

SUMMARY REPORT

Third Party Complaint; L.D. (El Salvador)

December 20, 2017



FAIR LABOR
ASSOCIATION™

On December 14, 2016, the Fair Labor Association (FLA) accepted for review a Third Party Complaint filed by the Federación Sindical de El Salvador (FESS) (hereinafter the complainant) with regard to the factory L.D. El Salvador S.A. de C.V. (hereinafter L.D. or the factory). The complainant alleged a number of violations of the FLA Workplace Code of Conduct at L.D. with respect to freedom of association, health and safety, hours of work, and compensation. L.D. produces Izod and Van Heusen cotton/polyester boys' and men's shirts for PVH licensee Global Brands Group Youth and Men's (formerly Fishman & Tobin Apparel and Kids Headquarters). PVH is a Participating Company of the FLA, and at the time of the complaint Kids Headquarters was a Category B Licensee of the FLA.

The FLA informed PVH that the complaint had been accepted and moved to Step 2 of the Third Party Complaint process. Under Step 2, the affiliated company has up to 45 days to assess the allegations and submit a report to the FLA with an assessment and potential remediation steps. Alternatively, the affiliated company may waive the company assessment and move the case to Step 3, where the FLA identifies a third party monitor to conduct an investigation. PVH chose to conduct its own assessment.

ASSESSMENT BY PVH

The assessment of the allegations embodied in the Third Party Complaint was conducted by an experienced Third

Party assessor selected by PVH. The assessor met on March 14 with the General Secretary of FESS, the complainant in the case, to better understand the allegations contained in the complaint. The assessor also visited the factory on March 15 and 16, where he held interviews with top management and supervisors, group interviews with union officials and union members, interviews with workers, and an interview with the factory's medical doctor. In addition, the assessor requested and was provided by the factory with an extensive set of documents including the factory's policies and procedures regarding freedom of association, results of inspections by the Ministry of Labor, minutes of meetings with unions, inventory of machinery and records of machinery maintenance and inspection, description of a program for managing occupational risks, records of work accidents, procedures for election of health and safety committee members, results of elections for the health and safety committee, records of health and safety training, and records of training provided to supervisors on proper treatment of workers and other topics. Finally, the assessor also walked through the factory and the main production areas (raw materials warehouse, cutting, sewing, ironing, packing and shipment warehouse) as well as restrooms, mechanical shop, boiler room and clinic.

The principal findings of the assessment are as follows:

1. Freedom of Association: At the time of the visit, three unions co-existed at L.D.: (a) the Trade Union of Workers of the Textile, Synthetic Cotton, Textile Finishing and Similar and Related Industries (STITAS), affiliated with the National Union Federation of Salvadoran Workers (FENASTRAS), formed at L.D. in October 2009; (b) the Trade Union of the Textile Industry of El Salvador (SITS), an independent union not affiliated with a federation, formed in the factory in 2009; and (c) the Trade Union of the Textile, Similar and Related Industries of El Salvador (SITSCES), affiliated to FESS, which was created in August 2016. While the assessor did not find evidence to support the allegations of discrimination against union members and preferential treatment of some unions over others, the assessor did find that the relationship between management and SITSCES union leaders was less fluid than with other unions, in large part because SITSCES has not completed the process of union registration. Moreover, the assessor found that the factory's freedom of association procedures are incomplete, as they are missing important elements to manage industrial relations, for example channels for labor-management communication, steps to prevent anti-union violence and discrimination, steps to ensure that workers' representatives have adequate facilities for the proper exercise of their functions, and guidance on how to address collective conflicts, including strikes, work stoppages and slow-downs, as well as general rules on dispute settlement.

2. Hours of work/breaks during the workday: The assessor found that the factory's current work schedule of 42.45 hours per week is in compliance with El Salvador's legal provision that a regular work week should not exceed 44 hours

per week, excluding overtime. National law does not set the number or duration of breaks during the work day, except for the lunch period which is mandatory and must last at least 30 minutes. Having said this, the assessor observed several tasks that require repetitive motion (e.g., ironing) or for workers to be seated or standing for extended periods of time (e.g., sewing, cutting, quality control) that might imply ergonomic risks for workers. Thus, although the assessor did not find the factory not to be in compliance with the law on work breaks, he nevertheless pointed out that the fact that factory's occupational risk assessment does not include breaks is an important oversight that should be addressed.

