reform government. It is not a reform government—we can see how it has behaved. It is a government that actively engages in conspiracy, it libels a witness, it does oblige me to seek the protection of the British police, and here is a document which shows the measures that the British special branch have taken to protect my family against these people.

When you come to consider NAFTA, please, bear in mind that not everything that the Government of Mexico says about its reformist nature is to be taken at face value.

I am your true and humble servant, sir. I rest.

Chairman LAFALCE. I thank you very, very much for that testimony, Mr. Moussavi. Rescinding from the issue of corruption for a moment, let us focus in simply on the issue of safety for the traveling public. Could you comment on that?

Now, it is my understanding that about 5 years or so ago, there were only about 75 to 100 flights going into Mexico City per day, that today there may be, oh, about 10 times that number.

Mr. MOUSSAVI. About 600.

Chairman LAFALCE. That the traffic control system in Mexico City, and in most parts of Mexico at that time, was inadequate and that it is grossly inadequate today. I am concerned whether the canceled contract or canceled proposal and then the award of the contract to the same companies that performed the previous contract and who I believe have equipment similar to the original

equipment that was installed, which is vintage 1960 equipment, might not improve the situation at all.

So I would like you to address that, if you will, and then I would also like you to address the issue that you also raised regarding the gaps in coverage through which illegal drugs could flow from Mexico into the United States and whether the new equipment that the Mexican Government has purchased would permit a continuation of those gaps.

Mr. MOUSSAVI. Yes, sir. I always like to quote authority when it doesn't prejudice my case. I can do no better than to quote from a U.S. Air Force study of the air traffic control situation in Mexico. I will put this into the record with your permission, the U.S. Air Force, the document is entitled, "Data Interchange Between the FAA and SENEAM."

[The material submitted by Mr. Moussavi appears in the appendix.]

Chairman LAFALCE. What date are we talking about?

Mr. MOUSSAVI. It is November 30, 1988, long before the flights had gone up to 600 a day. At that point, the USAF were anxious that the radars supplied by Alenia and the computers supplied by Thomson were not working together. Beyond that, there are others who have spoken about this.

IBM themselves, in their protest and the fact sheet that they put out in the press—which I will put into the record—they say quite unambiguously that they are worried about the life-threatening consequences of this award. I quote directly. They are worried about the life-threatening consequences of this award.

The employees of SENEAM themselves, they address the issue as early as the 16th of February in the Mexican daily *El Economista* with a little help from their friends in London, and they review the fact that the system is faulty, it does not operate adequately. Carmen Alvarez of *El Norte* actually recorded a radar failure back in July of this year in Mexico City.

The pilots, the head of the pilots' union is directly on record as having said that we are deeply worried about the equipment that these people have now bought. The—one of the companies has had precisely the same problems in New Zealand and in Australia, an issue that is being investigated now apparently by the *Flight International* magazine.

When authorities like that say this sort of thing, Mr. Chairman, who am I to argue with them? When I was I SENEAM, I was told very, very specifically that we do have this problem. We have to raise aircraft on the telephone rather than—on the radio rather than a system that has got to be done automatically. IBM was quite open about this. Calmaquip is on record as saying, we are not going to accept this when they say we are not compliant. All the companies, without exception, amongst the complaints that they made was they expressed this particular worry.

Alenia, in response, Alenia, the people who supplied the radars, in response to my statement, they gave a press conference to the newspaper *El Financiero* in which of course they libeled me and they said he is just an opportunist out to get money and all this kind of thing, but that doesn't concern me. They were asked very

specifically, how is it that you won this contract? They said, because of the quality of the equipment that we supplied.

This question was put to them, specifically; Do you go through intermediary agents? No. Do you pay commissions? No. Do you have an agent? No. Ladies and gentlemen, again, the Lord works in very mysterious ways. I discovered a document which shows Alenia to be paying 15 percent to a Panamanian company and, of course, I have produced that and I have released it to Proceso. I have absolutely no doubt, and I said this to Proceso, this tender was won corruptly.

They were on record as having said that they do not have agents and they don't pay commissions, but I discovered the document in which they were going to do just that, and I have it here somewhere. I will put that into the file. The tender was corrupt. It was illegally obtained. It is a menace to the safety of the air traveling public—

Chairman LAFALCE. Why would you say it is a menace to the safety of the air traveling public.

Mr. MOUSSAVI. Because of the technical problem of the inability of the radars supplied by Alenia to coordinate and to speak with, as it were, the data processing equipment and computers supplied by Thomson. When I inquired into this, I said to the SENEAM people, well, why do you do this, why do you buy this equipment that doesn't work?

I am aware that I am under oath, and I am aware that I might risk perjuring myself. The response was, "since about before Noah's Ark, some people have been paid to buy the radars from one company, and about the time of the crucifixion of Jesus Christ, others have been paid to buy from Thomson." I said, "that is not an explanation, things are supposed to be changing here." They said, "well, if you believe that..." This is what I was told again and again by people in the know as it were.

I am bound to defer to the wisdom, to the superior wisdom of those people who have a professional skill in this matter.

Chairman LAFALCE. What about the other aspect of my question, the geographic gaps that exist and—

Mr. MOUSSAVI. Yes, sir.

Chairman LAFALCE [continuing]. through which this \$100 billion worth of drugs from Mexico to the United States flows.

Mr. MOUSSAVI. Yes, sir. I wouldn't want to be on record as to saying one way or the other. I have no expertise in cocaine and cocaine trade. I didn't even smoke marijuana in my student days, but I am sure if the Mexican Government discovered that I did, they would certainly expose it. I have no expertise in that business, however, it was made perfectly clear to me at the Nikko Hotel when the map was given to me, they said to me, "Mr. Moussavi, do you see these gaps?" "Yes, I do."

"What do you think they are?" Answer, "They are the areas that Mexican radar does not see."

"Why do you think that is, Mr. Moussavi?" "You tell me." "Why do you think that is?" "Because of the technological problem, I suppose."

“Now, who benefits from those gaps?” “I guess,” I said, “I guess the pilots don’t. The life insurance companies and the drug pilots, I suppose they are the people who benefit from it.”

They said, “Mr. Moussavi, \$100 billion worth of narcotics goes to the United States from Mexico. You see now why Mexican air traffic control should not be able to identify every aircraft that comes in and out.”

For the record, I will say this is not what I am saying. I don’t know one way or the other whether that is true. I have no expertise. I think for that you may need to ask some DEA people to come here. This is what I was told.

It is not implausible, Mr. Chairman, that in fact what they were saying has at least some plausability—my goodness, if 10 percent of what they were saying is true I would be a seriously and very worried Congressman sitting here.

Chairman LAFALCE. I have so many more questions specifically about the issues of corruption now, but I also want to defer to the other members of the committee who have been sitting here in attendance as long as I have so that they might have their 5-minute opportunity also.

So I will call upon them, but about the subject of drugs, it reminds me of a dinner conversation I had a number of years ago now, perhaps 5 years ago, perhaps longer, it escapes me, but it was with chairman of the Federal Reserve Board, Paul Volcker; former chairman of the Federal Reserve Board, Bill Miller; also Secretary of the Treasury, Bill Miller; former chairman of Chase Corporation, David Rockefeller; a few others. We were discussing Mexico, and we said, we won’t be able to solve the problems of Mexico until we solve their drug problems and the relationship between Government and drugs.

Mr. Hefley.

Mr. HEFLEY. Thank you, Mr. Chairman. I trust that the clock that measures my 5 minutes will be the same one that measures yours and—

Chairman LAFALCE. Absolutely.

Mr. MOUSSAVI. Mr. Hefley, if you are going to be long, may I just pay a visit to the restroom and be back.

Chairman LAFALCE. Committee will recess for 5 minutes.

[Recess.]

Chairman LAFALCE. The Small Business Committee will reconvene.

When we recessed, I was about to call upon Mr. Hefley for any questions he might have.

Mr. HEFLEY. Thank you, Mr. Chairman, and Mr. Moussavi. Thank you for your compelling and interesting testimony. I think, Mr. Chairman, as a couple of items of business, I would request that the record be kept open. Many accusations have been made toward the Mexican Government.

I am trying to weigh, as I think all of us are, your testimony, and so I think maybe the record should be kept open so that the Mexican Government, if they would like, could put any statement that they might want to in the record.

Also, the indication is that the British Government is supportive of the claim and I think they should have an opportunity to put anything they would like to in the record.

In addition, when we talk about the gaps in the radar coverage, that is a very interesting accusation. If that is true, I would like some collaboration—some confirmation of that.

Chairman LAFALCE. We are going to be calling upon the FAA.

Mr. HEFLEY. I would think the FAA or the Attorney General might give us some word on the accuracy of that assertion, and also when we speak of the danger to the traveling public, we should keep the record open, I think, to see if Secretary Pena might have some confirmation of that.

I have a—statement from IBM which says that IBM has no reason to believe Mexico's current air traffic control system is unsafe, nor have we any reason to believe that the new system the Government has procured will present a potential danger to the traveling public.

How would you react to that statement, Mr. Moussavi?

Mr. MOUSSAVI. Mr. Hefley, sir—

Chairman LAFALCE. Is that a signed document from IBM?

Mr. HEFLEY. It is a statement from the attorneys. The document I have right here is not signed.

Chairman LAFALCE. It looks like a—to me, it looks like some typed statement but it doesn't have a letterhead. It doesn't have a signature.

Mr. HEFLEY. We will get you the confirmation to this. We have about as much confirmation to that as the other documents that were presented, but I would agree with you, Mr. Chairman, that this is an accurate representation of IBM.

Mr. MOUSSAVI. Mr. Hefley, I think that would be yet another indication of the kind of pressures that IBM Corporation are under from the Government of Mexico. They are on record, this, sir, for the record is an IBM document. It is from Messrs. Swope, Conyers, Boyd, to yours truly. It is entitled "Basis for Protest," and it directly contradicts that. It simply says, and this is what was produced, I read, "impact on operational air traffic control 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."

It goes on to say the reliability is reduced. I would like your permission to put this into the record. It is actually an IBM document. It says IBM and, of course, I would say that is yet another striking confirmation of the double-speak that a giant American multinational corporation is obliged, obliged to engage in order to appease and win favor with the Government of Mexico.

They cannot have it both ways. They cannot say that in their opinion, the new system is a potential danger, as they say here, say something else in the briefing that they give you. I will let the record speak for itself.

[The material submitted by Mr. Moussavi appears in the appendix.]

Mr. HEFLEY. Is that part of the bid process? Is that document part of the bid process?

Mr. MOUSSAVI. No, sir. This is what IBM Corporation produced and gave me in order to give to The Financial Times and they said that.

Mr. HEFLEY. What—you have made your complaints known. IBM has protested. What, if any, action has the American Government taken? Now, this originally—you made your complaints back in February, was it?

Mr. MOUSSAVI. To the Government of Mexico? No, sir. The first complaint was January 7, 1993. It was—

Mr. HEFLEY. When did IBM make their protest?

Mr. MOUSSAVI. January 7, 1993.

Mr. HEFLEY. January 7?

Mr. MOUSSAVI. Yes, sir.

Mr. HEFLEY. Has the American Government taken any action whatsoever to try to see that this was resolved for everybody.

Mr. MOUSSAVI. The U.S. embassy wrote to the Government of Mexico and I have been able to secure a copy of that letter to Juan Jiminez. Unfortunately, it is a faxed copy but it says, American Embassy, U.S. and Foreign Commercial Service, Mexico, and it is from Mr. Carlos Posa, in which they express their grave concerns about the way in which the tender was conducted. I don't know what the American Government have done after that.

Mr. HEFLEY. As far as you know, they haven't done anything beyond that?

Mr. MOUSSAVI. To the best of my knowledge, no.

Mr. HEFLEY. Mr. Moussavi, I struggle, I guess, with trying to figure out what in the world you possibly could hope to gain from this crusade that you are on except restoring your good name. You lost your business in Mexico?

Mr. MOUSSAVI. Indeed.

Mr. HEFLEY. Probably never be able to work with Mexico again.

Mr. MOUSSAVI. Mr. Hefley, Mexico is not Carlos Salinas. With the grace of God, this Government will be defeated in the next elections. I have reason to believe that the people of Mexico will show great thanks for what I have done, I think. I don't think Mexico is finished. For me, certainly for the next year it is finished for me.

What do I hope to gain? Mr. Hefley, for start, I was under instructions from IBM, the record shows that as agent, I was instructed to take my case to the press. I had some input into that. I would not deny that. We were outraged for several reasons. One, because here was the leading technology company being told that they weren't good enough, so they were upset, and I think Bill Swope, Roger Boyd, and Conyers were very upset that seriously this is going to be a problem for the air traveling public, and we discussed this.

We felt this was not just an ordinary tender. This involves people's lives and I would not deny, one objective was to break the tender. We went into there to make sure this award was broken by actually showing that it was corruptly awarded.

What do I personally have to gain? Mr. Hefley, my life has been threatened. I have been advised that one of the best security systems that I can try to put into place is maximum publicity. Tomorrow, if I go down the steps of the Capitol and something happens to me, I think a lot of people, including yourself, will probably start

making some calls to Mexico to find out who had Kaveh Moussavi hit. That is one reason why I suppose I am interested in bringing my case to you.

Mr. HEFLEY. The reason I asked that is because my conclusion was that you had very little to gain personally by it, which adds some credence to your message.

Mr. MOUSSAVI. I appreciate your comment.

Mr. HEFLEY. According to IBM, they seem to be indicating now that you kept informed a couple of their marketing representatives of what was going on in the testimony that you gave there, but that this never really filtered up to management until the allegations appeared in Financial Times on February 3rd.

Could you tell us who it was that you were dealing with at IBM, on what level?

Mr. MOUSSAVI. There were three people. Mr. William Swope, Mr. William Conyers and Mr. Roger Boyd were my three contacts.

Mr. HEFLEY. Who are they in the company?

Mr. MOUSSAVI. They are senior marketing representatives of the Air Traffic Control Division, which is called, I believe, the Federal Systems Company. What level they are, I really don't know their internal—the organizational chart of IBM, but they are at a level and obviously were able to persuade IBM that they wanted to go into this tender, so.

Mr. HEFLEY. But they were your contacts, your official contacts, by virtue of your contract. These were the people you were to stay in contact with, let them know what was happening?

Mr. MOUSSAVI. Yes, sir.

Mr. HEFLEY. And get instructions from them?

