

FINAL REPORT

Third Party Complaint: Delta Apparel Honduras (Honduras)

August 27, 2018



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On December 17, 2017, the union Sindicato de Trabajadores de la Empresa Delta Apparel Honduras (hereinafter “SITRADAHSA” or “the Complainant”) filed a Third Party Complaint with the Fair Labor Association (“FLA”) alleging violations of the FLA Workplace Code of Conduct (“the Code”) at the factory Delta Apparel Honduras (“Delta Honduras” or “company” or “the factory”), located in the Zip Buena Vista industrial park, Villanueva, Honduras. The Complaint alleges a range of violations of the Code, primarily with respect to Compliance Benchmarks related to wages and benefits, hours of work, and industrial relations issues. Delta Apparel Incorporated, the owner of Delta Honduras, is an affiliated company of the FLA.

The FLA accepted the complaint at Step 2 of the Third Party Complaint process. As such, Delta Apparel had 45 days to conduct an assessment of the allegations and provide a report to the FLA together with a remediation plan. Alternatively, Delta Apparel could have waived this internal investigation and requested that the FLA arrange for an independent investigation of the allegations by a third party with a view to developing a remediation plan.

Delta Apparel chose to conduct an internal investigation to review and assess the allegations in the Complaint, including its responses to each issue raised in the Complaint and its plan to respond, as appropriate, through a remediation plan.

SUMMARY OF THE ALLEGATIONS

The following seven specific allegations of noncompliance were raised by the Complainant:

1. **Production bonuses:** Complainant alleges that the factory is not paying production bonuses properly. Complainant gives the example of a worker who exceeds production targets during the first three days of the week but does not do so in the last two days (for example, because of delays in the delivery of raw materials, or a breakdown of equipment); in this scenario, the worker’s average production for the week does not exceed the bonus level and the worker therefore earns only the minimum wage. Complainant notes that a more equitable system would compensate a worker for each day that he or she meets/exceeds production bonus levels.
2. **Salary of union officers:** Article 11 of the Collective Bargaining Agreement (“CBA”) currently in force (see below) sets forth that all union officers should be assigned to the same production team, with their salaries protected from fluctuations. Complainant states that factory management has not been adhering to this requirement for the previous seven months (as of the date that the Complaint was submitted to the FLA).
3. **Off-the-clock work:** In order to meet production quotas, workers work “off-the-clock” before they clock in, during their lunch period, and/or after the end of their designated daily work period. Complainant adds that they are not compensated for this time.
4. **Compensation for time off for lunch period:** The factory does not compensate workers for the 30-minute lunch break. Factory management justifies this practice by deeming the work journey

to be “discontinuous” – but Complainant argues that the rules applying to a “continuous” work journey should be followed and notes that the Honduran Ministry of Labor (“the Ministry of Labor” or “the Ministry”) decided this issue in its favor. (See below on the subsequent disposition of this matter as well as that of Issue 5 below.)

5. **Transportation subsidy:** Complainant states that Honduran national law requires the company to pay a subsidy equivalent to 100 percent of transportation cost to all workers, but indicates that the factory instead is only paying 60 percent. As with the above, the Ministry of Labor found in favor of the union’s position on this issue.
6. **Medical leave:** Workers who need to be absent from work to seek medical services at the Honduran Social Security Institute (Instituto Hondureño del Seguro Social, or “IHSS”) clinics are not compensated in full for the time they need to be off to be able to access those medical services. Complainant adds that additional medical leave time means that workers are penalized by not being paid for the seventh day – meaning they are denied a bonus paid to workers with perfect attendance during a given week.
7. **Salary reductions for late arrivals:** Complainant states that contrary to Article 42 of the CBA, workers are charged for each minute they are late during a work week, while the CBA stipulates that such charge should only apply after five minutes of accumulated time.

THE COLLECTIVE BARGAINING AGREEMENT BETWEEN DELTA HONDURAS AND SITRADAHSA

Delta Honduras management and the SITRADAHSA union signed their first CBA, covering all workers at the factory, in 2007. Since then, the CBA has been renegotiated

twice. The CBA currently in force was signed on November 26, 2015 for a duration of three years; it will expire on November 26, 2018. The parties are already preparing for the forthcoming renegotiation.