3. Salary reductions for using medical leaves: National law (Article 24 of the Regulations for the Implementation of the Social Security Scheme) establishes the right of workers to be compensated by the Salvadoran Social Security Institute (ISSS) for time off due to medical leave beyond three days. While national law does not require employers to take the responsibility for paying workers' salaries during the first three days of medical leave, the Ministry of Labor, in a resolution issued in December 2013, on a matter involving L.D. and three other apparel factories in El Salvador, set forth that employers had an obligation to pay workers' salaries for the first three days of medical leave. The assessor's conclusion is that the mentioned Ministry of Labor resolution has the force of law and is not optional for L.D. management to implement.

4. Lack of lactating room: The assessor concluded, based on worker testimony and visual inspection, that the factory does not meet legal requirements of having a lactating room and storage facilities for breast milk.

5. Lack of functional health and safety committee: The factory has a health and safety committee that meets most legal requirements; it has representation from two of the unions at L.D., but not from the third (SITSCES). The assessor also concluded that health and safety committee members do not participate in the implementation of the factory’s Occupational Risk Prevention Management Program, which is required by the General Law on Risk Prevention.

6. Inadequacies in illumination/ventilation: Although the factory has addressed all issues regarding illumination/ventilation raised in a September 2015 inspection by the Ministry of Labor, the areas examined for the illumination/ventilation assessment did not include sewing production lines, the principal production activity at L.D.

7. Machinery maintenance: The factory’s “Preventive Maintenance Program for

Machinery and Equipment Used in the Production Process” is missing certain elements -- responsible staff for certain maintenance activities, frequency and type of maintenance required, list of safety devices, and guards for each machine. The assessor found that the workload of the staff of eight mechanics is excessive.

8. Failure to report work accidents to the Ministry of Labor: The assessor did not find evidence to corroborate the allegation that L.D. was not meeting requirement of reporting work accidents to the Ministry of Labor.

9. Improperly maintained restrooms: The assessor did not find evidence to corroborate the allegation that bathrooms were improperly maintained (cleaned). The assessor did find evidence, however, that there are issues with regard to the distribution of toilet paper for the use of workers.

RECOMMENDATIONS, REMEDIATION PLANS, AND STATUS OF CORRECTIVE ACTIONS

The assessor made a series of recommendations to address the findings. L.D. management, in conjunction with PVH and its licensee Global Brands Group Youth and Men’s (formerly Fishman & Tobin Apparel and Kids Headquarters), developed the following remediation plan:

Recommendation #1	Improve factory freedom of association procedures by including (a) channels of communication between management and unions; (b) steps to prevent anti-union violence and discrimination; (c) ensuring workers’ representatives have the facilities necessary for the proper exercise of their functions; and (d) guidance on how to handle collective conflicts, including strikes, work stoppages, slow-downs, and general rules on dispute settlement.
Corrective Action Plan	The factory will engage a Salvadoran labor expert to review and improve company’s freedom of association procedures following assessor’s recommendation.

Status	Completed. On September 11-12, 2017, an assessment was conducted at the factory by PVH. It was verified that Salvadoran labor expert, Ena Núñez, was contracted by the factory. She executed the approved plan to improve factory freedom of association procedures by including (a) channels of communication between management and unions; (b) steps to prevent anti-union violence and discrimination; (c) language ensuring that workers' representatives have the facilities necessary for the proper exercise of their functions; and (d) guidance on how to handle collective conflicts, including strikes, work stoppages, slow-downs, and general rules on dispute settlement over the period May 31 to June 30. The consultant issued a recap of the execution of the plan on July 1, 2017.
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Recommendation #2	Provide regular and ongoing communications and training to workers, managers and supervisors on industrial relations and freedom of association (FOA), including the newly drafted FOA procedures to avoid risk of FOA violations.
Corrective Action Plan	Management will engage a third party to conduct training on factory's revised FOA procedures for managers, supervisors, and five percent of the workforce.
Status	In progress. FOA trainings were conducted by consultant Ena Núñez on the following dates and to the following audiences: June 2, 2017 -- STITAS & SITSCES June 5, 2017 -- SITS June 5, 2017 -- Managers and supervisors in three groups June 8, 2017 -- 5% of workers in groups GBG will make sure that within a one-year period, the trainings on FOA are extended to 100 percent of workers.