Mr. MOUSSAVI. Yes, sir.

Mr. HEFLEY. OK. Mr. Chairman, I think I will stop at that point so that others might have a chance.

Chairman LAFALCE. I would like to indicate you stopped after 9½ minutes.

OK, Mr. Baker.

Mr. HEFLEY. Same clock.

Mr. BAKER. Thank you, Mr. Chairman. I think I will in all likelihood be much briefer, but, Mr. Moussavi, your testimony has been not just enlightening, but perhaps disturbing. If all accusations are well-founded should be the basis for significant action by those interested in international criminal misconduct as well as intimidation of business interests here in our own country.

I would ask brief responses, because I am really leading to another point as a result of a series of questions, and I think the answers are evident but feel compelled to ask in any event.

Do you think your experiences in negotiations of contractual interests with the Mexican Government on behalf of International Business Machines Corporation to be an unusual set of circumstances or specific only to your specific conduct in this matter?

Mr. MOUSSAVI. They are unusual only insofar as the company authorized the agent to come out in the open and say so. This sort of thing happens every day.

Mr. BAKER. So in your opinion, then, most business interests today are subjected to this type of intimidation or coercion.

Mr. MOUSSAVI. There is no question in my mind—I don't know about coercion. Usually they are obliged to play the game according to the rules as some gentleman said.

Mr. BAKER. Do you believe that most businesses which currently conduct activities in Mexico today have a general understanding of this environment and enter the marketplace with eyes wide open and despite the potential for abusive actions, consider the marketplace to be of such value they will pay the required fees in order to enter into business transactions?

Mr. MOUSSAVI. That is a question I think you have to put to them, Mr. Baker. I know that business, when it makes money, is willing to trade with South Africa under Apartheid, and I know a famous German company, I.S. Farben, who was willing to deal with the Nazis because they made money too. The rules of the game differ in different countries. My widely based experience in Mexico is they are aware of what is required, yes.

Mr. BAKER. Do you think that the increase in landings of aircraft from 100 to approximately 600 as of the most recent count are in any way related to the potential approval or disapproval of NAFTA?

Mr. MOUSSAVI. I didn't understand that question. I am sorry.

Mr. BAKER. Much has been made of the enhanced public safety hazard as a result of increased air traffic ability—inability of the system to manage it properly. Do you feel the increased flight activity to be in any way related to the potential approval or disapproval of NAFTA?

Mr. MOUSSAVI. I don't have an opinion on that.

Mr. BAKER. Do you believe that the criminal conduct engaging in illegal drug activities estimated to be several billions of dollars in any way would be enhanced or deterred by the adoption of NAFTA?

Mr. MOUSSAVI. I doubt it very much.

Mr. BAKER. Would you think that the consideration of NAFTA has in any way escalated the corrupt activities of the—alleged of the Salinas Government, or do you believe those criminal activities have been engaged in for some time and will continue unless some international corrective action would be taken and NAFTA would have little to do with corruption or the reform of corrupt activities in Mexico.

Mr. MOUSSAVI. It is my considered opinion, Mr. Baker, that NAFTA will provide a breathing space for the Salinas Government and its successor to continue basically doing the same thing. Business as usual, rather than change, which the people of Mexico have demonstrated again and again, certainly the last time in 1988, when they clearly did not vote Carlos Salinas into office.

I think the change will come not because of NAFTA, it will be—NAFTA will only provide the breathing space for business as usual so that the current practices can just continue where one party will be strengthened, it will be enhanced, it will continue, yes.

Mr. BAKER. Well, NAFTA would require the lowering of tariffs on goods and services imported into Mexico which would mean those goods and services now costing more money would cost less so the consumers of those goods and services would have better access to products not manufactured within their country.

I find it, although very—your testimony very interesting and very disturbing in that it warrants certainly responsive action by this administration, which apparently has taken no action since January or February to further explore the allegations made in this important statement, but I do not feel that the allegations that have been raised this morning in any way shed light that NAFTA is either undesirable, unwarranted, or ill-advised for the conduct of business relations between responsible and reputable business interests on both sides of the border.

I would hope that this categorization this morning would not indicate that everyone who does business in Mexico, that every businessman in America is willing to pay bribes to do business, that there are more Mr. Moussavi's than one would think who rebel very actively against solicitations of bribes and illegal criminal conduct, as well as on the Mexican side of the border, and that further reduction of Government interference to free and fair and open trade is only conducive to economic reform in Mexico City. Ultimately, as people earn more and quality of life is enhanced, they are less tolerant of criminal misconduct in their political leaders.

Mr. MOUSSAVI. Mr. Baker, you are certainly entitled to your opinion. This is not Mexico. This is the United States of America and it is a free country. My only comment to that would be, sir, that when people are given the opportunity to express their wishes through proper electoral channels and not through fraudulent elections which the PRI is renowned for, I think the chances of their demonstrating their wishes and their opinion of their Government, I would be inclined to believe that to be a better test than if there is more money in their pockets.

If I have a headache, I might take an aspirin, but I want to go to the cause and see what the problem really is. NAFTA will certainly treat the symptoms. Poverty is certainly there. There is no question, and the economic opportunity is massive. Of course, there is the erosion and the civil rights violations are just legendary, Mexico is notorious for that, that is one thing. But the fact of the matter is, at the end of the day, it is—the Government that needs to be accountable, and no amount of money in the pockets of people is going to alter that basic fact with a Government that is illegitimate. Even its greatest admirers, I can quote the London Economist, one of the greatest, greatest, most respectable, reputable newspapers that support Salinas all the way to the hilt. In the same breath that they call him one of the greatest statesmen of the late 20th Century, they are obliged to admit that he came to power through electoral fraud.

That is the Government I am dealing with. With these issues of corruption, at the heart of them is the question of accountability. Corruption, Mr. Baker, emerges in circumstances where the bureaucracy and “officialdom” are not accountable, when they are not accountable and they can get away in some cases literally with murder and there is not a press, there is not a Congress, there is not the possibility of judicial review to hold them to account.

Corruption, in such circumstances flourishes, and no amount of money in the pockets of ordinary people is going to alter that basic fact. It is the relationship between the State and society which lies at the heart of creating an environment in which corruption flour-

ishes, and I doubt very much if NAFTA is going to address that issue.

Mr. BAKER. Well, I think quality of life issues are important to voters to make informed choices, and I would be quick to point out that though I have strong belief in the electoral system, I don't always find myself pleased with the results, even here.

Let me quickly add, however, that free and fair elections are the process we can—anyone can determine, and I think a well-informed, well-educated electorate is the essential component of that process.

Thank you, Mr. Moussavi.

Chairman LAFALCE. Thank you.

Mr. Moussavi, now, you have done business and do business in a great many countries, do you not?

Mr. MOUSSAVI. Yes, sir.

Chairman LAFALCE. About how many countries have you—

Mr. MOUSSAVI. I have business interests in Saudi Arabia, in Nigeria, in Africa and other countries in the Far East, in Iran, in the United States, in Germany and various other places and of course, until recently, in Mexico.

Chairman LAFALCE. You have experience in other countries. How do you think the corrupt practices of Mexico stack up against whatever corrupt practices might exist in other countries with which you have some familiarity?

Mr. MOUSSAVI. Right. I will answer this in a different way: Why don't you run a crusade against every country in the world? Well, every country in the world has not threatened me, threatened my children and so on.

Mr. Chairman, what is striking about Mexico is the gap between pretense and reality. Many countries, if you were dealing—I have dealt in the Gabon for example, and there is no question that if you want to deal with the Government, there are certain rules of the game which are not too dissimilar with the rules of the game with Mr. Salinas's Mexico.

But we know in Gabon. If you deal in Nigeria, then you know it is Nigeria, and if you are dealing with the Government, there are certain things that you know.

In Mexico, the pretension is that here is a modicum of democracy. What bothers me is the sheer hypocrisy, the gap between myth's the reality. Let's call a spade a spade. Mexico, to my profound regret, still remains a Third World country in its political institutions. Not in its social achievements, not its cultural achievements, not its literary achievements, certainly not. It is very much a first world country and more in those achievements, but it is the politics, it is the political sphere that is holding this country back.

As for your question, is it more, is it less? It is the quality of it. You go in there thinking if I was going to do business in the United States, the rules of the game are very different. If I am going to go into—your constituents ought to know that if they are going to go to Mexico, they should not expect, they should not expect, they would be well warned not to think of Mexico through the brochures that are put out by the Mexican embassy and by the Trade Commission of Mexico and the BANAMX—Mexico is a Third World, and it is a corrupt country. It is corrupt because this government

is not accountable and it will remain corrupt for as long as this government remains unaccountable.

How would I rate Mexico? I have never tried to do a 1 to 100 rating, but I don't see many governments which have this kind of a claim to a reformist program but behave in the way they have behaved toward me. I don't see many Attorney Generals engaged in conspiracy, engaged in open defamation of—so from that point of view, maybe I am a biased witness when my daughter's life is being threatened. I don't think Mexico is one of the best. Let's put it this way.

Chairman LAFALCE. I am wondering, do many countries have a Foreign Corrupt Practices Act as the United States does? Of course the Foreign Corrupt Practices Act of the United States is of rather recent vintage.

Mr. MOUSSAVI. 1976, I believe.

Chairman LAFALCE. Is it 1976? I have forgotten. I do remember when I was first elected to Congress in that first term, 1975, I had a book club with the presidents of, oh, at least a dozen of the Buffalo area businesses and I selected a book every single month to discuss, and one was the multinational corporations, and we were discussing the Foreign Corrupt Practices Act.

I remember one prominent businessman, president of a company doing business abroad saying, how naive. In order for any business to do business in a great many countries in the world, they must participate in bribery. You shouldn't legislate against this because you would be legislating to the disadvantage of American businesses, that the businesses of all the other countries in the world will be paying these under-the-table offerings.

Well, we passed the legislation, and if any businessman does do that, he is guilty of a crime in the United States. So we are going to be subjecting our business community to near temptation at the very least, putting them in the circumstances. It is almost as if—oh, what am I thinking of? I have forgotten—I think there is a word for it—enticement. We are putting them in circumstances where it is almost inevitable that they will be induced to participate and they will have to have particularly great valor and courage and moral honesty not to participate. We will be careful about that.

Now, there is something that I am a little concerned about. You have made a great distinction between IBM United States and IBM Mexico, good guy/bad guy almost, at least that is my perception of it.

Mr. MOUSSAVI. Very good guys, very bad guys.

Chairman LAFALCE. It is also my understanding that IBM does not normally hire marketing representatives such as you or people like you to secure Government contracts. Now, I am wondering why you think they hired a marketing representative in this instance.

I am also wondering, it is my understanding that IBM Mexico either was unaware that there was going to be this proposal, or if they were aware of it, perhaps thought that they had such little chance of getting it that they didn't even communicate it to IBM United States.

Could you shed a little light on this?

Mr. MOUSSAVI. I suspect that IBM in Mexico knew they would have very little chance of getting a contract which in Mexico was referred to—they were speaking in Mexico of the traditional winners.

What on Earth does that mean? Why should there be traditional winners. So I suspect that Mr. Guerra Botello, being an experienced Mexican, he knew that the traditional winners have cut this one out for themselves and it is a very difficult point in getting there.

As for why they changed their custom and practice with respect to the question of agents, I don't think, Chairman LaFalce, I am qualified to answer that question. I think it has a great deal to do with IBM's internal decisionmaking process and so on.

Mr. BAKER. Mr. Chairman, on that specific, we are down to a handful—

Chairman LAFALCE. Sure.

Mr. BAKER. Mr. Moussavi, just a matter of interest, up to the point of the IBM contract, you indicated you had been engaged in business activities in Mexico prior to the solicitation on behalf of IBM.

Mr. MOUSSAVI. Yes, sir.

Mr. BAKER. Were you a traditional winner?

Mr. MOUSSAVI. No, I didn't win the contract.

Mr. BAKER. I am not talking about this specific one.

Mr. MOUSSAVI. I have done business with the private sector. With the Government sector I never won a contract, no.

Mr. BAKER. So that in your personal business conduct prior to the IBM solicitation, you were never engaged in the practice of awarding Government officials or any official relating to the award of a business contract in your daily business activities in Mexico?

Mr. MOUSSAVI. That question can be read two ways. I never paid a bribe in Mexico, no.

Mr. BAKER. So the IBM solicitation issue may be less frequent than one would have drawn from your earlier testimony?

Mr. MOUSSAVI. No, sir.

Mr. BAKER. It happens all the time?

Mr. MOUSSAVI. I simply say I never paid a bribe in Mexico.

Mr. BAKER. You may have been requested to pay which you did not, I understand that. My only issue is that you have been a successful businessperson in Mexico with your prior relations up to the conflict over the IBM issue, and if it is a customary routine practice, why has it not happened to you before when you have been a successful businessman.

Chairman LAFALCE. Did it ever happen to you before? Were you in fact ever asked to participate in bribery prior to this?

Mr. MOUSSAVI. Just to clarify this, you must make a distinction between dealing with the private sector and the Government sector. You can be a very successful businessman by dealing with the private sector and the Government is not involved.

Mr. BAKER. In the private sector, the corrupt practices where you pay to be considered for a contract award is only in business, not in Government?

Mr. MOUSSAVI. It is very much a Government phenomena, yes.

Mr. BAKER. Have you ever had a solicitation for the IBM contract prior to——

Mr. MOUSSAVI. No.

Chairman LAFALCE. Were there any previous attempts to have you participate in bribery?

Mr. MOUSSAVI. There was one incident. I have worked with Mercedes-Benz, Veetol, and Calbrazzi, a large number of international companies. I don't have the whole list here, but there was one tender for electric substations in which I was approached by Ensoldo, the Italian company, to put out some feelers with a view toward putting out some agents.

I made some inquiries and it was clear to me that there was going to be kickbacks. Of course, Italian companies are not as puritanical when it comes to issues like kickbacks, but yours truly is. So it was manifestly obvious that we would not stand a chance without engaging in activities that I decided it is probably best not to.

Chairman LAFALCE. You wrote a letter to President Clinton on October 15th of this year?

Mr. MOUSSAVI. Yes, sir.

Chairman LAFALCE. You indicated that IBM strongly supported your briefing the media in February 1993. It seems to me that there has been a distancing between IBM and yourself at some point in time subsequent to February 1993.

Can you explain what that distancing is, how it came about, why it came about, et cetera?

