

March 12, 2004

**Mr. MOTOHIKO KATO**  
**Director**  
**Second International Organization**  
**Division Economic Affairs Bureau**  
**MINISTRY OF FOREIGN AFFAIRS**  
**TOKYO-JAPAN**

**Dear Sir:**

Warmest greetings!

The Toyota Motor Philippines Corporation Workers Association (TMPCWA) by its undersigned Union President, comes to this Honorable Office and respectfully submit a complaint.

This concerns the Toyota Motor Philippines Corporation and Toyota Motor Corporation for the infringement of the OECD Guidelines for Multinational Enterprises to which Toyota Motor Corporation-Japan is the mother company.

We hope that your good office would give preferential attention to our case. Thank you.

**ED CUBELO**  
President - TMPCWA  
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Makati City

**COMPLAINT TO THE NATIONAL CONTACT POINT  
JAPANESE FOREIGN MINISTRY OFFICE  
BY TOYOTA MOTOR PHILIPPINES  
CORPORATION WORKERS ASSOCIATION  
AGAINST THE TOYOTA JAPAN AND TOYOTA MOTOR  
PHILIPPINES CORPORATION  
IN THEIR VIOLATIONS OF OECD GUIDELINES FOR  
MULTINATIONAL ENTERPRISES II. GENERAL POLICY AND  
IV. EMPLOYMENT AND INDUSTRIAL RELATIONS 1. a), 6,7,8.**

**THE ASSOCIATION**

Toyota Motor Philippines Corporation Workers' Association (TMPCWA for brevity) is a legitimate labor organization duly registered with the Department of Labor and Employment (DOLE).

It is an independent labor union comprising rank-and-file workers of Toyota Motors Philippines Corporation (TMPC for brevity) assigned at (2) plant sites in Bicutan, Paranaque, City and Sta. Rosa, Laguna.

**INTRODUCTION**

The Toyota Management has offered the most obstinate opposition to the formation of a Union of rank and file employees for more than a decade now. The first Union, the Toyota Motor Philippines Corporation Labor Union's Petition for Certification Election (TMPCLU) was dismissed in a move initiated by Toyota Management.

The second Union, the Toyota Motor Philippines Corporation Employees and Workers Union (TMPCEWU) saw its bid to be certified as the sole and exclusive bargaining agent frustrated with its deregistration in a petition initiated also by Toyota Management.

Now, the third Union, the Toyota Motor Philippines Corporation Workers Association (TMPCWA) by painstaking struggle and the enlightened decision of the Department of Labor and Employment National Capital Region, The Secretary of DOLE, the Supreme Court has succeeded to survive

and force the issue of collective bargaining negotiation despite repeated attempts by the Toyota Management to frustrate it, or cause its delay or postponement.

**THE FACTS ADOPTED FROM THE COMPLAINT OF THE UNION TO ILO**

On February 4, 1999, TMPCWA filed a petition for certification election seeking to be certified as the sole and exclusive bargaining agent of all rank-and-file employees of Toyota Corporation working at Bicutan and Sta. Rosa plants.

This petition, however, was vigorously opposed by TMPC when it filed its Position Paper with Motion to Dismiss. On May 4, 1999, Med-Arbitrator Lameyra of Department of Labor and Employment-National Capital Region (DOLE-NCR) conditionally dismissed the petition. TMPCWA immediately filed an appeal before the Secretary of the Department of Labor and Employment. Pursuant to a decision dated June 25, 1999 granting the appeal, the Department of Labor and Employment, through Undersecretary Rosalinda D. Baldoz ordered the conduct of a certification election.

Amid several attempts of Toyota Motor Philippines Corporation to stop the holding of certification election, the latter was finally conducted on March 8, 2000.

The results of the election turned out to be in favor of TMPCWA. Out of the one thousand one hundred ten (1,110) employees, one thousand sixty three (1,063) cast their votes, with one hundred (105) votes being challenged. Five hundred three (503) votes were in favor of the worker's union while four hundred forty votes were against the workers' union.