Recommendation #3	Engage in a continuous dialogue with the SITSCES union and its representatives, without regard to whether or not the legal recognition of the union has been achieved.
Corrective Action Plan	With the intervention of a third party, L.D. and SITSCES to engage in dialogue.
Status	Completed. According to management and SITSCES representatives, SITSCES has concluded the union registration process and is officially recognized by the factory. SITSCES has been participating, as the other two unions have also, in consultations and trainings. The three unions and management agreed to participate individually in monthly meetings with management, at which they can present their petitions and discuss possible actions, and management has the opportunity to communicate with them about company plans and concerns. Management offered conference rooms to the unions for their meetings. Furthermore, factory management installed three bulletin

Status (continued)	boards (one per union) accessible to all workers, so that the unions can display communications. SITSCES is already using one, and it has posted advances they made recently with management with the support of buyers: installation of new water dispensers, acceptance by the factory of tickets signed by the Social Security Institute as time in attendance (so that workers will not have time deductions from work time when they need to medical facilities themselves or to take their children to the doctor/hospital), agreement by management to issue letters at the request of the workers to banks in support of workers' application for loans, and installation of a breastfeeding room. SITSCES representatives confirmed that management and the union are holding monthly meetings.
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Recommendation #4	Conduct an ergonomic risk analysis of all job positions in the factory, preferably by an external third party, and implement control measures to deal with ergonomic risks based on the risk analysis.
Corrective Action Plan	The factory contracted with a third party expert, PRLM S.A de C.V., to conduct an ergonomic risk analysis. The analysis was conducted on May 30 and 23 job positions were assessed. The conclusion of the analysis was that "L.D. El Salvador S.A. de C.V. sustains a high ergonomic level for its workforce, taking care of their health and occupational well-being." Nevertheless, the assessor recommended implementing minor changes in the work stations for some workers, which the factory has implemented.
Status	Completed.

Recommendation #5	Implement the practice of paying workers for the first three days of absence when under medical leave.
Corrective Action Plan	Management has challenged the Ministry of Labor's resolution and has not voluntarily accepted to pay workers' salaries for the first three days of medical leave. The factory has requested an opinion from the Ministry of Labor on the case.
Status	In Progress. The factory's legal representative has requested the Ministry of Labor for an interpretation and resolution on this issue, as the factory considers there is lack of clarity on payment of workers while they are on medical leave.

Recommendation #6	Assess options for installing a lactating room in the factory. Options to be considered include building and equipping a room within the factory or collaborating with other neighboring factories in the same free trade zone to build such facility.
Corrective Action Plan	Since May 2017, L.D. has installed within the factory a lactating room equipped with refrigeration equipment and under the supervision of the factory's physician. The factory has also made female workers aware of this facility and has taken steps to ensure that all women returning from maternity leave are able to make use of it.
Status	Completed.

Recommendation #7	Invite one union leader from the SITSCES union to participate in the factory's health and safety committee, including monthly committee meetings.
Corrective Action Plan	The HR Manager requested from the Ministry of Labor a certification to determine which of the unions co-existing in the factory has the majority union affiliation. The Ministry of Labor replied indicating that STITAS has a majority of L.D.'s workers affiliated to it. According to El Salvador's legal framework, only the union with the largest number of affiliates in the factory could name a delegate to be part of the Health and Safety Committee. In June, STITAS named its representative to the Committee.
Status	Completed.

Recommendation #8	Provide focused training to members of the factory's Health and Safety Committee to expand their knowledge of safety and health issues and enhance their contribution to the work of the committee.
Corrective Action Plan	In June, L.D. started training for all members of the Health and Safety Committee, in accord with national legal requirements and assessor recommendations.
Status	Completed. L.D. El Salvador completed training for the 10 members of the Health and Safety Committee on July 14, 2017.