According to Article 1 of the CBA, factory management and the SITRADAHSA union are to hold meetings approximately every 45 days to discuss any issues of common interest; agendas are prepared for each meeting and minutes of the proceedings signed by representatives of the factory and the union are maintained. As reflected below, the CBA covers several of the issues raised in the Complaint and in subsequent communications, and therefore this process coupled with the forthcoming renegotiation offers an important channel for stepped-up engagement between Delta Honduras and SITRADAHSA on areas of concern.

DELTA HONDURAS ASSESSMENT AND REPRESENTATIONS

The descriptions set forth below reflect Delta Honduras’ review and assessment of each of the specific allegations in the Complaint and the information it provided to the FLA on its responses and, where appropriate, its plan of remediation.

Notably, and as referenced below, Delta Honduras management confirmed that, with respect to two of the most significant allegations raised by the Complainant (specifically, Issues 4 and 5 as set forth above), these issues were brought before the Honduran Ministry of Labor and decided in favor of the union. Management stated that while it disagreed with these findings and chose to use the appeal process available under Honduran law, it committed to abide by the Ministry’s final decision – and that the matter was ultimately concluded as explained below.

Delta Honduras has conveyed further its understanding that the Ministry of Labor regards its consideration of the above two

issues to be closed based on the company's agreement to pay a fine that is treated as the final disposition of both issues.

In light of this, Delta Honduras has stated that is now prepared to discuss a resolution of Issues 4 and 5 with SITRADAHSA representatives as part of the upcoming CBA renegotiation, and to do so on an expedited basis.

Based on its review and assessment of the seven specific allegations of noncompliance set forth in the Complaint, as summarized above, Delta Honduras management stated as follows:

1. **Production bonuses:** The Complainant's allegations regarding the production bonus system governing workers at the factory do not point to any noncompliance with national law, the Code, or the CBA between Delta Honduras and SITRADAHSA. It notes that the current CBA establishes the conditions under which a worker is paid the daily minimum wage if he or she does not reach the production target, adding that this system (which in turn affects the worker's weekly payment) is legal and commonly utilized in Honduras and does not violate either national law or the FLA Code. Delta believes that the allegations in the Complaint may suggest a lack of understanding of the legally permissible production bonus system currently utilized at the factory.
2. **Salary of union officers:** SITRADAHSA officers' compensation complies with applicable national law, the Code, and the CBA. The union's position on this issue is that its officers should be compensated in a manner different from that of other workers; this, however, would be inconsistent with the CBA and was previously rejected by Complainant's own parent federation, the Independent Federation of Honduran Workers (Federación Independiente de Trabajadores de Honduras, or "FITH").
3. **Off-the-clock work:** Workers at Delta Honduras follow a schedule of Monday through Thursday from 7:15 AM to 4:45 PM and Friday from 7:15 AM to 3:45 PM. Each day, workers receive two paid ten-minute breaks and an unpaid 30-minute lunch break. The factory has never required employees to work before or after their shifts or during their breaks and lunch period; however, the union raised concerns that some workers were doing this on their own initiative in order to increase production. Delta Honduras regarded this additional production-based pay as legally permissible, but added that in light of the concerns raised, it was willing to make modifications. Therefore, factory management has instituted a policy of not turning on the power of sewing machines until the start of a shift, turning it off at the start of the lunch break and back on only at its conclusion, and turning the power off again at the end of the daily shift. This means that at present, there is no possibility of off-the-clock work among those in sewing positions. With respect to workers in non-sewing positions, management is not aware of any instances of off-the-clock work.
4. **Compensation for time off for lunch period:** Whether Delta Honduras' work schedule is determined to be continuous (as the Complainant argues) or discontinuous (as management contends) is determinative of whether a 30-minute lunch break during the middle of the day is to be compensated. This issue was the subject of a legal claim by SITRADAHSA before the Honduran Ministry of Labor (dating back several