The latter union then filed a motion to certify the union as the sole and exclusive bargaining agent of all the rank-and-file employees of Toyota Motor Philippines Corporation.

But Toyota Motor Philippines Corporation did not accept the results of the election. In order to frustrate the efforts of the union to be certified as the sole and exclusive bargaining agent of all rank and file employees, it insisted to open the 105 segregated and challenged votes for purposes of determining the majority of the valid votes cast. This was notwithstanding the fact that these 105 challenged and segregated ballots were cast by employees

occupying position levels 5 and upwards and considered as supervisory employees. As a matter of fact, Toyota Motor Philippines Corporation was very much aware of the decision of the Supreme Court in the case of Toyota Motor Phils. Corp. versus Toyota Motor Phils. Corp. Labor Union and the Secretary of Labor and Employment, G.R. No. 121084, February 19, 1997 (First Division).

Nonetheless, on May 12, 2000. Med-Arbiter Lameyra rendered judgment declaring challenged voters as ineligible and excluding their votes from the totality of the votes cast. Accordingly, TMPCWA was declared to have obtained the majority of the votes cast and was hereby certified as the bargaining agent of the rank and file employees of the company. The TMPC appealed from the decision of Med-Arbiter Lameyra certifying TMPCWA as the sole and exclusive bargaining agent. However, the Secretary of Labor denied the appeal in an Order dated October 19, 2000.

Accordingly, TMPCWA submitted its CBA proposal to the TMPC. However, they refused to negotiate. A follow-up letter was made demanding CBA negotiations but to no avail.

Meanwhile, TMPC filed a Motion for Reconsideration from the decision of the Secretary of Labor denying its appeal. To the great surprise of the union members, the Office of the Secretary of Labor then issued an Order requiring the parties to attend a clarificatory hearing on February 21, 2001 before the Bureau of Labor Relations regarding the certification of the TMPCWA as the sole and exclusive bargaining agent.

The union was greatly alarmed. Thus, after deciding to attend the clarificatory hearing scheduled on February 21, 2001, the Union members also agreed to hold a peaceful assembly to express their dismay on the decision of the Department of Labor to hold a clarificatory hearing.

Before the peaceful assembly on February 22, 2001, TMPCWA, in behalf of its members, filed a formal request to the Toyota management that they would join in the assembly. They had also expressed their willingness to work without overtime pay on their rest days, and consider the Sunday work as an ordinary day. After the hearing on February 21, 2001, TMPC requested for another clarificatory hearing and it was scheduled on the following days, February 22-23, 2001.

Subsequently, on March 16, 2001, 227 union officers and members were shocked to receive a decision from Toyota Corporation illegally terminating 227 union officers and members and suspending 64 union members for 30 days for participating in the assembly conducted on February 22-23, 2001. They were shocked considering that after the holding of peaceful assembly, they returned to their work without any exigency. Incidentally, the termination and suspension took place on the same day that the Secretary of Labor affirmed with finality that the TMPCWA is the sole and exclusive bargaining agent for purposes of collective bargaining negotiation.

In view of the illegal termination of 227 union officers and members and suspension of 64 members for 30 days, the Union filed a notice of strike. While the union was preparing the requirements for the holding of strike, it conducted protest in front of Toyota's two plants. The protest intended to give the management time to retract its decision. Notwithstanding, the Toyota management did not bother as it threatened to continue dismissing more employees. Thus, the union had no other recourse but to stage a legal and peaceful strike.

Despite the fact that the union was conducting the peaceful strike, the National Labor Relations Commission, upon the request of the company, issued at 12:00 midnight of April 4, 2001 a Temporary Restraining Order (TRO) thereby providing the company the justification to disperse the striking union members.

On April 9, 2001, at 5:00 a.m., while most of the striking union members went home to visit their families, around 100 policemen and security guards violently dispersed the picket line and forcibly took all the strike paraphernalia. At the same time, busloads of scabs and managerial employees were escorted inside the plants.