Mr. MOUSSAVI. Up to the afternoon of February 3, 1993, there was absolutely no disagreement or cacophony between yours truly and IBM over what we were going to do. In the afternoon of February 3, when The Financial Times' report was published for the first time, I detected that IBM, as it were, was beginning to backtrack. This was extremely confusing but eventually they took on a momentum of their own. By the evening of February 4 already Mr. Guerra Botelo had gone on television and called me in effect a fabricator, and said he had no knowledge of requests for contributions.

So within 24 hours, IBM was forced by the Government of Mexico to do a complete volte face appeared and made statements which they knew were not true. The suggestion that we never had a report, that we never had such a report, we apologize for the inconvenience that Moussavi has caused to the Mexican Government, he has nothing to do with us, it was a lie. It was not true. When Mr. Guerra Botelo went on television on primetime TV in Mexico and said they were personal statements and they didn't know anything, the fact is that IBM knew that a request for political contribution had been made. They did their best to leave out the political contribution. If you do a press analysis from the statements that IBM spokesman Bill Prater has been making and compare and contrast them, you would find a situation in which, from day one, they are saying no, nothing happened. They moved to one in which Bill Plater says to the reporter from Dow Jones, "Oh, well, it is true, we did let Moussavi talk to the press, but I guess we were naive to think he would refer to the events in the Nikko."

The evidence shows the IBM United States is trying to square the circle as it were. They were trying desperately to try and hold

a position whereby the officers, the senior president of the company in Mexico said one thing openly on television which they know is not the reality.

To his lasting credit, Mr. Ebker, knowing on the one hand that the Government is going to grill them if this took place and knowing that there is a lawsuit hanging over their heads, but apart from the lawsuit, I think these are men who find it difficult to lie, at least the American executives. In a famous phrase, they try to be economic with the truth without actually lying. They say, yes, Moussavi reported this thing in October, but now we got rid of him, we don't have anything to do with him. So they almost lie. They know what the Government of Mexico would do to them. It is very pertinent. Bear in mind and tell your constituents, watch what they can do to IBM, a \$75 billion company. They can force IBM to go on television within 24 hours and say things which are manifestly not true.

I would be happy to leave that tape for the record where they mentioned the political contribution. They say openly, we are not going—we are not going to deny that we asked for a political contribution which is exactly what they did do.

Chairman LAFALCE. Who was asked for a political contribution?

Mr. MOUSSAVI. IBM told me. I phoned them saying, "What is going on? You people are going on television saying these things are not true." They said, "the minister got in touch with IBM Mexico yesterday" and they said, "Is IBM making any allegations?" The fact is, "we are not making allegations, you are making allegations." I said, "in fact, I am the agent and I saw what I saw. Are you denying they were asking for a political contribution?" I said "you told me to make it. You told me to go to the press. That is to split hairs."

The fact of the matter is, "IBM actually denying the three individuals who I am absolutely convinced were officials of the Government of Mexico came and asked me for a bribe?" Conyers said, "No. We are not going to deny we were asked for a contribution."

As for the three men and their description, they said, "you know about that, we don't know about that." I said, "of course you don't know, you were not in the meeting." I said, I have never been to the North Pole but if somebody I trust enough to be my agent reports that the North Pole is pretty cold, I am going to believe them unless I find out they have a motive for making up a story.

The Government of Mexico, in their imagination, have made up a number of motives. I will give you one of them. The investigation that they are now—

Chairman LAFALCE. With respect to what the Journal put out yesterday, is it true that his report was based upon a leak of the so-called investigation by the Mexican Government of you and your allegations?

Mr. MOUSSAVI. The Government of Mexico has journalists, it uses as its spokesmen, and it leaks documents to them. To the best of my knowledge, they have never put out their results of their investigation because there has been no investigation. But they are extremely worried about the fact that I am here to testify before you.

I know for a fact that they had been working for a long period on a smear campaign against me. In fact, a senior diplomat in London told a very good friend of mine that she should distance herself from me because the Government had cooked up something very, very big for me.

Yes, it is based on a leak. If they are absolutely certain of the validity and veracity of the investigation, they would confront me with it, and then I would be able to pick holes in it. What they have leaked is the following, Mr. Chairman and Mr. Baker: They are suggesting that this whole thing was a fantasy, the events never actually took place, I made up a story in order to increase my commission.

Now, I like that one. My answer to that was very simple when I heard that. I said, "can you think of one possible reason, if that is what I was trying to do, that I would report to my IBM controllers, these highly ethical people bound by the Foreign Corrupt Practices Act who have signed an agreement that no bribery will be paid to Government officials, can you think of one reason why I would say these people want money for the solidarity program?"

If that is what I was trying to do, I would call IBM and say I met some knowledgeable guys, but we have to give them a percentage or two. It simply does not make sense that if this was a conspiracy, I would tell my controllers that these were people who are Government officials who were Government officials who want money for the solidarity program.

Mr. BAKER. So I understand properly the relationship, you were a brokered commissioned agent who was in a contractual relationship with a Mexican corporation, a divisions of—

Mr. MOUSSAVI. With an American corporation. I was contracted by the Federal Systems Companies in the United States.

Chairman LAFALCE. As a marketing representative?

Mr. MOUSSAVI. Yes.

Mr. BAKER. The Federal Traffic Control System in Maryland, is that a division.

Mr. MOUSSAVI. It is a subsidiary.

Mr. BAKER. It is a wholly owned subsidiary?

Mr. MOUSSAVI. Indeed, sir.

Mr. BAKER. In the course of their business conduct, if they entered into a contract arrangement with a third party, they would not necessarily make IBM International aware of their business activities in that regard, would they?

Mr. MOUSSAVI. I don't know about that. It would seem to support your premise, but I don't know how much interaction there was between IBM and this particular division and others. It is manifestly obvious that the other divisions of IBM just completely panicked when the report appeared and they clearly made investigations inside IBM.

How did they learn that they told me to expose this story to the press? I just don't know.

Mr. BAKER. Your relationship with IBM USA, the large corporation that you suggest was ultimately intimidated in the process, you really were an employee of a wholly owned subsidiary engaged in activities in Mexico with which IBM USA may or may not have had day to day understandings as to your operations, about your

scope of employment until the problem erupted, and as far as IBM USA may be concerned, we don't know, but your view is different, they possibly could not have been made aware of this until public disclosure in media reports as to the allegations you were making as to Mexican improprieties.

Mr. MOUSSAVI. It is possible.

Chairman LAFALCE. Nobody is suggesting to the contrary.

Mr. MOUSSAVI. I have been corrected by counsel that Federal Systems is a division, not a wholly owned subsidiary. I am sorry. I did not know that.

Chairman LAFALCE. That is relevant, too, at least in responding to Mr. Baker's question. We don't have too much time. We will have to recess shortly.

It seemed like I was having a difficult time thinking about the word before, the word I was searching for was entrapment, our American business community, in a situation where they can readily be entrapped by the usual, customary operating procedures.

One last question, because we will have to go vote. Do you know what, if any, was the response of President Salinas to the March 17, 1993 letter from the operative technical committee within the Ministry of Communications and Transportation that voiced such serious concern about the bid process and the safety of the air traffic control system under the two awardees of the tender, specifically that March 17, 1993 letter to President Salinas said, "Mr. President, we simply believe that the motives and the way in which the winning companies were selected does not guarantee, as already happened previously, that we will have the suitable radar processing systems for carrying out our work safely and efficiently."

Do you know what the Presidential response was to that?

Mr. MOUSSAVI. President Salinas, to the best of my knowledge, given the way his Government reacts to these things, did not respond, just as he did not respond to my letter.

What he did do, when the officials alerted him to the problem, he sent in the police to see who leaked the information from the air traffic system. The police investigated who had talked to the press. It would be most uncharacteristic of President Salinas to pay much attention to ordinary mortals like the Technical Committee.

Chairman LAFALCE. Do you have any final last words about this disease that you have spoken of, Salinasitis?

Mr. MOUSSAVI. You are looking at a victim of it who has been cured through bitter, personal experience who has had to take the bitter pill of organizing police protection for his family. When you try to cure yourself, cold turkey is the minimum that you will suffer.

Chairman LAFALCE. Mr. Moussavi, it is a pleasure to meet someone who so much prizes his name, his reputation, his character so that he is willing to go to the mat with whatever persons or Governments are necessary in order to preserve that honor and reputation. It has been an honor having you with us.

[Whereupon, at 12:05 p.m., the committee was adjourned, subject to the call of the Chair.]

APPENDIX

Embajada de México

Washington D.C.
November 4, 1993

The Honorable John J. LaFalce
Chairman
Committee on Small Business
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I would like to refer to the hearing that took place in the Committee on Small Business on October 27, 1993, regarding "NAFTA: Business and Politics in Mexico". During the Hearing, the only witness, Mr. Kaveh Moussavi, made unfounded allegations regarding his participation as representative of IBM in a bid to upgrade Mexico's traffic control system. I respectfully request that the following clarifications to some of Mr. Moussavi's allegations be included in the record of the hearing.

Throughout the months in which he has been publicizing his charges, Mr. Moussavi has not been able to provide definite proof of the allegation that he was approached by what he assumed were government officials requesting a bribe in order for IBM to win the bid in question. However detailed and persuasive his account may seem, Mr. Moussavi simply does not have the facts to back up or corroborate his assertions.

By his account, Mr. Moussavi met at least four times with the alleged solicitors of the bribe. This fact makes it especially difficult to understand why Mr. Moussavi has been unable to identify the persons in question.

It is also noteworthy that after the incident that Mr. Moussavi refers to, he informed of it to Mr. Roger Boyd of IBM. In that information, as was declared by Mr. Moussavi in an interview with the mexican weekly Proceso, he said that if the three men that approached him were government officials, then no payment should be made. If they were not government officials, Mr. Moussavi continued, then he would accede to give them a sum of money that would be deposited in a bank account from which no withdrawal of the principal could be made in three years.

It cannot escape the Committee's attention that in this statement, which has not been denied by Mr. Moussavi, he was acquiescent to provide a bribe, assuming such was requested, with the only condition that the recipients not be government officials. The Committee can draw its own conclusions from these statements.

Mr. Moussavi is also on record as having been contacted before the incident in question by a Mr. Gustavo Aleman who offered to help win the bid and who Mr. Moussavi believes to have arranged the meeting where the alleged bribe was requested. This was never reported by Mr. Moussavi to IBM.

The Committee should note that Mr. Moussavi's reiterated contacts and participation in these meetings are at odds with the requirements of the Foreign Corrupt Practices Act and of Mexico's laws.

By his own assertion, Mr. Moussavi was for many years an agent to American and other foreign companies seeking to do or doing business in Mexico. One can assume that during that experience, Mr. Moussavi did not encounter the widespread corruption whose existence he claims on the basis of an isolated incident. During this time he was apparently active and successful.

Even if the events described by Mr. Moussavi were to be verified, it is certainly an exaggeration to extrapolate from them and taint the business environment in Mexico. Many prominent U.S. companies have been very successfully engaged in business in Mexico for decades, always in compliance with Mexico's anticorruption laws, the U.S. Foreign Corrupt Practices Act, and their own company prohibitions against the use of improper payments.

Mexico takes allegations of corruption very seriously, and has extended great effort, in cooperation with the U.S. government, to investigate the incident reported by Mr. Moussavi. Mexico will welcome any real evidence that will contribute to the ongoing investigation; but any law enforcement professional would agree that there is little to work with in the reports of Mr. Moussavi.

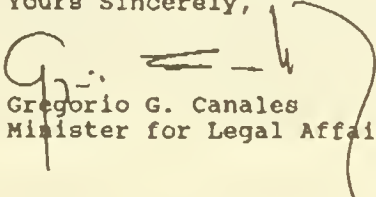
During the hearing Mr. Moussavi also made allegations regarding the radar control system of Mexico, stating that it is set up in such a way as to allow the transit of drug related air traffic. I am afraid that Mr. Moussavi's allegations in this case shed light to his limited knowledge of the technical system of air control in Mexico. Mexico has a system in place capable of tracing and safely routing aerial navigation over its territory. In the case of identification and tracing of flights which are presumed to be involved in drug traffic, there is a sophisticated Hemispheric Information System, based in California, in which Mexico and other countries participate. Thus, Mexico's system is part of a larger international network aimed at enhancing cooperation in the fight against drug trafficking.

Mr. Moussavi also made reference to air traffic safety in Mexico City's international airport, due to an increase in the number of flights. It should be clearly noted that there is no technical reason to support Mr. Moussavi's assertion and his claim lacks any factual basis. At the same time, the Committee should be aware that the airport complies with international safety standards and there is no evidence that the current or proposed Mexican air traffic control systems could be unsafe.

The allegations made of libel and character assassination as well as threats to Mr. Moussavi's person and family have no factual basis. The Government of Mexico knows of no such actions. What it does know, however, is that Mr. Moussavi has used different public forums, now including the Congress of the United States, to make unfounded statements about several Mexican government officials.

The Government of Mexico can only hope that the distinguished members of the Committee under your chairmanship will not be deceived by the allegations in question.

Yours Sincerely,


Gregorio G. Canales
Minister for Legal Affairs



Office of the IBM Director of Public Affairs

1301 K Street, Northwest, Suite 1200, Washington, District of Columbia 20005-3307

October 27, 1993

The Honorable John J. LaFalce
Chairman
Committee on Small Business
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

On behalf of the International Business Machines Corporation (IBM), I am submitting this letter commenting on today's hearing, "NAFTA: Business and Politics in Mexico". At that hearing, Mr. Kaveh Moussavi made certain remarks concerning IBM's experience in competing for a Mexican air traffic control contract. We respectfully request that this letter be included in the record of today's hearing.

In June 1992, a wholly-owned U.S. subsidiary of IBM, IBM International Air Traffic Corporation, retained Mr. Moussavi to provide assistance in marketing IBM's air traffic control system in Mexico. IBM bid on a contract to upgrade the Mexican air traffic control system in late 1992, but we were not awarded the contract, and Mr. Moussavi's arrangement with IBM was subsequently terminated.

During his testimony, Mr. Moussavi recounted an incident which he says occurred while he was acting as IBM's agent in Mexico. According to Mr. Moussavi, he was approached and asked to pay a bribe to ensure that IBM would win the Mexican air traffic control contract. IBM did not pay a bribe, no IBM employee witnessed the event, and all we know of the incident is what we have been told by Mr. Moussavi. IBM has cooperated fully with an investigation into the matter conducted by the Attorney-General of Mexico with assistance of the United States Attorney's office.