The factory has been in compliance with Article 11 of the CBA that provides union leaders with up to 72 days per year of leave to attend union activities, groups union leaders into their own production unit, and guarantees each individual union officer the factory's average salary.

years), which determined that the 30-minute lunch break is a continuous effective work time, and therefore imposed fines and ordered management to compensate workers for the overtime performed without payment. Delta then exercised its right to appeal that decision. Management's position is that the break is an unpaid rest period that does not constitute "effective work time" and therefore is not subject to compensation under Article 323 of the Honduran Labor Code. It adds that the daily work schedule at the factory, including the length of the rest and lunch breaks, was previously agreed to by SITRADAHSA and included in Article 8 of the CBA, which itself has been approved by the Honduran Ministry of Labor.

5. **Transportation subsidy:** This issue was also the subject of a legal claim filed by SITRADAHSA, which the Honduran Ministry of Labor decided in favor of the union, prompting Delta Honduras to appeal. The design of the transportation subsidy in question (60 percent of roundtrip travel costs for all workers, rather than 100 percent for workers living more than two kilometers away from the facility and no subsidy for those who live closer) has been incorporated in Article 23 of the current CBA, which has been approved by the Honduran Ministry of Labor.

6. **Medical leave:** Honduran law does not require workers to be paid for the time they spend in seeking medical attention unless, at the conclusion of the consultation, they receive a medical incapacity statement from the doctor. The factory policy on this issue is consistent with, and in fact more generous than, what applicable national law requires, and can be summarized as follows: (a) workers seeking medical attention at an IHSS clinic who are declared incapacitated or sick (i.e., they receive a "doctor's excuse" or "sick note") receive a full day of compensation and remain eligible for a seventh day

payment; (b) workers seeking medical treatment at IHSS clinics who are not declared incapacitated or sick (i.e., they do not receive a "doctor's excuse" or "sick note") and return to work after seeking treatment at the clinic receive a full day of compensation and remain eligible for a seventh day payment; and (c) workers seeking medical treatment at these clinics who are not declared incapacitated or sick and do not return to work after seeking treatment at the clinic are paid for a reasonable amount of time to travel to and from the clinic and the time spent there (as reflected in the clinic records). If the worker leaves the clinic before 2 PM and does not return to work, he or she is not eligible for a seventh day payment, while if he or she leaves after 2 PM and does not return to work, the worker is eligible for a seventh-day payment on a proportional basis.

7. **Salary reductions for late arrivals:** Delta Honduras' assessment regarding this allegation indicated that the company was in fact charging against workers for each minute that they were late to work during a given week, rather than only charging against after they were late for their scheduled shift start time for an aggregate of five or more minutes during such week. As such, Delta Honduras did not contest this allegation or the need to remediate this practice in order to conform with the CBA.

OVERVIEW OF THE FLA'S ASSESSMENT AND FINDINGS

Based on the information provided by Delta Honduras and pursuant to Step 2 of the Third Party Complaint process, the FLA engaged on an ongoing basis with Delta Honduras management to review in detail each specific allegation of the Complaint, the company's reaction based on its assessment and, where appropriate, the pending or proposed remediation plan.

In several instances, the FLA requested additional information from Delta Honduras in an effort to clarify the issues raised, the status and adequacy of the responses and pending or proposed remediation measures, and any additional steps that could be undertaken to address the underlying allegations.

While this sustained engagement extended the duration of the review process, it also resulted in considerable clarification of the status of the responses and remediation, as well as the heightened potential for further engagement between Delta and the Complainant – including in the context of the forthcoming renegotiation of the CBA.

Delta Honduras’ review of the allegations made in the Complaint, coupled with the subsequent review and analysis by the FLA, identified a number of issues concerning which the factory has indicated it will move forward with remediation – as well as several others where it stated that it has already taken the steps needed to address the concerns raised about violations of worker rights and safe working conditions.

The FLA notes, at the same time, that Delta Honduras’ decision to appeal the Ministry of Labor’s adverse decisions on the two above-summarized issues (Issues 4 and 5) raised legitimate concerns that the objectives of the Complainant union on behalf of its members would not be vindicated in a timely fashion. While the FLA has been informed that the Delta Honduras’ payment of a modest fine to the Ministry of Labor has resulted in the Ministry considering these matters to be closed, it notes that this final resolution does not address the underlying concerns raised in the Complaint and in subsequent communications by the union.