A day after the violent dispersal of the striking union members, the Secretary of Labor assumed jurisdiction over the labor dispute and ordered the strikers to return to work. Though unconvinced with the decision of the Secretary of Labor, the union members complied with the order of the Secretary of Labor to return to work. The union then questioned the assumption of jurisdiction by the Secretary of Labor before the Supreme Court. Unfortunately, the Supreme Court sustained the act of the Secretary of Labor.

After the Secretary of Labor certified the labor dispute to the National Labor Relations Commission, the union requested to defer hearing on the certified cases. Unfortunately, the National Labor Relations Commission proceeded and even rendered decision without the position paper of the union.

In its decision, the National Labor Relations Commission declared the protest rally conducted on February 22 and 23, 2001 illegal including the peaceful protest action conducted on May 8 and May 23, 2001. Accordingly, it declared the termination of 227 members who participated in those assemblies legal. It also declared the Union Officers and Directors to have forfeited their employment status for having led the peaceful assemblies.

One week after the issuance of the decision, Toyota management issued a memorandum implementing the decision of the National Labor Relations Commission. As such, more than half of the membership of the union had been dismissed including the entire leadership of the union.

Not satisfied with the dismissal of 227 members and union officers and directors, Toyota management, through its officers, filed criminal complaints against several union members and officers. The members obtained their provisional liberty by posting a bail bond. The three cases of grave coercion are still pending before the Metropolitan Trial Courts of Paranaque City.

During this time, Toyota management was able to secure preliminary injunction from the Court of Appeals enjoining the union to demand collective bargaining and negotiation.

On September 24, 2004 the Supreme Court confirmed once again that there were no more barrier to start the CBA negotiations between TMPCWA and TMPC. The Union immediately wrote a letter to the Toyota management informing the latter about the said Decision of the Court to start collective bargaining negotiation. But to no avail, despite of the (2) two letter of the union requesting the company to start the process of negotiation, TMPC still refused to cooperate.

The Department of Labor and Employment, the Secretary of DOLE and even the Supreme Court repeatedly stressed out for the immediate implementation of collective bargaining negotiation to begin among the rank-and-file employees of Toyota Motor Philippines Corporation, yet Toyota management still refuses to negotiate with the Union instead it filed a manifestation to the Supreme Court for the reinstatement of writ of preliminary injunction on 1<sup>st</sup> of December 2003.

## VIOLATION ON THE OECD GUIDELINES

There is a material basis showing that Toyota Management committed gross violation on the OECD Guidelines for Multinational Enterprises. (*II. General Policy and IV. Employment and Industrial Relations – 1. a), 6, 7, 8*)

From the very beginning, the Toyota Management showed the most tenacious opposition from the conduct of certification election and the union being certified as the bargaining agent. Indeed demonstrating Toyota Management's ardent desire to prevent at all cost the emergence of a bargaining agent for all rank and file employees.

In simple terms, this is a case where the employer does not want to respect the democratic choice of the employee in electing the TMPCWA as its exclusive bargaining agent, and the employer's insistence not to have a union in the company as they have prevented for more than a decade, and corollary escape bargaining negotiations for a CBA.

Once again, the accurate tint color of Toyota Management was uncovered on the September 24, 2003 Resolution of the Supreme Court and the letter of the union to TMPC requesting to begin collective bargaining negotiation. Toyota Management has still a reserve card to frustrate and delay the negotiation, the company's active interference is manifest in its vigorous pursuit of the reversal of the Honorable Supreme Court's Decision or Order by lifting the Preliminary Injunction and directing the parties to start collective negotiation. *Violation of the OECD Guidelines for Multinational Enterprises IV. Employment and Industrial Relations 1. a).*

Even the ILO/CFA showed strong support in its recommendation to the complaint lodge by TMPCWA to the Philippine Government and Toyota Management for their infringement of convention 87 and 98. The committee strongly recommended to; 1. to reinstate all the 233 union members and officers, 2. to begin collective bargaining negotiation immediately in order to establish harmonious labor relations, 3. withdraw the criminal cases filed by the company, 4. to amend the relevant provision of the Labor Code in the region, 5. to accept the consultative mission for an investigation.