The Honorable John J. LaFalce

Page 2

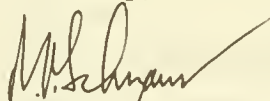
October 27, 1993

IBM competed vigorously to win the air traffic control contract in Mexico, and we were disappointed when we lost. IBM did protest our loss of the contract to the appropriate Mexican authorities. However, we did not raise the issue of air traffic safety in our protest. Rather, our protest raised questions regarding the determination that IBM's proposal was non-compliant and we requested a review of the cost evaluation performed. We were advised in February 1993 that our protest grounds were rejected and we accepted that determination. Contrary to Mr. Moussavi's assertions, IBM is aware of no technical reasons to support the conclusion that the current or proposed Mexican air traffic control systems could be unsafe.

Mr. Moussavi postulated that bribery and official corruption are a way of life for foreign companies operating in Mexico. This has not been the IBM Corporation's experience. For more than 65 years, the IBM Corporation, through its wholly-owned subsidiary, IBM de Mexico, S.A., has successfully conducted and grown its business in Mexico without being required to acquiesce in corruption in order to win contracts with the Government of Mexico. IBM's activities have been in compliance with all applicable U.S. and Mexican laws. Moreover, IBM's contract retaining Mr. Moussavi specifically required that he comply at all times, as our representative, with the provisions of the Foreign Corrupt Practices Act.

IBM supports Congressional approval of the North American Free Trade Agreement. It is ironic that Mr. Moussavi's remarks were in the context of defeating the NAFTA whose very provisions on open investment in Mexico and a transparent and fair government procurement system would create an improved climate for all foreign business operating in Mexico.

Sincerely,



Richard O. Lehmann

ROL:bd

cc: The Honorable Jan Meyers

TESTIMONY OF ADOLFO ONOFRE*

FOREWORD

I duly appreciate this opportunity of submitting to the U.S. Congress the testimony of my experiences as a businessman when telling a truth that the Mexican Government didn't like.

How could my experiences relate to the ones a U.S. businessperson might encounter in Mexico is an unknown entity, but since in my case they involved political and human rights issues concatenated to the judicial system against an overall backdrop of corruption, I hope that as a corollary of my experiences U.S. businesspeople will be fully aware about the ethics of doing business in a country where such a word belongs to the "magic realism" world that one of President Salinas' friends (Mr. Gabriel García Márquez) has written so much about.

On the one hand I was very lucky that I escaped from my country with my life intact, but on the other hand I was very unlucky since my personal life was practically destroyed and my business in México is non-existent anymore.

I would also like to thank the United Kingdom whose Government and people have been totally supportive in offering me political asylum -seeker status and in helping me to rebuild my business and have a home.

SUMMARY

"Trade can only exist under freedom". so said the Romans (who knew a lot about trade) more than 2 000 years ago. México might offer a lot of trade opportunities, but there is not such a thing as Freedom.

What U.S. people take for granted when it comes to freedom of speech, we Mexicans know that only true democratic countries can enjoy it.

If a little exercising of my freedom of speech created such a havoc to somebody who The Wall Street Journal and BusinessWeek magazine consider as a reliable source of information, you can just imagine what happens when any other professionally honest -but relatively unknown- person writes against the Government. That person can not only be totally harrassed and un-lawfully arrested as in my case, but also could easily get killed! Amnesty International, Index on Censorship, Article 19, International Pen, etc. have extensively documented on much serious cases than mine

* Footnotes for Mr. Onofre's testimony are on file in the Committee's office.

What I am going to mention -and it is only the tip of the iceberg- might defy any logic and might sound totally surrealistic, but it did happen to me, for example:

As anybody who is in business, I used to have documents on everything. However, they were either "stolen" "lost" or simply are being refused to be given to me by companies such as IBM,² Hewlett-Packard,³ Valores Finamex,⁴ S.A. and one Government entity erroneously called "Mexican Human Rights Commission".⁵

This latter simply broke their promise to furnish me with a copy of my police dossier. Slowly but surely I am rebuilding my evidence using documents from secondary sources. Please be assured that I will- with your kind permission- constantly up-date you on my case.

If the Mexican Government and its business associates (in evil) were not to be blamed for perversion of justice, they shouldn't refuse to give me my own documents. To me, it is obvious that they are afraid that a non-partisan, truly honest college of people such as yourselves could find out that their wicked actions have created just one more victim: myself.

BASIC DETAILS ABOUT MY CASE

In my capacity as an investigative journalist, I used to publish and edit an English-language ⁶ newsletter called "The Mexican computer market" which had a very limited -but exclusive -circulation reaching only top-level executives of the largest computer companies, in Mexico City, except for one in the City of Puebla.⁷

Even though I have a contract to keep the name of most of my customers confidential, I am willing to testify that some of the subscribers were Control Data Corp., Hewlett-Packard, Tandem and The U.S. Embassy.

Part of the published information was gathered during my normal marketing research activities, which included the up-dating and expansion of a list of computer sites.

As part of said process, one of my employees inquired in 1987 about an IBM computer site which was of no particular interest at that moment since my company was working on Hewlett-Packard sites. When I noticed it, I remember that the end-user was a Government agency. Later on I discovered it was going to be utilized for ballot counting purposes during the 1988 Presidential elections.

NOTE: Please bear in mind that that is not unusual. Right now I already know that in 1994 the Government is going to use an IBM 3090 with IBM workstations.⁸

Later on I also realized that the information given to my people was erroneous (somebody wanted to mislead us) and a few weeks ago I realised that actually it was a Unisys system

In what became my next-to-last issue I mentioned in my newsletter that the Government was going to use an IBM S/3X computer. I also wrote that in my next issue I was going to give full technical details (the configuration) of the equipment. Actually I have recently discovered that this last issue never reached my subscribers. My guess is as good as anybody's guess, but I am strongly inclined to believe that personnel at my postal office never delivered my newsletter, which is not unusual since in London organisations such as Amnesty International and the University of London don't receive their copy of "Proceso" magazine.⁹

Incidentally it is worth to mention that it was at the library of this latter institution where recently I read in the (I seem to remember) the "La otra cara de México" journal that the two opposition party's (PRD) witnesses of the so called 1988 computer crash "disappeared" by orders of Mr. Manuel Bartlett Díaz¹⁰

To me it makes sense since Mr Bartlett Díaz was a very strong presidential candidate along with Mr. Salinas de Gortari before the "dedazo" i.e. they were sort of enemies and every all in a sudden Mr. Bartlett Díaz appeared in the new Cabinet.

Going back to my newsletter: Once the "obscure forces" that rule my country found out what I published, a series of harrasments and threats started. My office was visited by people who never identified themselves. Messages were left in no uncertain terms that I was going to suffer, etc.

I did take notice and stopped publishing my newsletter and then my real personal problems began:

Since the very beginning of 1987 real and agressive threats materialised. Very unpleasent people started to visit my office. I always missed them except on one occasion when as I arrived at the office, the secretary told me that two men had just left. In spite of being very fr~~ig~~htened I decided to confront them. The secretary told how they looked like and since they left a message saying that they were going to go for a coffee at a nearby restaurant, I decided to meet them. However, I couln't find them

In February of 1987 I was arrested for 10 hours under the most most ridiculous criminal charges anybody can imagine. Their purpose was to destroy ~~me~~ credibility as a person."

The 10 of June 1988 was a very special day since (besides being my birthday) I organised and sponsored a working breakfast attended by around 80 top-level people in the computer field except few exceptions such as Mr. Rodríguez, one of the Commercial Attaches at the Canadian Embassy in México; the purpose was to formally announce the start-up of my company -DIFAAMSA- as a Hewlett-Packard vendor.

Besides HP's executives, people from Teléfonos de México and Ericsson delivered technical papers. I was going to deliver one but it didn't happen. The reason?:

At 9.00 hours of that day I was already in jail under false charges. The 10 hours I was kept in custody were enough to send down the drain the results of around 4 months of work and 20 million pesos (at 1988 prices). However I need to be very grateful to the Mexican Government because they released me just in time to attend the gala party that I organised for that same night to celebrate the 15th. anniversary of my college graduation, which I also organised.

But the worst was yet to come: The Government easily found out all about my business connections. They knew who my customers were (for example, they can scan my bank records and not only investigate my tax returns, but also which company gave me a check for whatever business transaction).¹²

They knew that the 1st. of July 1987 somebody from my company smuggled Hewlett-Packard equipment from the U.S.A. into México and illegally sold it (before Difaamsa's formal announcement as a vendor) to a company called Valores Finamex, .S.A. and they knew they had the perfect excuse to prosecute me, now as President of my own company.

Utilising the dirtiest and cheapest tricks, everybody ~~Government, Valores Finamex and Hewlett Packard~~ got me involved and finally sent me to jail, this time for 3 months and 4 days.

Fortunately my Judge was Ms María de Jesús Medel (who also handled Mr. Durazo's case) and who is well known for being tough..but just, and lived up to her reputation. Nobody, and I mean, nobody, could prove in Court anything against me - however hard they tried- and Judge Medel set me free on the 23rd. of January 1990 with one little piece of evidence in my favour since ALL my personal and business papers "disappeared" while I was in jail, i.e. my apartment was totally ramsacked and I was left with all my personal belongings intact (some of them very valuable) but not even a paper that could prove who I

was, such as my passport, birth certificate, military records, etc.

Of course I did denounce the robbery and accused somebody as a first step in reaching the people who coordinated the whole thing. And of course the Government helped this man and made sure that I was never going to make any further inquire by ISSUING AN ARREST WARRANT AGAINST ME.¹³

Surely there are just too many facts that don't escape my memory, such as:

The lawyer ██████████ who was retained to assist me in setting me free from my last stay in jail, as soon as she knew who I was and how strong the Government's case against me was, decided to "help herself" by committing illegal manoeuvres in order to become the owner of my apartment, which she is currently occupying.

I know what corruption -at all levels- is all about. Wherever the Mexican Government has a saying, it is blatant: jails, people like Genaro Borrego Estrada and Emilio Gamboa Patrón (whom I know quite well since we attended the same Jesuit University), etc. Mr. James Jones, U.S. Ambassador to México has upset the Mexican Government simply for asking to monitor prison conditions, where I noticed that drugs and pay-offs are some of the examples of the almost incredible levels of corruption, ill treatment, etc. that exist. I am sending a letter to Mr. Raymond Seitz, U. S. Ambassador to England asking for the favour of re-addressing it to Mr. Jones, since, as I said before, sometimes postal officers intercept the Mexican mail. In that letter, I am going to briefly describe my first-hand experiences in jail.¹⁴

As I said before, right now I just wanted to highlight what could happen to any business person in México. Normally only Mexicans suffer this much from Government's acts. Actually the Government is very cooperative with foreign business people, but nobody is going to ask for judicial help since everybody knows that the whole system is corrupt. This is related to: why I didn't denounce the person of my company that committed the crime?¹⁵

Simply because I knew (the same as General Motors de México knew) that an invitation for a police inquiry is a invitation for trouble. My reasoning was the same utilised by GM's top manager when a few years ago they suffer the robbery of several brand-new automobiles from their own premises. They never asked for the "help" of the Mexican legal system. Who wants to be in the company of that lot!

I firmly believe that I have a strong case against a good number of Mexican Government officers and their accomplices, however-I am totally defenseless since Justice doesn't exist in my country. As a consequence, I intend to bring my case to the European Court of Justice, the United Nation's Commission on Human Rights and other impartial entities which could be kind enough to pay attention to my evidence!

I hope that the U.S. Congress could be kind enough to put some pressure to the Comisión Nacional de Derechos Humanos, if only for the sake of having a copy of my dossier and find out who is behind the curtains trying to destroy me. I definitely want to go back to Mexico, or, at least, to have a safe conduit and visit my family and friends. Hopefully a U.S. lawyer could help me to sue some people.

I won't give up. I have nothing to lose now, except my life and please believe, Mexican Government officers do kill dissidents; but that only reinforces my desire to take concrete steps in order to stop the Mexican Government's actions against people who are much less intellectually or physically privileged as myself, such as my indian countrymen, simply because I am also an indian.

Please bear in mind that there is a Greek saying which can be loosely translated as "when the fish rots, it starts with the head".

Thank you.



ADOLFO M. ONOFRE

London, 7th/Dec/'93



25th October 1993

HOUSE OF COMMONS
LONDON SW1A 0AA

Mr K. Moussavi,
56 Old Road,
OXFORD OX3 7LL.

Dear Monsieur,

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

Andrew Smith, M.P.

*With every good wish for your
returning to Congress.*

Kaveh Moussavi
56, Old Road, Oxford, OX3 7LL
United Kingdom
Tel + 44 865-742374 Fax + 44 865 750065

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) 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 1993. 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 3

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 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,

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 the 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."

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 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

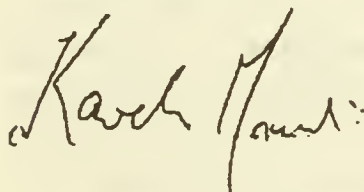
The President
October 15, 1993
Page 7

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,

A handwritten signature in cursive script, appearing to read "Kaveh Moussavi".

Kaveh Moussavi

Enclosures

cc: Mssrs Rubin, Lake, Berger (w/attachments)

**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.

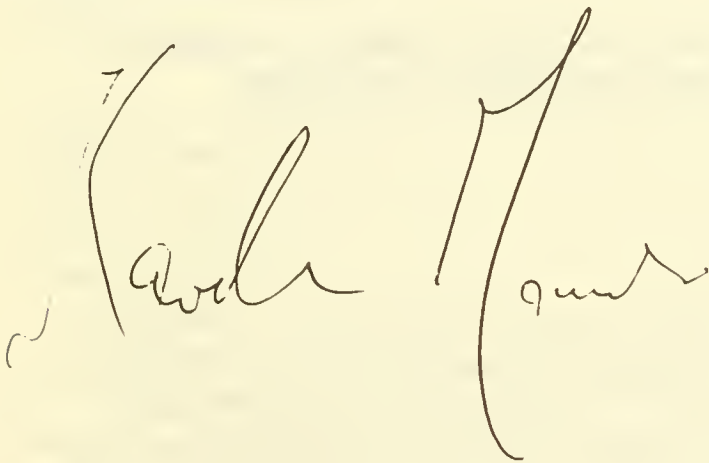
I began this petition with a plea for the intervention of your Excellency as the Constitutional Head of the United Mexican States in solving my case. In concrete terms, my plea

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 black ink, appearing to read 'Kaveh Moussavi'. The signature is written in a cursive, flowing style with some loops and a long vertical stroke at the end.