In light of that, and as noted above, the upcoming process of CBA renegotiation provides an important forum for the parties to reach a durable solution that addresses these ongoing concerns as well as others,

and that addresses the interests of the affected workers. To that end, the FLA recommends that the parties take maximum advantage of the opportunities presented by this renegotiation to reach sustainable solutions as expeditiously as possible.

Indeed, the FLA believes that those issues previously the subjects of extended litigation before the Ministry of Labor should be prioritized during the CBA process – including by receiving the parties’ attention on an expedited basis. The apparent shared readiness of Delta Honduras and SITRADAHSA officials to launch that CBA renegotiation earlier than its scheduled November 2018 commencement now provide an opportunity for timely review and oversight subsequent to the publication of this Report, and the FLA looks forward to receiving updates from the parties on any resolution of these and other issues covered here.

The FLA also notes that in addition to the specific issues raised in the Third Party Complaint, during the course of the sustained engagement between Delta Honduras and the FLA under Step 2 of the process, additional issues arose outside the scope of – though in some instances closely related to – the allegations made in the Complaint.

The FLA therefore also engaged Delta Honduras concerning these additional issues, as referenced below, and views their adequate resolution as important elements of Delta Honduras’ commitment to remediation and, where needed, corrective action.

Although the seven specific issues raised in the Complaint remain the focus of this Report, these additional issues also warrant continued review and scrutiny to ensure effective implementation measures have been developed and undertaken.

REMEDIATION MEASURES

Listed below are remediation measures that are designed to address the seven above-listed issues raised in the Third Party Complaint, as well as additional ones identified pursuant to the factory assessment and otherwise by the FLA during this investigation in the course of engagement with the Complainant, Delta Honduras management, and other interested parties.

ISSUES RAISED IN THE COMPLAINT

Production bonus system: need for clarification and engagement with workers.

- Remediation plan: Factory to develop training materials and conduct training for all workers on the production bonus system, including but not limited to providing clear explanations concerning specific elements that include the methods for calculating production efficiency, application of overtime and the seventh-day payment, and any other issues that may affect a worker's eligibility to receive additional pay.
- Status: Factory developed training materials on the production bonus system. All production employees participated in onsite training, conducted during paid work hours, from June to August 2018. The company has confirmed that it intends to provide this training on an annual basis.

Salary of union officers.

- Remediation plan: Company has regarded its approach on this issue as consistent with the terms of the current CBA (at Article 11), but confirms that it is prepared to address any ongoing concerns as part of the upcoming CBA renegotiation.
- Status: To be discussed between Delta Honduras and SITRADAHSA in the CBA renegotiation.

Off-the-clock work.

- Remediation plan: Factory to turn the power off in sewing lines until start of the work shift, during lunch period, and after work hours, to prevent off-the-clock work. Management to further inform non-production workers about prohibition on work outside of the scheduled shift times. Management to conduct training for all employees on working hours.
- Status: Factory began practice of turning off power during non-work hours in February 2017. Training on hours of work for all production employees conducted (during paid work hours) in 2017. Written announcements also provided, as well as verbal ones over the factory's public address system, concerning this change.

Compensation for time off for lunch period.

- Remediation plan: In the wake of the Ministry of Labor decision on this issue, as outlined above, factory management and the union to negotiate on a resolution to the differences as part of the upcoming CBA renegotiation (with respect to current Article 8).
- Status: To be addressed as part of the CBA renegotiation commencing in Fall 2018. Factory management has expressed a willingness to expedite engagement with the union and union officials have stated that they are agreeable to that.

Transportation subsidy.

- Remediation plan: Consistent with the above and also in the aftermath of the Ministry of Labor process and decision, management and the union to negotiate on a resolution of differences as part of the upcoming CBA renegotiation (with respect to current Article 23).