Recommendation #9	Commission a ventilation/temperature assessment by a third party or request a new inspection by the Ministry of Labor to assess whether ventilation and temperature are adequate for workers in the sewing lines.
Corrective Action Plan	On June 6, in response to a request from the factory, the Ministry of Labor conducted a new ventilation/temperature assessment. The factory and the brand have committed to implement and follow up all the recommendations from the assessment.
Status	In Progress. On June 26, the Ministry of Labor issued its report on illumination, ventilation, ambient temperature and noise at the factory's work areas. The factory has received the report and is working on making adjustments to comply with the findings from the Ministry of Labor. In the near future, Ministry of Labor inspectors will return to the factory to conduct an unannounced visit to verify compliance.

Recommendation #10	Develop a comprehensive machinery maintenance program that sets out: (a) responsible staff for the maintenance of specific machinery; (b) frequency and type of maintenance required by each machine; (c) safety procedures to be used by staff in charge of machine maintenance; (d) list of guards and other safety equipment required by each machine; (e) requirements for documenting machinery maintenance; and (f) mechanism for evaluating effectiveness of the machinery maintenance program.
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Corrective Action Plan	L.D. has developed a new machinery maintenance program that addresses the issues raised by the assessor and has also trained workers from the maintenance department on the new requirements.
Status	Completed.

Recommendation #11	To the extent that financial conditions allow it, consider increasing the number of mechanics in the factory.
Corrective Action Plan	Factory has purchased and distributed PPE to workers according to assessor's recommendation and has also developed a control system to improve PPE distribution to the machine maintenance department.
Status	Completed.

Recommendation #12	Improve record keeping regarding machine maintenance and issue appropriate PPE to mechanics..
Corrective Action Plan	Factory has purchased and distributed PPE to workers according to assessor's recommendation and has also developed a control system to improve PPE distribution to the machine maintenance department
Status	Completed. L.D. developed a log for preventive maintenance of machinery, establishing activities at determined dates for mechanics. All work completed is checked in the chronogram.

Recommendation #13	Revise the system of toilet paper distribution to ensure that workers have unrestricted access to toilet paper at all times.
Corrective Action Plan	The factory modified the distribution of toilet paper to make sure it is available at all times in the restrooms. Moreover, an administrative staff person has been made responsible for preparing toilet paper packs and placing them in a box for the use of workers. The factory has also posted a memorandum near the bathrooms indicating that toilet paper will be available at all times.
Status	Completed.

Recommendation #14	Consult with unions and workers on any issue that arises from the implementation of corrective actions.
Corrective Action Plan	The factory is keeping records of all meetings between representatives of management and unions and agreements reached in implementing the corrective actions. The factory has committed to update the agreements with the unions for their knowledge and also for the purpose of further consultations and/or comments.
Status	In Progress. L.D. had an immediate focus on issues on items 1, 2 and 3 of the corrective action plan, which were FLA priorities. As per the last assessment at the factory, communication between management and all unions is now equal. GBG will be incentivizing L.D. El Salvador for continuous communication.

FLA CONCLUSIONS AND NEXT STEPS

The remediation plan developed by L.D. management in conjunction with PVH and its licensee Global Brands Group Youth and Men's (formerly Fishman & Tobin Apparel and Kids Headquarters) is comprehensive and addresses all major findings and recommendations from the assessor. Several of the components of the remediation plan are advanced in their implementation, among them the improvement of policies and procedures on freedom of association led by a very reputable outside expert; training of workers, managers and supervisors on freedom of association, communications

and industrial relations; construction of a lactating room for mothers equipped with refrigeration equipment and under the supervision of the factory's doctor; and the contracting with third party experts to conduct ergonomic risk analysis of all job positions.

FLA urges PVH and its licensee Global Brands Group Youth and Men's (formerly Fishman & Tobin Apparel and Kids Headquarters) to monitor closely the implementation of the plan, especially those remediation actions still in progress, and to keep the FLA abreast of the progress made. The FLA considers this Third Party Complaint closed.