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 Espacio Aero Mexicano SCT.

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 !

Jan J. J. J.
Kaveh Moussavi

Kaveh Moussavi

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 Controleria. 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 Contraloría'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 Contraloría and 72 hours in the case of Sr. Caso?

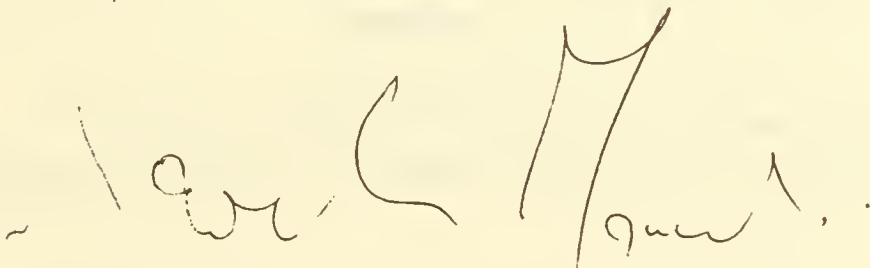
Excellency, despite the enormous suffering that has been inflicted on myself and my family as a result of your government's

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 dark ink, appearing to read "David Hunt". The signature is written in a cursive, somewhat stylized hand. There is a small mark above the first part of the signature.

5-20-93

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

KAVEH MOUSSAVI,)
56 Old Road,)
Oxford, OX 3 7LL,)
Great Britain,)

and)

WHITEHALL MANAGEMENT)
SERVICES, LTD.,)
Santon, Isle of Man,)

Plaintiffs,)

v.)

Civil Action No. _____

INTERNATIONAL BUSINESS)
MACHINES CORPORATION,)
Old Orchard Road,)
Armonk, New York 10504,)

SERVE ON:)
Registered Agent)
CT Corporation)
Systems,)
32 South 12th St.,)
Baltimore, MD 21219)

and)

IBM INTERNATIONAL AIR)
TRAFFIC CORPORATION,)
6600 Rockledge Drive,)
Bethesda, Maryland 20817,)

SERVE ON:)
Registered Agent)
The Corporation)
Trust Company,)
1209 Orange Street,)
Wilmington, DE 19801,)

Defendants.)

COMPLAINT

Plaintiffs, through their attorneys, bring this civil action against the above-named defendants for breach of contract, libel, slander, defamation, intentional infliction of

emotional distress and damages. Plaintiffs allege that these wrongs were committed by defendants individually and through a conspiracy among defendants and others. Plaintiffs complain and allege as follows:

I.

**Description of the Parties and
Statement of Jurisdiction**

1. Plaintiff Kaveh Moussavi is a citizen of Great Britain and resides in Oxford, England.
2. Plaintiff Whitehall Management Services, Ltd. ("Whitehall") is a corporation organized and existing under the laws of the Isle of Man, United Kingdom. Plaintiff Kaveh Moussavi is the principal shareholder of Whitehall. The principal place of business of Whitehall is Oxford, England.
3. Defendant International Business Machines Corporation ("IBM") is a corporation organized and existing under the laws of the State of New York, with its principal place of business in Armonk, New York. Federal Systems Company ("Federal Systems") is a division of defendant IBM and is located at 6600 Rockledge Drive, Bethesda, Maryland. IBM is qualified to conduct business in the State of Maryland and regularly conducts business in Bethesda, Maryland and Gaithersburg, Maryland. Defendant IBM and Federal Systems are referred to herein as "IBM".
4. Defendant IBM International Air Traffic Corporation ("IATC") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business

at 6600 Rockledge Drive, Bethesda, Maryland. IATC is a wholly owned subsidiary of IBM and reports directly to the Federal Systems Company. IATC is engaged in the development and marketing of air traffic control systems outside the United States, including Mexico.

5. IBM de Mexico, SA ("IBM Mexico") is a corporation organized and existing under the laws of Mexico, with its principal place of business in Mexico City, Federal District, Mexico. IBM Mexico is a wholly owned subsidiary of IBM and is a member of the conspiracy alleged and described herein.

6. The amount in controversy exceeds \$50,000, exclusive of interest and costs.

7. Jurisdiction of this Court is based upon 28 U.S.C. § 1332 in that there is diversity of citizenship between plaintiffs, citizens of Great Britain and the Isle of Man, and defendants, citizens of New York, Maryland and Delaware.

8. Venue is proper in this Court in that a substantial part of the events giving rise to the claims alleged herein occurred in Maryland.

II.

Statement of Claims

A. Early Background

9. In the Spring of 1992, defendants learned from plaintiff Moussavi that the government of Mexico intended to issue a request for proposals ("RFP") for a computer system for air traffic control at airports in Mexico, including the Mexico

City airport ("ATC contract"). The ATC contract was to be awarded through SENEAM, the Mexican government agency in charge of air traffic control, and was considered to be worth a minimum of \$20 million.

10. Defendants determined that to have the best opportunity of winning the contract over other competing bidders, defendants should have an agent capable of promoting their interests in the ATC contract. Plaintiff Moussavi had strong business contacts in Mexico and was identified by defendants as a person with the necessary ability and experience to represent them effectively before the Mexican government and SENEAM.

11. William S. Swope, Senior Marketing Representative for defendant IBM's Federal Systems, and Roger E. Boyd, Mexico ATC Program Manager for defendant IATC, became aware of plaintiff Moussavi's influence and expertise in business circles in Mexico and concluded that plaintiff Moussavi could provide invaluable assistance to IBM in connection with its proposal for the ATC contract.

12. On or about June 19, 1992, defendant IATC and plaintiff Whitehall Management Services, Ltd. entered into the Mexican Air Traffic Control Agency Agreement ("Agreement") with respect to the Mexican Air Space Navigation System. Pursuant to the terms of the Agreement, plaintiffs were to act as defendant IATC's agent and were to perform marketing support, competitive analysis and logistics assistance in connection with the proposal on the ATC contract. William Swope of IBM was to be plaintiffs' point of contact for all guidance and

direction under the Agreement. It was anticipated and agreed between and among the parties to the Agreement that plaintiff Moussavi, personally, would perform all of the agreed upon services. It was the intention of the parties to obtain plaintiff Moussavi's expertise, knowledge, ability and experience and to confer upon him the benefits under the Agreement. A true and accurate copy of the Agreement is attached hereto as Exhibit A.

13. On August 27, 1992, SENEAM issued the RFP for the ATC contract, and on September 29, 1992, IATC submitted its proposal. Proposals were also submitted by other companies. As IATC's agent, plaintiffs worked diligently to insure that it would have the best possible chance of being awarded the ATC contract.

B. The Bribe Solicitation

14. In October 1992, defendants and plaintiff Moussavi learned from knowledgeable sources that IBM's IATC was the leading contender for the award of the ATC contract. Commencing in late October 1992, plaintiff Moussavi began receiving unofficial reports that he would be contacted to make a contribution on behalf of IBM and IATC to help assure the award of the ATC contract to them. Plaintiff Moussavi duly reported these developments to Messrs. Swope and Boyd.

15. On the morning of November 9, 1992, plaintiff Moussavi received a call from an unknown man, and a meeting was arranged later that morning in the lobby of the Nikko Hotel where plaintiff Moussavi was staying. Three men met plaintiff

Moussavi in the hotel lobby and identified themselves by first name only. They told plaintiff Moussavi that IBM could be more certain of winning the ATC contract if a payment of \$1 million were made. Plaintiff Moussavi told the men that IBM was not interested in making a payment. They then requested amounts lower than \$1 million and suggested a donation to the Mexican anti-poverty program, Solidarity or Pronasol. Plaintiff Moussavi told the men that it is illegal under United States law for IBM to make such a payment to employees of a foreign government.

16. The three men refused to state whether they were officials or employees of the Mexican government. In an effort to evaluate the legality of any contribution, plaintiff Moussavi asked the men to demonstrate that they were not government officials, but they were not able to do that. When plaintiff Moussavi asked for their business cards, they opened a briefcase and took out documents marked 'confidential' which bore the names of other bidders on the ATC contract. The men gave every appearance of being Mexican government officials. They spoke very knowledgeably about the ATC contract and were quite familiar with the details of the tender; they appeared to have inside knowledge of the analysis of the bids; they indicated an ability to influence the contract award; they suggested a contribution to a government program; they seemed totally unconcerned over the possibility of government reprisal for their actions; and they were not able to demonstrate that they were privately employed when it would have been to their advantage to do so.

17. During the course of this meeting, plaintiff Moussavi advised the men that he needed to call IBM in the United States to get further instructions. While the men waited in the hotel lobby, he went to his room and placed a call to Mr. Boyd and briefed him on the ongoing solicitation. Later that same day, plaintiff Moussavi had a telephone conversation with Mr. Swope and another conversation with Mr. Boyd about the solicitation. Swope and Boyd resisted the idea of making a payment, but did not rule it out. They said they needed to consult on the matter further. They discussed ways in which plaintiff Moussavi could possibly make a payment, if it became necessary, and be compensated later by IBM. Plaintiff Moussavi was encouraged to do whatever he had to do to assure the award of the ATC contract to IBM's IATC, short of having IBM appear to be making a direct payment to Mexican government officials. However, he was directed not to disclose his actions in writing to IBM. Plaintiff Moussavi never made the requested contribution. It was apparent to him that the payment would have been illegal because the men were Mexican government officials.

18. On or about November 19, 1992, SENEAM announced that none of the proposals submitted fulfilled the ATC contract specifications and cancelled the initial RFP. SENEAM subsequently issued a second RFP for the ATC contract for which IATC submitted a proposal. On December 23, 1992, the ATC contract was awarded to Thomson/Alenia, a French-Italian consortium.

C. The Plan to Expose Corruption in the Mexican Government

19. In January, 1993, defendants and plaintiffs developed and executed a plan to expose the corruption permeating the ATC contract award process and the award of the contract to Thomson/Alenia. The objective of the plan was to bring about the cancellation of the award by exposing official corruption, including the subordination of public safety issues at the Mexico City airport and government corruption in Mexico generally.

20. The first step in this plan was a letter sent by defendants, through IBM Mexico, on January 7, 1993 to the Controllers General Registrar of the Federation of Mexico, protesting the contract award. The second step of the plan was to mobilize the international press. To implement this phase, defendants directed and authorized plaintiffs to contact the international press to raise public awareness about defendants' protest and the other plan objectives. With defendants' authorization, plaintiff Moussavi gave a comprehensive report, including a description of the bribe solicitation, to the Financial Times in London. The resulting report was published on February 3, 1993.

21. The third and fourth steps of the plan were to work with the Mexican press and exploit the publicity to assure cancellation of the award. These steps, however, were never executed because of reactions to the February 3, 1993 news report of the bribery solicitation.

D. The Conspiracy

22. On information and belief, officials of the Mexican government learned of the article in the Financial Times and contacted defendants to express their concern over the allegations in the article. The Mexican government, in ways not completely known to plaintiffs, put pressure on defendants, through IBM Mexico, to discredit and repudiate the bribery report. Among other things, the government demanded that defendants and IBM Mexico clarify their position and submit evidence to substantiate the fact of the bribery solicitation. In a further effort to avoid implication in a bribery scandal, the government threatened to file an action against defendant IBM, if it failed to prove the allegations.

23. In order to protect IBM's substantial business interests in Mexico, defendants capitulated to the pressure applied by the Mexican government and wrongfully entered into a conspiracy. Defendants, acting individually and in concert, conspired among themselves and with IBM Mexico to discredit and defame plaintiff Moussavi. The conspiracy included the making of false statements about the bribery solicitation, IBM's involvement in it and plaintiff Moussavi's reports of it. By falsely reporting that the bribery solicitation never occurred and that there is no evidence supporting plaintiff Moussavi's report and by publicly disavowing plaintiff Moussavi and disassociating themselves from him, defendants made plaintiff Moussavi appear as unreliable, untrustworthy and a fabricator. The object of the conspiracy was to appease the Mexican

government and save it from scandal, shame and embarrassment in order to protect the business interests of defendants and IBM Mexico. These purposes were accomplished by discrediting and defaming plaintiff Moussavi.

E. Acts of the Conspiracy - The Defamatory Statements

24. In order to implement and further the conspiracy, on February 4, 1993, defendants, acting individually and in concert with each other and with IBM Mexico, caused the President and General Manager of IBM Mexico, Rodrigo Guerra Botello ("Guerra"), to write a letter to Lic. Luis Vazquez Cano at the Mexican Ministry of General Accounting. The purpose of the letter was to disassociate defendants from plaintiff Moussavi's statements, deny that any officials of the Mexican government had solicited a bribe and apologize for the problems caused by plaintiff Moussavi. Sr. Guerra wrote:

Spanish:

En ningún momento, durante o posterior al proceso de la licitación, IBM recibió requerimiento alguno por parte de funcionarios públicos mexicanos del pago de cantidad alguna en dinero o en especie en relación con la licitación o por cualquier otra causa.

IBM lamenta mucho la confusión y los problemas que pudieran generar las declaraciones que a título personal realizó el señor Moussavi.

English Translation:

At no time, either during or after the bidding process, did IBM receive any demand from any Mexican public official for the payment of any amount, either in money or in kind, in connection with the invitation to bid or for any other reason.

IBM very much regrets any confusion or problems that these statements, which Mr. Moussavi made strictly on a personal basis, may have caused.

Defendants' false and malicious denial of the bribery allegations and their apology to the government of Mexico were made even though defendants knew well that the bribery solicitation had, in fact, occurred.

T.V.
 25. On the same date, and in furtherance of the conspiracy, Sr. Guerra made an appearance on the Mexican national television program, "24 Horas", a prominent and highly regarded television news program in Mexico. On that program, Guerra again attempted to disassociate defendants from plaintiff Moussavi and maliciously stated that the declarations regarding the bribery solicitation were exclusively plaintiff Moussavi's, that the statements had no validity, that the solicitation never occurred, and that defendants were "completely unaware" of any such activity. Sr. Guerra stated:

Spanish:

La IBM no tiene ninguna queja, nunca hemos sido abordados por funcionarios mexicanos; no tenemos ninguna noticia; las declaraciones que hizo esta persona [Moussavi] fueron exclusivamente a titulo personal.

