June 15, 2008

Summary Report
Third Party Complaint Regarding Cimatextiles, Guatemala

Complaint

On May 21, 2007, acting in response to a Third Party Complaint filed by Guatemalan trade unions SITRACIMA and SITRACHOI, the FLA initiated an investigation of Cimatextiles, S.A. factory in Villa Nueva, Guatemala.\(^1\) The unions alleged that the factory owner was threatening to close the factory in violation of the workers’ freedom of association rights and was also intimidating workers with threats and violence. Liz Claiborne, Inc., the FLA brand sourcing from Cimatextiles, waived consideration of the complaint at Step 2 and agreed to its consideration at Step 3.\(^2\)

The FLA engaged COVERCO (Comisión para la Verificación de Códigos de Conducta), an FLA-accredited monitor in Guatemala, to conduct an independent investigation of the allegations and, if appropriate, make recommendations to remedy the situation.

Independent Monitor Report

On July 24, 2007, COVERCO submitted its report and recommendations on its investigation. The report is structured around six major issues: (1) production and quality (rationale for the closure); (2) the closure per se; (3) negotiations around the closure; (4) violence; (5) role of opposition groups; and (6) special case of an allegation of worker intimidation. The recommendations are divided into two parts: (1) those that should be taken immediately; and (2) those that should be taken during the restarting of operations. A brief summary of the conclusions and recommendations is given below.

The full COVERCO reports and an executive summary, in both English and Spanish, are available on the FLA website.\(^3\) At the time the investigation occurred, the expectation was that after a temporary cessation of production, the factory Cimatextiles, S.A., would restart operations in early September 2007.


\(^2\) More information about the steps involved in a Third Party Complaint investigation are described in the FLA Charter available on the FLA Web site at: [http://www.fairlabor.org/about/charter](http://www.fairlabor.org/about/charter).

\(^3\) [http://www.fairlabor.org/what_we_do_third_party_complaints_e1.html.](http://www.fairlabor.org/what_we_do_third_party_complaints_e1.html)
Summary of Conclusions:

(1) Production and Quality—The company did not utilize the adequate channels specified in the collective bargaining agreement to address production and quality problems. COVERCO concluded that allegations of production and quality problems could not be verified.

(2) Closure—Company did not follow legal procedures for closure. It should have relied on the collective bargaining agreement but did not do so. The factory did not respect trade union rights regarding trade union legitimacy and legality to negotiate and establish a collective bargaining agreement. COVERCO concludes that there was a violation of freedom of association and collective bargaining rights.

(3) Negotiations—During negotiations between the company and trade unions, an agreement was reached for temporary closure, payment of compensation, and commitment to rehire at Cimatextiles once operations resumed in September 2007. However, no procedures or systems were put in place to guarantee the fulfillment of these agreements. There is no full guarantee of rehiring of workers; the agreement is not an effective guarantee for the reactivation of operations.

(4) Violence—The only reported incident of violence was regarding a Choishin worker who, while attempting to enter the facility, was pushed by a manager. COVERCO investigated the allegation and the incident was confirmed through worker interviews. The worker who was pushed, however, refused to be interviewed, probably because the worker continues to work at Choishin and fears possible retaliation from management.

(5) Parallel Groups Directly or Indirectly Organized by the Factory—COVERCO witnessed actions of an opposition group organized by a manager within Cimatextiles against the activities carried out by the trade union SITRACIMA. The Inspectorate of Labor has verbally warned the individual about this practice.

(6) Special Case—COVERCO investigated allegations that a Cimatextiles manager carried a gun inside the plant to intimidate workers. COVERCO did not find objective evidence to support this allegation.

Summary of Recommendations:

Short Term—(a) provide follow-up and verify fulfillment of the correct payment of benefits; (b) ensure the resolution of cases of specific groups of workers (workers on maternity leave, breastfeeding, Social Security medical suspensions); (c) provide follow-up and verification of the collective bargaining negotiation process; and (d) create a commission to oversee the process of negotiation of new production contracts for the factory.

Longer Term—(a) verify the fulfillment of the preferential hiring agreement of workers registered in Cimatextiles’ list; (b) deliver a joint training program on the fulfillment of labor rights; and (c) verify that the right to freedom of association is being respected and allowed to be exercised.

Remediation Plan and Status of Remediation

In early September 2007, management of Cimatextiles, S.A., announced that, contrary to earlier statements, the plant would not reopen. Thus, the remediation plan developed by Liz Claiborne, Inc., with the management of Choishin, based on the conclusions and
recommendations in the COVERCO report, took into account this change in circumstances. The key elements of the remediation plan and the status of the implementation of each element as of June 2008 are as follows:

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<th>Remediation Action</th>
<th>Status</th>
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<td>Execution of policies and procedures on hiring, termination, grievance procedures, and non-discrimination (particularly based on trade union affiliation) at Choishin and Cimatextiles that are consistent with FLA guidelines of good practice.</td>
<td>Liz Claiborne, Inc. engaged a consultant to review hiring and termination practices and grievance procedures at all of its suppliers in Guatemala. In addition to Choishin, two other suppliers were involved in order to address potential blacklisting against former Cimatextiles workers. Initial evaluations of factory policies and procedures were conducted in December 2007. Capacity building at each factory was also conducted in December 2007. Follow up visits to re-evaluate policies and procedures and verify that corrective actions had been implemented at each of the factories took place in May 2008.</td>
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<td>Enforcement of rehiring commitments in the agreement that was previously signed by management and the union.</td>
<td>Choishin committed to hiring the former workers registered in the Cimatextiles hiring list when employment opportunities arise at Choishin. An agreement to this effect was signed by both parties in the presence of the local Labor Ministry on November 6, 2007.</td>
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<td>Ensure correct payment of benefits to all workers.</td>
<td>Choishin negotiated severance payments of each worker with the union. The agreement was signed on November 6, 2007.</td>
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<td>Urge all parties to negotiate in good faith a collective bargaining agreement.</td>
<td>Liz Claiborne Inc. has and will continue to urge Choishin to negotiate in good faith with the trade unions SITRACIMA and SITRACHOI on a collective bargaining agreement.</td>
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4 Copy of this document, in original Spanish and English translation, is attached.
5 Ibid.
Conclusion

The factory Cimatextiles, S.A. ended its operations in Guatemala in early September 2007. The nature of the corrective action plan developed by FLA-affiliated company Liz Claiborne, Inc., in response to COVERCO’s findings and recommendations, reflects this development and focused on: (1) the proper payment of benefits and severance to former Cimatextiles workers consistent with Guatemalan law; (2) re-employment of former Cimatextiles workers by Choishin; and (3) implementation of non-discriminatory policies and practices by factories supplying Liz Claiborne in Guatemala. As the FLA has verified that this corrective action plan has been implemented, it now closes the Third Party Complaint.