- Status: To be addressed as part of the CBA renegotiation process. Company and union officials have both stated a willingness to expedite engagement on this issue.

Medical leave.

- Remediation plan: Factory to provide additional training to employees on policies and procedures regarding compensated medical leave.
- Status: Training substantially completed as of mid-August 2018, with a few final production teams scheduled to complete their training by the end of the month. All production employees covered in this training conducted during paid work hours.

Salary reductions for late arrivals.

- Remediation plan: Factory to change the time recording system in order to implement the five-minute cumulative grace period for lateness.
- Status: Changes to the time recording system effective as of June 2018; management reports that the new system is working properly, with documentation provided in support.

ADDITIONAL ISSUES

Access to factory on-site medical clinic.

- Remediation plan: Conduct analysis of on-site clinic's ability to accommodate the number of employees typically requesting services on a daily basis.
- Status: In February 2017, factory conducted a study to assess whether the on-site clinic could accommodate the number of workers seeking treatment. The Ministry of Labor agreed to a request from management to operate the clinic for an additional two hours. Management states that the result of that assessment is that the clinic now

has sufficient capacity to meet worker needs, and that in the "vast majority" of cases clinic treatment is provided on the day it is requested – with a few "limited instances" of a wait until the following day. Management states further that it is prepared to address any ongoing concerns, and as the issue is covered under the CBA, this is another area where there will be an opportunity in the coming months to ensure that past concerns have been addressed,

Denial of contractually required family leave.

- Remediation plan: Management to reinforce to supervisors and non-supervisory employees the policy that all leave requests should be directed to the factory's HR Department. Factory's policy is that leave requests will be timely and properly considered and addressed consistently with national law, the FLA Workplace Code of Conduct, and the CBA.
- Status: Written communication and training provided to all employees in 2017; company reports no ongoing issues concerning processing of requests.

Alleged employee harassment.

- Remediation plan: Engage the services of an independent Third Party organization to deliver training to all supervisors on harassment and abuse issues and to reinforce the factory's policies and procedures regarding harassment or abuse.
- Status: Prosinco, an organization that conducts training for management and workers, conducted training in August 2017 on harassment and abuse issues. Factory's harassment or abuse policies have been distributed to all workers and managers, and training on them is part of inception training. A separate policy regarding sexual harassment is

similarly made available to workers and supervisors and integrated into inception training. Factory maintains a hotline that workers can use to report, anonymously if they so choose, incidents of harassment or abuse; management reports that this is being utilized.

Breast-feeding accommodations.

- Remediation plan: Factory to communicate to workers the availability of a private breast feeding room and encourage its use.
- Status: Focused communication campaign held in 2017; dissemination of information about breast feeding facility integrated into overall communications program.

Employer-provided child care.

- Remediation plan: Factory exploring options for providing employees with child care services, as required by Honduran Labor Law.
- Status: Management has identified a potential child care facility and is currently negotiating with representatives of that facility on scope of worker needs; meeting scheduled for late August to move the process forward.

Freedom of association awareness raising.

- Remediation plan: Conduct training for supervisors on rights of freedom of association and collective bargaining and protections against retaliation directed at union members.
- Status: Third-party organization Prosinco conducted training session in August 2017. Factory policy on right of workers to affiliate freely is distributed to workers during inception and is posted in break rooms and other locations in the factory. Management has stated that it is open to either extending the Prosinco contract or to considering recommendations from

the union or others for another external provider of training in 2018 and in future years.

Safety and Health Committee.

- Remediation plan: Publicize the existence and activities of the Safety and Health Committee
- Status: Since February 2017, factory has been posting minutes of the Safety and Health Committee at locations within the factory that are accessible to workers. Members of the Committee are trained annually and are issued light colored jackets so that they are easily identifiable within the workforce. Management has expressed a willingness to expand training and take additional recommended measures with respect to Committee engagement with the workforce and dissemination of relevant information.

Temperature.

- Remediation plan: Continue temperature monitoring program to ensure that heat levels within the factory are consistent with national law. Make necessary technological improvements to ensure that temperature levels are compliant with requirements.
- Status: Factory installed two new HVAC units in 2017. Temperature monitoring by an independent external consultant ongoing, with tests most recently in August 2018.