English Translation:

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.

Guerra made these statements in furtherance of the conspiracy and with full knowledge of their false and defamatory nature.

26. In furtherance of the conspiracy, defendant IBM wrote plaintiff Moussavi on February 5, 1993, challenging him to produce evidence of the solicitation:

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.

This skeptical and distrusting letter was telefaxed to plaintiff Moussavi and distributed to the government of Mexico by defendants, knowing that it would be released to the media, as in fact it was. Defendants made these statements, even though they knew that the intimations of the statements were false. Defendants knew well that the bribe solicitation had, in fact, occurred and that there was substantial corroborating evidence of its occurrence. This evidence included the advance reports of the solicitation which were promptly disclosed to defendant by plaintiff Moussavi, defendants' authorization of plaintiff Moussavi's trip to Mexico to investigate the anticipated solicitation and his immediate and spontaneous report of the actual solicitation as well as his prompt follow-up reports. The challenge to "come forward immediately with any evidence you may have" was malicious posturing, designed to satisfy the demands of the Mexican government and in furtherance of the conspiracy.

27. Nevertheless, plaintiff Moussavi promptly complied with defendants' request and stated in a return telefax on February 5:

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.

Notwithstanding this statement from plaintiff Moussavi, defendants continued to make further statements defamatory of him.

28. In furtherance of the conspiracy, defendants, through Gerald W. Ebker, IBM's Federal Systems Company Chairman and Chief Executive Officer, wrote another letter to Lic. Luis Vazquez Cano on February 11, 1993. In this letter, Chairman Ebker made the following statements:

Apart from Dr. Moussavi's oral assertions that the approaches occurred, IBM has no evidence that would verify his statements on this subject. Other than Dr. Moussavi's statements, at no time was IBM approached directly or indirectly by members or agents of the Government of Mexico or anyone else, with any request for money or contributions of any kind in connection with this bid.

Based on the results of my investigation, IBM has terminated its agency relationship with Dr. Moussavi, and IBM has no other contract with him.

Even though defendants knew well that the bribery solicitation had, in fact, occurred and that there was evidence supporting it, defendants falsely, maliciously and emphatically reported that "at no time" was IBM approached with any request for money or contributions "of any kind" and that IBM had no evidence supporting the allegations. The announcement of plaintiff Moussavi's termination in conjunction with this false report presented a portrayal of plaintiff Moussavi as unreliable, untrustworthy and a fabricator.

29. On information and belief, this letter was intended to be and was read by Sr. Vazquez and other persons within the

Mexican government. Defendants knew or reasonably should have known that the damaging and false statements regarding plaintiff Moussavi in this letter and in IBM's letter of February 5, 1993 would receive wide dissemination within the Mexican government and that the statements would be published by the Mexican and international press.

30. On February 12, 1993, plaintiffs, by counsel, requested that defendant IBM issue a public statement in support of plaintiff Moussavi. The purpose of this request was to mitigate the damage already done and to prevent further damage to plaintiff Moussavi's reputation resulting from defendants' publication of their false and defamatory statements. Specifically, plaintiff Moussavi requested that IBM publicly support him and make the following additional statements:

- a. that IBM was not disassociating itself from plaintiff Moussavi;
- b. that both prior to and during the solicitation on November 9, 1992, plaintiff Moussavi repeatedly disclosed to IBM events surrounding the solicitation;
- c. that plaintiff Moussavi communicated with IBM during the course of the solicitation and requested instructions as to the appropriate response;
- d. that IBM instructed plaintiff Moussavi to refuse the solicitation, and he did so;
- e. that the decision to release the information regarding the solicitation to the press was a joint decision of IBM and plaintiff Moussavi; and
- f. that IBM stands behind its agent, plaintiff Moussavi, and both he and IBM stand ready to cooperate in any official investigation of the matter.

31. Defendants failed to act on this request or to take any action to retract, withdraw or in any way mitigate their

malicious, false and damaging statements. Instead, defendants continued with their conspiracy to maliciously defame and discredit plaintiff Moussavi.

32. In furtherance of the conspiracy, on February 17, 1993, defendants, through their co-conspirator IBM Mexico, prepared and published and caused to be published in Mexico and elsewhere a press release containing further false statements. In this press release, defendants falsely and maliciously stated that plaintiff Moussavi had at no time submitted evidence to IBM in support of his assertions, when, in fact, IBM knew there was substantial corroborating evidence that the bribery solicitation had occurred. Defendants also falsely and maliciously stated that IBM had made a request of plaintiff Moussavi to provide clarifying information, but that he had failed to provide any additional information. But, in fact, plaintiff Moussavi had, through counsel, been regularly providing information regarding the solicitation and its background to IBM from February 5, 1993 to the date of the release. In the press release, IBM also stated that -- because there is no evidence supporting plaintiff Moussavi's statements, and he did not provide information when requested -- "it can be concluded" that IBM was never approached by agents of the Mexican government to make a contribution. Defendants made these statements knowing they were false, that the stated premises purporting to support the conclusion were false and that the "conclusion" was both invalid and false.

33. At the time of publication of the press release, defendants knew well from information received from their own

employees, from plaintiff Moussavi and from plaintiffs' counsel, including detailed factual accounts of the events leading up to and during the actual solicitation, that the bribery solicitation did, in fact, occur and that the statements set forth in the press release were false.

34. In their press release, defendants again apologized to the Mexican government for the problems caused by plaintiff Moussavi, and once again announced that they had terminated their relationship with him. Defendants made these statements knowing that they would further discredit plaintiff Moussavi and would depict him as unreliable, untrustworthy and deceitful. True and accurate copies of the February 17, 1993 press release and an English translation provided by IBM's Federal Systems Company are attached hereto as Exhibits B and B(1).

35. In furtherance of the conspiracy, defendant IBM gave a statement to the Wall Street Journal, repeating certain of defendants' false statements previously described. An article based on this statement was published on Monday, February 22, 1993, and read in part as follows:

A spokesman for the IBM unit involved acknowledged that the company authorized the agent [Moussavi] to go to the media with its formal complaint. "However, he went a step further," said Bill Prater, a spokesman for IBM's Federal Systems Co. unit, which supervised the airport bid. IBM didn't expect the agent to mention the bribe allegation, a charge for which there is no corroboration, Mr. Prater said.

IBM and Mexican authorities say the agent hasn't supplied names of the Mexicans involved in his bribe allegation. "At the minimum, we need to know who did

what to whom," said Maria Elena Vazquez Nava, Mexico's comptroller general.

IBM's Mexico office issued an extensive apology to the Mexican government and a representative even appeared on national television. IBM says it won't pursue its formal protest, which never involved a bribe allegation.

36. On February 22, 1993, plaintiffs, through counsel, again notified defendant IBM of the falsity of defendants' statements and demanded that defendants withdraw the numerous statements and issue a second press release containing the statements previously requested on February 12, 1993. Defendants failed and refused to comply in any way whatsoever with this request and the previous request.

37. By refusing to retract, withdraw or make any public statement correcting its previous false statements, after being advised of the falsity of the statements by plaintiffs' counsel, defendants reaffirmed and ratified their numerous false statements and the false statements of their co-conspirator.

38. On March 9, 1993, plaintiffs, through counsel, again wrote to defendant IBM, describing in detail the facts surrounding the bribery solicitation and plaintiff Moussavi's repeated communications with IBM before, during and immediately after the solicitation. Notwithstanding their detailed knowledge of the solicitation and the falsity and defamatory nature of the statements made by them, defendants again failed and refused to take any action to withdraw or correct the statements or in any way mitigate the damage defendants have

caused to plaintiff Moussavi's reputation and his business and political standing in Mexico and elsewhere.

F. Media Publication of the Defamatory Statements

39. Defendants' numerous false and defamatory statements were intended by them to be published and have been published repeatedly by the Mexican and international press. From the time of defendants' initial statements on February 4, 1993, and continuing throughout the following weeks, the Mexican press published numerous articles repeating defendants' false, malicious and defamatory statements. Certain of these articles are summarized below:

- a. February 5, 1993: Reuters News Service published an article headlined: "IBM De Mexico Denies Government Asked for Bribe". The article quoted Guerra's February 4, 1993 letter denying the bribe solicitation.
- b. February 5, 1993: Notimex Mexican News Service published an article carrying the headline: "IBM Affiliate Disassociates itself from Government Bribe Charges", and reported that IBM Mexico had denied that the solicitation occurred.
- c. February 7, 1993: Reuters News Service published an article reporting that "IBM has denied it was asked for money".
- d. February 8, 1993: El Financiero published an article directly quoting statements in Guerra's letter that the solicitation did not occur.
- e. February 12, 1993: El Financiero reported that IBM Mexico had denied that the solicitation occurred and that IBM intended to distance itself from plaintiff Moussavi; that Moussavi's statements were personal; that IBM very much regretted the confusion and problems caused by plaintiff Moussavi's statements.

- f. February 15, 1993: El Financiero repeated Guerra's statements of February 4, 1993 that Moussavi is not an employee of IBM, but a commercial agent and that any statements made by Moussavi were exclusively his own.
- g. February 18, 1993: El Financiero reported that IBM has concluded that it was never approached by members or agents of the Mexican government to give any contribution in connection with the ATC contract. The article also reported that IBM had terminated its relationship with Moussavi; and that it had apologized to the Mexican government for the inconveniences caused by this incident.
- h. February 18, 1993: Notimex published an article entitled: "IBM Apologizes for Agent's Charges of Mexican Government Corruption". The article reported that IBM Mexico denied reports that Mexican government officials had requested a kick-back in return for a lucrative contract from SENEAM; that in a press release issued February 17, IBM Mexico's Guerra said Moussavi had never worked for IBM, but as a sales agent for IATC; that Guerra stated that Moussavi's charges are unsubstantiated; and that IBM Mexico therefore deeply regretted this incident and offered its apologies to the Mexican government. The article went on to report Guerra's assertion that Moussavi never offered proof to back up his claims and that all relations with Moussavi had been severed as a result of his accusations.
- i. February 20, 1993: El Financiero reported that IBM of Mexico admitted that Moussavi informed them of the extortion attempt, but because no evidence was provided by him, IBM apologized to the Mexican government for the allegations.

40. In addition to the many articles in the Mexican press, the American and international press also repeated the statements made by defendants. Certain of these articles are summarized below:

- a. February 15, 1993: The Los Angeles Times reported that IBM officials have denied any knowledge of the bribe solicitation.
- b. February 22, 1993: The Wall Street Journal reported that IBM had terminated Moussavi's contract and that IBM's Mexico office had issued an extensive apology to the Mexican government and a representative even appeared on national television.
- c. February 22, 1993: El Financiero Internacional reported that on February 4, IBM Mexico wrote to the Comptroller-General that IBM "has not received from any public official any request for money, either in cash or in specie." The article continued, that in the letter to the Comptroller-General as well as in a television interview February 4, Guerra distanced IBM from Moussavi and said the accusations "were personal". In addition, Guerra said that the company "greatly lamented the confusion and the problems [the accusations] could cause."
- d. February 24, 1993: The Latin American Institute, University of New Mexico, published a report stating that IBM has tried to distance itself from Moussavi; that on February 17, the company subsidiary, IBM de Mexico, said its internal investigation showed no evidence that a bribe was requested from Moussavi; and that IBM even issued a public apology to the Mexican government.

G. Damaging Consequences of the Conspiracy

41. In making the numerous false and defamatory statements concerning plaintiff Moussavi, defendants intended to convey and did convey to the public in many parts of the world, including the Mexican community at large, that plaintiff Moussavi had been making serious allegations that had no basis in fact; that he breached his agreement with an important United States company over a matter of important

Mexican national interest; that he had made false accusations against the government of Mexico; that he is unreliable, untrustworthy and a fabricator; and that IBM naturally had to rid itself of this undesirable person.

42. At all times prior to the publication of defendants' false, defamatory and libelous statements, plaintiff Kaveh Moussavi had enjoyed a good reputation and was held in the highest regard by members of the Mexican business community. This reputation and standing enabled plaintiff Moussavi to engage in profitable business dealings at the highest levels of the business and political community of Mexico and other countries.

43. At the time of defendants' wrongful actions, plaintiff Moussavi had several ongoing ventures, contracts and business dealings in Mexico. As a result of defendants' actions, plaintiff Moussavi's business associates in Mexico have severed all communication with him and have refused to conduct any further business with him, rendering him unable to conduct his business interests in Mexico. As a result of defendants' actions, plaintiff Moussavi has suffered enormous losses of business income and profits in the approximate amount of \$15 million, and has suffered great injury to his ability to continue his business interests and develop further business in Mexico. These results were reasonably foreseeable by defendants at the time they made and published their false statements.

44. As a result of defendants' extreme and outrageous actions, Moussavi has been held up to public scorn, hatred,

obloquy and ridicule and has suffered severe emotional distress and mental suffering, including a substantial weight loss and inability to sleep. Plaintiff Moussavi has also suffered humiliation, embarrassment, shame and great injury to his reputation and standing in the Mexican business community and community at large and the international business community, all to his damage in the amount of \$25 million. These results were reasonably foreseeable by defendants at the time of their wrongful actions.

45. As a result of defendants' wrongful actions, plaintiff Moussavi has been threatened with arrest, criminal prosecution and imprisonment; the Mexican government has threatened to extradite him from England to face criminal charges in Mexico for libelling the government of Mexico; and he has received explicit threats against his life and against the lives of his young children. When defendants entered into the conspiracy, with the purpose of destroying plaintiff Moussavi's credibility and reputation, they knew that their actions would inevitably bring about devastating consequences such as those described above. These results were reasonably foreseeable by defendants at the time of their wrongful actions.

46. In making the numerous false statements, in concert and conspiracy with each other and IBM Mexico, defendants acted deliberately, willfully, maliciously and with full knowledge of the falsity of their statements. Defendants, at a high executive level, acted in an intentionally tortious manner, without any justifying cause. They acted with the intent to

injure plaintiff Moussavi, with such recklessness and carelessness as to amount to a wanton disregard of his rights, with indifference to the infliction of injury on him and with total disregard of the consequences of their actions. Defendants acted with the purpose of discrediting and destroying plaintiff Moussavi's credibility, standing and reputation in the Mexican community at large and, by doing so, to promote and preserve IBM's business interests in Mexico. Plaintiff Moussavi is therefore entitled to exemplary and punitive damages.