Despite the finality of the decision certifying the Toyota Motor Philippine Corporation Worker's Association as the sole and exclusive bargaining agent of the rank and file employees and the recommendation of the Committee on Freedom of Association – International Labor Organization, the Toyota management refused and still refuses to negotiate with the union in order to forge a collective bargaining agreement. Nonetheless, it was seek the attention of the Supreme Court for the reversal of its current decision. (*It was*

*a glaring violation of the OECD Guidelines for Multinational II General Lines 2. International Duties and Respect of Human Rights are not pursued.)*

The Toyota Management thus intended to bust the union and interfered with the workers' right to self-organization and manage their own affairs when it did the following: Dismissed the union leadership from the Union President down to the shop stewards consisting of some 233 workers, AND HAVE VIRTUALLY DESTROYED THE BACKBONE OF THE UNION. It is busted. This is the clear intention of the Toyota Management.

The Union did not have any other recourse but to stage a strike. The union staged a strike after complying all necessary requirements provided by law.

The mass dismissal of 233 Union Officers and members was the decisive weapon used by the Company to destroy the Union and frustrate the desire of the workers at Toyota to be unionized, and have a Collective Bargaining Agreement. It should be emphasized that the most obdurate opposition to the establishment of the union, and until now is being lodge by the Company Toyota (TMPC).

It opposed the formation of the Union when it file as Petition for cancellation of union registration. It opposed the conduct of a certification election up to the level of the Court of Appeals. Up to the present it refused to recognize the Union TMPCWA as the sole and exclusive bargaining agent despite the order of the Secretary of Labor and Employment being the final and executory, such refusal constituting unfair labor practice or refusal to bargain. *(Violation of OECD Guideline for Multinational Enterprises IV. Employment and Industrial Relations 6.)*

Dissatisfied by the result of mass dismissal, the Company with other Multinational Japanese Firms headed by some Officials of Toyota Motor Corporation – Japan proceeded to the Malacanang Palace and threatened the Philippine Government to pullout their investment in the country if it does not get a fair share from the administration. Acted immediately through the Secretary of Labor and Employment issued return to work order to the striking workers, but subject to option for the Toyota company to choose who will be accepted to work.

The behavior of the Toyota Motor Philippines Corporation and its Mother Company TMC-Japan, paved the way for other Multinational corporations in the country to do the same pressure against the government, threatening to pullout every time they encounter resistance from their anti-labor company policies. The government will be reduce to nothing but their mere security guards, ready to frighten its workers at their beck and call.

Leaving the dismissed workers behind wall, the company diverting the issue of the labor dispute and criminalized the workers by filing criminal cases against some Union members and Officers. (*Violation of the OECD Guidelines for Multinational Enterprises IV. Employment and industrial Relations 7*)

Therefore, Toyota Motor Philippines Corporation Workers Association (TMPCWA) evidently convinced that the Toyota Motor Corporation – Japan has serious responsibilities for its subsidiary the Toyota Motor Philippines Corporation (TMPC) to follow the Supreme Court decision and the International Labor Organization Committee on Freedom of Associations' recommendation, and establish harmonious labor relations immediately. (*Violation of OECD Guidelines for Multinational Enterprises IV. Employment and Industrial Relations 8*)

From the foregoing, it would clearly appear that Toyota Motor Philippines Corporation and Toyota Motor Corporation - Japan has failed to secure the effective application of OECD Guidelines for Multinational Enterprises. Thus, the Toyota Motor Philippines Corporation Worker's Association has left no other recourse but to bring the case to your organization to give strong recommendations to the Toyota Motor Corporation – Japan and Toyota Motor Philippines Corporation, to take following courses of actions:

1. Reinstatement 223 illegally dismissed workers with full back wages and without loss of seniority rights.
2. Recognize the Toyota Motor Philippines Corporation Workers' Association (TMPCWA) as the sole and exclusive bargaining agent of all rank-and-file workers and start the process of collective bargaining negotiation.
3. Cause the withdrawal of criminal cases filed against some union members.

**RESPECTFULLY SUBMITTED**  
Manila, Philippines, March 12, 2004

**ED CUBELO**  
President