Air quality.

- Remediation plan: Continue air quality monitoring program to ensure that air quality levels within the factory are consistent with national law.
- Status: Factory engaged an independent third-party air quality expert to analyze the factory's situation and make remedial recommendations. Latest air quality

analysis by this third-party expert was conducted in August 2017 and showed levels well within acceptable limits under national law; next assessment is scheduled for September 2018.

Noise levels.

- Remediation plan: Continue noise monitoring program to ensure that noise levels within the factory are consistent with national law.
- Status: Noise testing conducted by independent third-party expert most recently in August 2017, with next assessment in September 2018. Noise abatement program has resulted in noise levels that comply with national law – provided required ear protective equipment is used (ear plugs are provided to workers).

Fire safety.

- Remediation plan: Continue fire safety monitoring program to ensure that fire safety levels within the factory are consistent with national law.
- Status: Factory installed a new fire alarm system in 2016. Fire/evacuation drills are conducted quarterly, most recently in late June 2018, while checks for any blocking (ingress/egress) issues are conducted on a weekly basis.

Restroom sanitation.

- Remediation plan: Inspect restrooms regularly to ensure they are clean and properly stocked with supplies.
- Status: Factory fully remodeled employee bathrooms in October 2017. Policy calls for regular monitoring of restrooms for cleanliness (with weekly maintenance of toilets and other operations) and adequate stocking of soap, toilet paper, lidded trashcans, etc. (checked three times daily).

Ergonomics.

- Remediation plan: Monitor ergonomic programs and practices at the factory, ensuring they are consistent with national law.
- Status: Factory purchased and installed new work chairs for 790 production employees in August 2017.

Personal Protection Equipment (PPE).

- Remediation plan: Continue to evaluate PPE programs to ensure that they meet national law requirements and provide a safe workplace for workers.
- Status: Factory provides face masks, ear plugs and other personal protection equipment to workers free of charge on an as-needed basis.

Lockers for Employees

- Remediation plan: Refurbish and install new lockers to meet the needs of employees.
- Status: Factory lockers fully refurbished in September 2017; installation of new lockers completed in August 2018 and documentation provided.

FLA CONCLUSIONS AND NEXT STEPS

Over the course of its review of the specific allegations included in the Complaint, as well as the additional issues that were brought to its attention, and in turn its careful assessment of the responses of Delta Honduras to the allegations, the FLA has concluded that certain issues were already being addressed by the company, whereas others required new or additional remediation measures to address documented concerns.

Notably, some of the most challenging issues discussed fall within the purview of the third CBA negotiated between Delta

Honduras and the Complainant union, and thus lend themselves to more sustainable solutions if both parties are committed to a robust and effective CBA renegotiation process. While it is too early to know the willingness of the parties to see that process through on an expeditious basis, the FLA is encouraged based on its discussions with representatives of both that appear to reveal a shared commitment to address the relevant issues – including the two that had been the subject of the lengthy appeals process in the Ministry of Labor.

Although it is certainly understandable that some of the issues raised in the Complaint and covered in this Report have been the subject of differing interpretations, with consequences for those affected by decisions made concerning important factory policies and procedures, at the same time there does now appear to be a genuine opportunity for the parties to bridge differences through more collaborative engagement – whether in the course of the CBA renegotiation, where applicable, or through additional labor-management dialogue. This should include engagement by factory management with SITRADAHSA on the best course for the next round of freedom of association training later this year, as summarized above.

The FLA believes that this Report can contribute to that process, and to that end the FLA will, in particular, be closely tracking the status of implementation of the remediation measures outlined above, including through updated communications from both parties.

In order to advance the process of resolution, the FLA further recommends that Delta Honduras agree to a follow up assessment concerning the issues covered in this Report, in particular but not exclusively those set forth in the Complaint, by an independent party within six months of the conclusion of the CBA renegotiation. This recommendation is intended both to ensure the necessary ongoing oversight and transparency and to build greater confidence between the parties on ways to achieve durable solutions to the issues raised in the Complaint.