COUNT I

BREACH OF CONTRACT

47. Plaintiffs incorporate by reference the allegations contained in Paragraphs one through forty-six of this Complaint.

48. At all times, from June, 1992 through February 5, 1993, when defendants unilaterally severed their relationship, plaintiffs had faithfully performed their duties, fulfilled all the conditions of the Agreement with IATC, worked closely with defendants to secure the ATC contract award for them and promoted defendants' best interests with SENEAM and the Mexican government.

49. Defendants intentionally breached their implied covenant of fair dealing and good faith performance of the Agreement with plaintiffs Whitehall Management Services, Ltd. and Kaveh Moussavi by failing to support and stand by them when

the corruption in the ATC contract award was exposed; by wrongfully and publicly disassociating themselves from plaintiffs and repudiating them; and by making numerous false, defamatory and damaging statements about plaintiff Moussavi, with the intent to injure him.

50. As a proximate result of defendants' actions, plaintiffs have sustained damages in the amount of \$40 million.

COUNT II

DEFAMATION
(Libel and Slander)

51. Plaintiffs incorporate by reference the allegations contained in Paragraphs one through fifty of this Complaint.

52. Defendants intentionally, with evil motive and malice, with intent to injure, disgrace and defame plaintiff Moussavi, with intent to cause him emotional distress, and to falsely depict him as unreliable, untrustworthy and a fabricator, made false, defamatory, libelous and slanderous statements, knowing them to be false, and published and caused the statements to be published to the public throughout Mexico and elsewhere.

53. As a proximate result of defendants' actions and their libelous and slanderous statements, plaintiff Moussavi has sustained special damages in the amount of \$15 million and general damages in the amount of \$25 million.

COUNT III

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

54. Plaintiffs incorporate by reference the allegations contained in Paragraphs one through fifty-three of this Complaint.

55. Defendants' actions in making their false statements were willful, malicious and taken in an intentionally tortious manner, without any justifying cause. Defendants deliberately and knowingly repudiated plaintiff Moussavi and acted with the intent to discredit and destroy his reputation and credibility in order to promote defendants' business interests in Mexico.

56. Defendants' conduct in making their false statements was intentional and reckless and engaged in with the intent to injure, disgrace and cause plaintiff Moussavi severe emotional distress. Defendants' actions in making and publishing their false statements were extreme and outrageous and went beyond all bounds of tolerable behavior in a civilized society.

57. As a proximate result of defendants' actions and their intentional infliction of emotional distress, plaintiff Moussavi has sustained damages in the amount of \$1 million.

WHEREFORE, plaintiffs demand judgment against defendants as follows:

- a. Special damages in the sum of \$15 million;
- b. General damages in the sum of \$25 million;
- c. Punitive damages in the sum of \$50 million; and

d. Interest, the costs of this action, reasonable attorneys' fees and such other relief as the Court deems just and proper.

Respectfully submitted,

Of Counsel:

WILKES, ARTIS, HEDRICK & LANE
Chartered

Robert X. Perry, Jr.
1666 K Street, N.W.
Suite 1100
Washington, D.C. 20006
(202) 457-7862

By _____
J. Carter McKaig
1666 K Street, N.W., #1100
Washington, D.C. 20006
(202) 457-7800

Dated: May __, 1993

JURY TRIAL DEMAND

Plaintiffs herewith request a trial before a jury of six on all issues.

J. Carter McKaig



Congressional Research Service • The Library of Congress • Washington, D.C. 20540-7000

Translation - Spanish

SECRETARIAT OF COMMUNICATIONS
AND TRANSPORTATION
SENEAM

Mexico, D.F.
March 17, 1993

Lic. Carlos Salinas De Gortari
Constitutional President of the
United Mexican States
City

We wish to express to you our concern over the series of serious acts and events, as well as the background, related to international call for tenders (SGRM 01/92 and SGRM 04/92) made by Services to Navigation in Mexican Air Space SCT (SENEAM), with the goal of purchasing equipment for air traffic control in the Mexican Republic, consisting of radar and processing systems.

BACKGROUND

Last September in the first instance a call for tenders was made to companies interested in supplying equipment for air traffic control. On this occasion seven companies registered. Two months later (November 15) it was declared that no award would be made, upon the determination that none of the companies met 100% of the specifications. On December 3 once again a call for tenders was made with the same goal, without major modifications being made in the specifications and equipment required. On this occasion the same seven companies, submitting their tenders on December 16. Twelve days later, on December 28, SENEAM determined that three companies met 100% of the specifications for the radar equipment and just one company those for the processing equipment, it being determined to award the contracts to the company with the lowest price for radar, Alenia, and those for processing to the company Thomson.

The Secretariat of the Comptroller General of the Federation received complaints from the five companies that were not considered in the adjudication. All of these companies insist that the alleged failures to comply are not so, and that their proposals are not being properly evaluated and/or interpreted.

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By 1980 the Mexican Government had already purchased radar for the Mexico City airport from the company SELENIA (ALENIA), as well as a processing system for the control center from the company Thomson, which was specified for carrying out a large part of the functions required for the systems now being bid for; however, from the time of their being put into operation by Mexican technicians in 1985, we are sure that several years after what the contract specified, these functions have never operated, causing the operation of this control center to be carried out basically under the same conditions as those of before 1985, and with what was purchased in the 1960s, with the resulting operational inefficiency and serious defects in safety. With this same consequence the radar purchased from the company SELENIA has operated, due to the constant and prolonged failures, and the lack of compatibility with the processing systems currently in operation, which was never resolved, as we are also sure that the contract required, and in addition due to the prolonged periods of inoperativeness and those required in order to make repairs and services by ALENIA, which have come to be 18 and 24 months.

The current control center communications system implemented by the company Thomson, at the same time as the processing systems, has always caused very serious problems in operations and compatibility with those installed in other centers and subcenters. In the same period in which the processing and communications systems were purchased from the company Thomson, communications equipment was purchased from the company Calmaquip for the centers of Monterrey, Merida and four subcenters, which was not compatible with the equipment supplied by Thomson, leading to date to serious conflicts in the inability to provide safe and prompt communication among the flight controllers of the different control centers.

FACTS

Mr. President, we are sure that, for us as well as for you, before any personal or political commitment is the safety of human lives and the properties that depend on the correct operation of the equipment and personnel working in SENEAM; that is why we approach you so that you will prevent the contracts resulting from the bid solicitations mentioned from being awarded as is happening now to companies that have previously failed to meet their commitments in time and quality and that are benefitting through causes not related to what is stated in our laws and regulations, and even more showing us to the international community to be a corrupt and ill-intentioned country since, if we wished to purchase a particular brand and a technological level in the reach of our budgets, we had no reason to issue a call for bids internationally, claiming that we would purchase the best updated technology from the company that offered it to us under the best conditions. Allow us to assure you, Mr. President, that on this occasion, as on the previous ones, the best technology is not being purchased, and much less under the best economic conditions, since it is not possible for any company to make the necessary changes in their designs and to quote them in 20 total days, which they had between the declaration of no award for the first bidding and the filing of bids for the second, unless they are offering a system that only exists in their imagination and good intentions.

The awarding of the contracts to ALENIA and THOMSON therefore came about for reasons far from being ethical and based on technical reasoning; we assure you of this based on the following points:

CRS - 3

1. Engineer Jorge Cendejas Q., promotor of the company ALENIA, is being "paid" for the fact of having paid a sentence for misconduct during his work as a public servant, since we were able to learn now Mr. Cendejas took advantage of his close relationship with engineer Roberto Kobeh and the major officer of the SCT in favor of the company selected to provide the radar equipment, which because of the background of poor quality and reliability with which it has operated in Mexico, and the few technological advances presented, should not have been considered for that award.
2. The evident and close personal relationship of engineer Roberto Kobeh with the representative of the company Thomson, which at least twice a year is his host in Europe in the company of family and friends, all this ever since engineer Kobeh provided his services in the General Office of Civil Aeronautics. It was possible to see how a group of technicians authorized by engineer Kobeh and headed by engineers Juan Jose Dorantes and Luis J. Garcia Perez advised the company Thomson on the technical and economic presentation of their bids, with the sole goal of ensuring that on paper this company would meet the SENEAM requirements, with the pledge that once into the installation process and the putting into operation, deviations would be accepted from the requirements in order to adjust to the technical and economic reality of Thomson. In several work sessions changes in the requirements were promised, trying to benefit this company, and obstruct the compliance of the others, above all in what was related to the technological level, knowing that if it was high, the possibilities of Thomson and Alenia would go up in smoke.
3. The fact that public officials lend themselves to promote and commit acts of such great importance, in the safety of Mexican air space, as well as the prestige and credibility of the actions promoted by you in the national and international spheres, bring about a clear discrediting of the service and public administration.

Mr. President, we do not have the intention of advocating any of the participating companies. We simply believe that the motives and the way in which the winning companies were selected does not guarantee, as already happened previously, that we are going to have the suitable radar and processing systems for carrying out our work safely and efficiently.

Making use of this opportunity, we ask you for an investigation by SECOGEF, the Secretariat of the Treasury and other appropriate institutions, of the conduct to date of Roberto Kobeh G., General Director of SENEAM, Juan J. Dorantes Rubio, Technical Manager, Roberto Espinosa Carrizales, Director of Administration, and regional managers Luis J. Garcia Perez and Oscar Amable Martinez del C. We are sure that a rigorous investigation of the source of some of their income will lead to several suppliers and the misuse of the SENEAM property and budget, mainly by Mr. Kobeh and family, who we know have received innumerable gifts and donations in cash by the representatives of Thomson and Alenia, and in addition he has shown personnel how to benefit in various purchasing processes, as well as friends such as engineer Cendejas in a recent bid for Uninterrupted Food Systems and the already mentioned radar.

We trust sincerely that you will act in this lamentable matter and not allow us to be seriously damaged by the mistaken style of behavior of these officials. We are sure that if called in a

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framework of true openness, many other companies will come and participate in Mexico, willing to contribute true high technologies at competitive prices. Sir, you will agree that Mexico must not justify its poor purchases with its poor budget or accept low direct prices and that in the short and medium term result the highest, with the need for high budgets for maintenance and operation.

We will thank you for all the action that will be carried out in order to prevent the inevitable damages which, under the current conditions, our air traffic control system would suffer with respect to quality and safety in view of the growing demand for this service in national territory.

Respectfully,

Operative Technical Committee for
Improvement of the Conditions of Quality
and Safety of Traffic Control in
Mexican Air Space

cc: Lic. Jorge Carpizo McGregor, Attorney General of the Republic

*Translated by
Deanna Hammond
CRS - Language Services
October 21, 1993*

WILKES, ARTIS, HEDRICK & LANE

CHARTERED

ATTORNEYS AT LAW

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FAIRFAX, VIRGINIA 22030-0042

DESS WILAN
202-457-7014

FERRY, JR.
202-457-7802

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. 220/001E4
Mexico, D.F.

Handwritten notes and stamps on the right side of the letter, including a vertical stamp that reads "004/73".

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 were 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;

RECORDED
INDEXED

RECORDED

Direct
Ayer

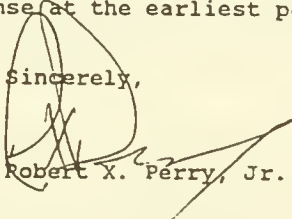
ES. ARTIS. HEDRICK & LANE
CHARTERED

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



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PROV

WILKES, ARTIS, HEDRICK & LANE

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February 12, 1993

ANEXO 10

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of No. Sub "A"
Secretariat of the General
Controllershship of the Federation
Insurgentes Sur 1735, Piso 10
Col. Guadalupe Insurgentes 01028
Mexico, D.F.

This law firm represents Kaveh Moussavi, and we are responding on his behalf to your recent letter to the President and General Manager of IBM Mexico requesting that Mr. Moussavi provide evidence of a bribery solicitation that occurred in Mexico City on November 9, 1992.

Mr. Moussavi would like to cooperate in any official investigation of corruption in the SENEAM contract award for air traffic control systems, including the bribery solicitation referred to above. Mr. Moussavi would be pleased to respond in writing to any questions the Mexican authorities would like to put to him. He would also be willing to cooperate in any other reasonable manner that would not jeopardize his safety. However, he is resentful of your government's bias and prejudgment in this investigation and its accusations that his charges of bribery are false.

There is no question that while Mr. Moussavi was acting as IBM's agent in the SENEAM tender, he was approached and requested to make a contribution. Also, in the days prior to the solicitation, there were reports that such a request would be made. Mr. Moussavi promptly and continually communicated with his principal, IBM, about these events, and acting on his principal's instructions, Mr. Moussavi refused the request.

Please feel free to contact me about this matter.

Very truly yours,

Robert X. Perry, Jr.



PROCURADURIA
FEDERAL
DE DEFENSA
DIRECCION
GENERAL DE
ASISTENCIA

CRS - 3

AMERICAN EMBASSY
U.S. AND FOREIGN COMMERCIAL SERVICE
MEXICO

January 11, 1993

Lic. Juan Manuel Galán Jiménez
Secretariat of the Comptroller General
of the Republic
Insurgentes Sur 1785
Mexico, DF

Dear Mr. Galán Jiménez:

We have tried to get in touch with your office by telephone since the beginning of this week, and it has been impossible for us to succeed in doing so. On the basis of our conversation with Luis Vázquez Cano and the conclusions from it, it is urgent for us to set forth to you the case of the dissent submitted by all of the North American participants in the SENEAM bidding for the purchase of air traffic control systems. Given the urgency of the case, we ask you to excuse us for taking this means to contact you.

Possibly you already know that the companies IBM, Calmaquip/Westinghouse and Raytheon Canada, Ltd. (the totality of the North American representation) have already complained about the procedures followed and the decisions taken by SENEAM in its selection of suppliers of radar and air traffic monitoring equipment. Given the complexity of the case, we are concerned that the Secretariat of Communications and Transportation (SCT), without prior advice from your organization and without knowledge of the submission of these complaints, may proceed to the signing of contracts before you can analyze the causes of these multiple complaints.

The North American companies maintain that they have offered Mexico the highest technology for the most advantageous prices. Without clear explanations, stages of this bidding have been closed and reopened, and with even less transparency, it has been concluded with the selection of suppliers who are far from offering the technology or financial bids in the long run of the greatest advantage to the State.

In order to clarify these circumstances and to protect the common interests of all North America in such an important and sensitive area as Mexican air traffic control, I ask you in the most insistent manner, for your prompt intervention in the analysis of the complaints already with the Comptroller's Office and the notification of SCT of the process that you intend to follow before the signing of supply contracts that may reduce the options available to the Mexican State. Given the priority that this case occupies in our office, I will be totally at your service for any meeting you may consider pertinent. At the same time, from this moment on, I ensure you of our absolute willingness to contribute any information that you may consider pertinent to the process of analyzing the complaints submitted for your consideration.

CRS - 4

With nothing further, I take this opportunity to reiterate to you our best wishes and respect.

Sincerely,

Carlos F. Poza [?]
Commercial Consultant

CRS - 5

Office of the Attorney General of the Republic

PRESS RELEASE
Mexico, D.F., May 4, 1993 Bulletin No. 188/93

The Office of the Attorney General of the Republic reports that it received from the Secretariat of the Comptroller General of the Federation the file related to the public bidding that the Secretariat of Communications and Transportation carried out regarding the contract for satellite and radar systems for air communication in Mexico. With that documentation, it opened a prior investigation and is investigating everything related to that case. The Office of the Attorney General of the Republic has delivered to the Secretariat of Foreign Relations all of the documentation necessary, already translated into English, so that the Mexican Consul in London will notify Mr. Kaveh Moussavi to appear and answer the questions that this Office considers indispensable to ask him.

In this investigation, on the basis of all the documentation that is already collected, two hypotheses are possible:

1. Mr. Moussavi is telling the truth and, as a result, some persons did approach him, that he himself does not insist were public servants, in order to ask him for money in exchange for helping him so that the company IBM, for which he was acting as broker, would obtain the contract in question. If this hypothesis came to be confirmed, the Office of the Attorney General of the Republic would institute criminal action against whomever turned out to be responsible, whoever he might be.
2. Mr. Kaveh Moussavi is not telling the truth and, angry because the company which he was assisting as broker did not win that contract and, therefore, he did not receive the amount of money that would be his for his participation, has made a series of statements that are possible defamatory or slanderous against Mexican public servants, as was Mr. Andres Caso.

If this second hypothesis should be the correct one, the Office of the Attorney General of the Republic would institute criminal action against Mr. Kaveh Moussavi for the crime that was perpetrated, because it is impossible to accept that someone can commit slander and go unpunished.

Translated by
Deanna Hammond
CRS - Language Services
October 28, 1993

29/1/93

Plat...



To: FAX --IBMAIL BOYOR --WMAVM7
cc: SWOPE --WMAVM7
FROM THE DESK OF: Bill Conyers 840-3633 WMAVM7 (CONYERSB)
Subject: Please FAX to Kaveh and Sati

Re: ...ing note from BOYOR --WMAVM7 01/20/93 17:21 ***
...SB- WMAVM7
...E --WMAVM7

...ger Boyd International Air Traffic Control
Please FAX to Kaveh 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 made out with the FT.

Also, we have never asked you about your discussion with Kaveh. How did he react to the notion that he was in Thomsons pocket?

M. Carlos Posa
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 SENEAM 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 the SENEAM and Martin Mariette technical analysis on the four points of non-compliance in the notice.

IBM had identified Kaveh as Gupta and in Thomsons 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

Marietta technical analysis of their response.

3. As we stated in our protest letter, we require the detailed evaluation information from SENEAM, Martin Marietta 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. Swape
Senior Marketing Representative
IBM Federal Systems Company

Mail Routing: 2A47, Rockville, Md
Telephone: 301-640-2535; Tie Line 791-2535; Fax 301-640-2138

12/01/93



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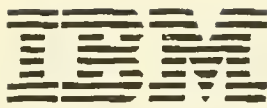
TO: : Dr. Moussavi

FROM: . Roger Boyd

SUBJECT: Protest

FAX REFERENCE CODE: 930122251640

IF YOU HAVE ANY PROBLEMS RECEIVING THIS FACSIMILE
PLEASE CONTACT THE SENDER.



o: FAX --IBMMAIL
c: BOYOR --WMAVM7

FROM THE DESK OF: Bill Conyers 840-3833 WMAVM7(CONYERSB)
subject: Protest

regards,

Bill Conyers

Forwarding note from BOYOR --WMAVM7 01/12/93 15:42 ##
o: CONYERSB--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 Moussavi C1144865750085
Mr. Sati Lall G1144717063869

ORIGINAL ENGLISH TEXT

RE: SENEAM/SCT and/or SECOGEF

Reference: Letter to Mr. Roger Boyd from Ing. Roberto Kobeh Gonzalez 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 request: a) to have an award made to IBM for the projects IBM bid based upon full 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 Marietta 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 30, 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 Corrupt

3. Part of the evaluation criteria appear to have been ignored. Section 5.2 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 assessment.

- 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) Centralised maintenance and control systems
- f) Simulation and training systems
- g) Recording and playback functions
- h) President Salinas quality award to IBM Mexico in November 1992
- 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
 - e processing, airspace reservation, conflict detection with reserved airspace and other flight plans

Sincerely,

Oger E. Boyd
Mexico ATC Program Manager
BM International Air Traffic Control

311.Routing: 2A47, Rockville, Md
Telephone: 301-840-2535; Tie Line 791-2635; Fax 301-840-2136

The "Winners" do not have any of the above... How could that be? Why paid the right people of course.

Dr. M. ... ATTENCIÓN Ref: Alenia's lic.

FAX COVER SHEET

ALLENIA

Via Tiburtina Km 12.4 00121 ROMA - ITALY

ALLENIA SISTEMI CIVILI - MARKETING DEPARTMENT

DIVISIONAL FAX NO. : +39-6-4191893
 CENTRALISED FAX NO. : +39-6-4121436 ; +39-6-4191891
 CENTRALISED TEL NO. : 613690 ALLENIA I

DATE : April 15, 1992

REFERENCE : DRB/MI 881

FROM : Antonio RITRIVI

PHONE : +39-6-4197-2884

TO : S. A. I.

COMPANY: SAI

ADDRESS : [REDACTED]

FAX NO. : [REDACTED]

SUBJECT : Mexican ATC Program

COPY TO :

INTERNAL DISTRIBUTION :

NUMBER OF SHEETS INCLUDING COVER : 1

Dear Sirs,

after your telephone conversation with Mr. ELMI and Mr. OLIVETTI, here we are informing you that ALLENIA is interested to Mexican ATC modernisation project, as already known to us, before your contact.

I will inform you about the date that Mr. RITRIVI will be present in Mexico in order to coordinate our meeting there and to consider our future cooperation. Anyway the tentative date, is April 28.

Alenia will evaluate the issue of the letter of consent to SAI with 15% fee for a period of six months limit after the positive result of the meeting in Mexico.

It is understood that all projects will be awarded as a result of direct negotiation and the above mentioned fees will cover all involved aspects of the project.

Thanks for your interest and consideration.

BEST REGARDS

Giancarlo ELMI
[Signature]

Antonio RITRIVI
[Signature]

*Call Jeff. pending 201. any: 1 - 200 - 2777
 7'd by 10/1. 5. The request did not change that that
 The technical requirements did not change that that*

FROM IN - 071 706 3869

12.17.1992 12:00

17.12.92 12:05

FROM - NESTIN GALERIA PLAZA + 552-57 207-2401

12.16.1992 21:33

P. 2

*Fr: Keys Boyd - Sen. IBM Executive
 to K Mo*

16 December 1992

Kaveh/

The opening of bids was enlightening and worriaome. 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*
ALENIA	7.9	17.7	25.6	19.2	27.1
TOSHIBA	5.4	19.4	24.8	19.2	24.6
SIEMENS	6.8	15.9	22.7	19.2	26.0
THOMSON	7.8	13.2	21.0	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: y 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 bueraocrats make the decision based on price, it will be hard to select the "best all around system for Mexico". SENBAM 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) tomorrow.



Congressional Research Service • The Library of Congress • Washington, D.C. 20540-7000

Translation - Spanish

Mexico, February 4, 1993

Version of the item appearing on the television news program "24 Horas" [24 Hours], managed by Jacobo Zabudovsky, referring to the item appearing on the 3rd of this month in the British newspaper Financial Times, related to the International Call for Bids for the purchase of radar equipment.

Jacobo Zabudovsky - The influential English newspaper *Financial Times* in recent days published eye-catching news about Mexico.

This news says that a representative, or former representative, or occasional representative of IBM had denounced an attempt at bribery by supposed Mexican officials in a bid to renovate the air control system at the Mexico City Airport. We tried to talk to all of the parties involved. This was what we obtained.

Reporter: The recovery of the Mexican economy has fostered the saturation of the Mexico City Airport air corridors. Around 700 flights arrive and leave from this airport every day. In order to modernize the computer systems and give more efficient and prompt service, the Secretariat of Communications and Transportation [SCT], in August and December of last year, published an international call for tenders for the purchase of new equipment.

Seven companies submitted bids: IBM and Calmaquip, with Westinghouse equipment, of the U.S.; Raytheon, of Canada; Siemens, of Germany; Toshiba, of Japan; Thompson, of France, and Alenia, of Italy.

After the analysis, the Secretariat of Communications awarded the contract to two European companies: Thompson, of France, and Alenia, of Italy.

Yesterday, Wednesday, the newspaper *Financial Times* published a note that insists that the companies IBM, Westinghouse, and Raytheon had complained of irregularities in the process of awarding the contract.

In that note, Mr. Kavah Moussavi, IBM representative, accused three alleged officials of the Mexican Government of having asked him for a million dollars, or a donation to the Solidarity Program, as a requirement for granting the contract to IBM.

However, neither the IBM representative nor the newspaper *Financial Times* gives names or evidence of this supposed attempted bribe.

CRS - 2

Today "24 Horas" investigated: Mr. Rodrigo Guerra, President of IBM in Mexico, insisted that Mr. Kavah Moussavi's statements have no validity:

Rodrigo Guerra: IBM has no complaint, we have never been approached by Mexican officials; we have no news; the statements that this person made were exclusively in a personal capacity.

Reporter continues: What the IBM President in Mexico admitted is that since January IBM had a complaint filed with the Office of the Comptroller of the Republic in order to learn for what reason the contract had been awarded to European companies and not to IBM.

* * *

A few hours ago, Mr. Luis Vazquez Cano, Undersecretary "A" of the Office of the Comptroller General of the Federation, spoke to the microphones of "24 Horas" on the IBM accusations against Mexican officials:

Lic. Luis Vazquez Cano: Today we have already received the official response of the General Manager and President of IBM of Mexico, where he convincingly points out that at no moment has he received, from any Mexican public servant whatsoever, a request or demand of payment in money or in kind regarding this bidding, or for any other cause.

Reporter continues: Mr. Vazquez Cano explained that it is a normal procedure for companies of a diverse nature, or for different reasons, to file regarding their lack of agreement or satisfaction with the Comptroller's Office when they think that their interests have been affected.

He reported that at this moment the Comptroller's Office is analyzing the complaints submitted by the companies. He said that each company will be called for a meeting so that they can explain their complaints and that the result will be made known in the next few days.

All of these statements respond to note published yesterday by the newspaper *Financial Times*. According to the news agency ANSA, this same newspaper published, today, Thursday, another note in which it insists that Mr. Michael Wilson, Minister of Commerce of Canada, supposedly sent a letter to Mr. Andres Caso, Secretary of Transportation in Mexico.

In the letter, ANSA says, Mr. Wilson asks for guarantees that the process of awarding of the contract followed proper procedures.

International Business Machines Corporation

The Chairman and Chief Executive Officer
Federal Systems Company

6500 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 this subject. Other than Dr. Moussavi's statements, at no time, as IBM approached directly or indirectly by members or agents of the Government of Mexico, or anyone else, with any request for money or contributions of any kind in connection with this bid.

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DE ADMINISTRACION
DE RECURSOS HUMANOS

Ing. Luis Vazquez Cantu
Page 2
February 11, 1993

DIRECTOR
GENERAL DE LA
ADMINISTRACION,
UNA FOJA
DE PARTES
DE LA
GENERAL-----

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.

SELLADA
E FEBRERO

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

GWE:kn

ESTADOS UNIDOS
RECORDED

GENERAL DE LA
Administracion
Investigaciones Previas

MEXICAN AIR TRAFFIC CONTROL AGENCY AGREEMENT

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 Moussavi 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.

ZP4E0409.JFH

KM *JPM*

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.

ZP4E0409.JFH

K.M. *JPM*
|

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. Mousavi

Name: J. P. Murray

Name: K. Mousavi

Date: June 16, 1992

Date: June 19, 1992.

Sati S. Lall

308 Water Gardens, Burwood Place, London W2 3DU England
Telephone / Fax: 071 706 3869 Telex 94023073 IMLT G

Date: 12th November 1992

For the attention of Messers Bill Swope & Roger Boyd:

Re: Mexico ATC Project:

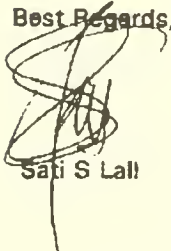
This is to inform you that Kaveh has just returned from his trip to Mexico. We both agree that we should go on record to remonstrate the actions of IBM with regard to the above mentioned project.

As your agents, we gave you advice with due expediency and diligence which to our great surprise was not accepted by IBM. We are surprised that IBM would risk the chance of winning the project for such a small increase in our remuneration. As a sign of integrity, we will continue in our efforts to secure the business for IBM. Equally as a sign of integrity, we hope that IBM will recompense us on any saving made on the completion of this project.

Kaveh informed me that you are going to ammend the present agreement to include all future ATC projects in Mexico. Please forward the ammended contract as soon as possible.

We assure you of our full attention and we hope you will appreciate the efforts we have put into this project..

Best Regards,



Sati S Lall

*Let's forget it
My have agreed to compensate us elsewhere if
we can win this thing legally.
I won't do it illegally.
If we have to pay a legal guarantee, then will
Make it up to us elsewhere*

END



International Business Machines Corporation

9201 Corporate Boulevard
Rockville, MD 20850

November 4, 1992

Kaveh Mousavi
56, Old Road
Oxford, OX3 7LL

Dear 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

Despite Carrizo'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 consulting fees.

ISBN 0-16-044505-1



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