



### **Summary Report:**

## **INDEPENDENT INVESTIGATION AND REMEDIATION AT TEXTILES OPICO, S.A DE C.V. IN EL SALVADOR**

On May 9, 2013, FLA Participating Supplier Textiles Opico, S.A. de C.V. (TEXOPS) and Dick's Sporting Goods (an adidas-group licensee) communicated to FLA staff allegations of freedom of association violations at the TEXOPS factory raised by the union Sindicato de Trabajadoras, Trabajadores, Sastres, Costureras y Similares (SITRASACOSI). The allegations included dismissal of a union leader and four union members during the period April 22-26, 2013.

### **Independent Investigation**

On May 10, 2013, the FLA engaged FLA-accredited independent monitor Comisión para la Verificación de Códigos de Conducta (COVERCO) to evaluate the freedom of association environment at TEXOPS and in particular investigate the following allegations:

1. Termination by management of worker(s) in retaliation for union activities, or suspected union membership;
2. Management coercion of workers to sign an anti-union petition that suggested the potential closure of the factory in case of the formation of a union;
3. Management coercion of workers to work overtime without payment, purportedly to make up for "lost" hours previously paid upon the shutdown of an earlier entity; and
4. Use of child labor in an "apprenticeship" program called the "Garrobo Project," organized by management, in which children as young as 14 are working in the production lines alongside regular workers.

COVERCO conducted fieldwork for its investigation between May 15 and 17, 2013. In the first phase of the investigation, COVERCO conducted 32 interviews with internal actors, including TEXOPS' Human Resources Manager and other middle management and compliance staff, supervisors, workers and members of the Communications Committee. Review of internal factory records was also conducted during this phase. In the second phase of the investigation, 10 interviews with key external actors were conducted; interviewees included one former worker and union leader dismissed on April 23, leaders of the SITRASACOSI union, a representative of the Centro de Estudios y Apoyo Laboral (CEAL), and two officials from the Ministry of Labor and Social Welfare (MINTRAB).

### **Findings<sup>1</sup>**

1. On March 17, 2013, a Sectional Union from the SITRASACOSI trade union was organized at TEXOPS.

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<sup>1</sup> The COVERCO assessment report is available in English and Spanish at [www.fairlabor.org/reports/texops](http://www.fairlabor.org/reports/texops).

2. On April 19, MINTRAB issued credentials that granted union leaders board member status of the sectional union at TEXOPS.
3. On April 22 and 23, the factory dismissed some workers due to alleged “restructuring” and “low performance”; among the workers dismissed were a union leader and four members of SITRASACOSI. There was no evidence demonstrating systematic and reiterated low performance by these workers affiliated with the union.
4. On April 29, only the union leader of SITRASACOSI was reinstated, based on a MINTRAB resolution.
5. The Communications Committee (CC) acted improperly and overstepped its mandate by sending letters to the MINTRAB and Human Rights Office (PDDH) stating that they did not want a union at the factory. Other letters were promoted by the CC, and signatures of workers were collected requesting factory management to transfer union members to different modules within the factory. Factory management failed to prevent this situation.
6. The agreement between workers and management regarding compensation for “lost” hours associated with prior payment of wages arising from the shutdown of an earlier entity was not in accordance with Salvadoran law, as said agreement was not approved by the MINTRAB.
7. There is substantial misinformation about the “Garrobo Project” and its efforts to engage high-risk girls and adolescents, particularly about its objectives, the procedures for the selection of beneficiaries, and the products that it generates.

### ***Recommendations for TEXOPS***

1. Inform employees, using the most appropriate means, that TEXOPS respects the labor rights of its workers, and that there is a sectional union in the factory as of March 2013.
2. Reinstatement of the four worker members of the TEXOPS sectional union who were terminated, and provide them with the salaries and economic benefits they did not receive through the date of their re-hire.
3. Update policies and procedures to bring them into alignment with the FLA Workplace Code of Conduct and Compliance Benchmarks, especially those related to Employment Relationship, Freedom of Association and Collective Bargaining, and Industrial Relations.
4. Include training on policies and procedures on Non-Discrimination and Freedom of Association in worker orientation program.
5. Implement a program of sustainable training, including an objective evaluation of the knowledge acquired through such training, with respect to policies and procedures regarding the prohibition of acts of discrimination, freedom of association, and the overall FLA Workplace Code of Conduct.
6. Reorient the functions and procedures of the Communications Committee to be in consonance with the existence, representation and functions of the sectional union.
7. Conduct an audit to confirm that the compensation of the repaid time corresponds to estimates by workers, and that the calculations have been made correctly.
8. Inform SITRASACOSI and other stakeholders about the “Garrobo Project,” fully explaining its scope and social impact.

### ***Recommendations for Companies/Buyers Sourcing from TEXOPS***

1. Communicate to all workers the commitment of the FLA-affiliated companies to respect the right to freedom of association and collective bargaining, and their interest in continuing business relations with TEXOPS.
2. Request that the factory reinstate the four workers who were dismissed during the week of April 22, 2013 with back pay.
3. Verify the factory's compliance and commitment to the remediation plan in particular with respect to union discrimination.

**Remediation plan:**

Factory's remediation	Responsible	Due Date
TEXOPS has verbally and in writing informed the Communications Committee (CC), so that they in turn can inform their corresponding departments, that since March 2013 a union has been formed and that TEXOPS respects workers' freedom of association. This statement has been posted throughout the entire factory.	Company President; Human Resources Manager	June 4, 2013 (completed)
TEXOPS will reinstate the four workers identified in the COVERCO report and compensate them for the salaries and economic benefits they did not receive up until the date of reinstatement. Re-hiring date shall be no later than June 18, 2103.	Company President; Human Resources Manager	June 18, 2013
TEXOPS will review and ensure that internal policies and procedures are updated and are in alignment with the FLA's Workplace Code of Conduct and Compliance Benchmarks, particularly policies and procedures related to non-discrimination, including Freedom of Association and Industrial Relations.	Human Resources Manager	July 31, 2013
As part of the current orientation program, internal policies and procedures are explained to all new workers, including non-discrimination and freedom of association policies. Treatment of non-discrimination and freedom of association procedures will be reviewed for any potential improvement and will be included in the orientation program.	Human Resources Manager	August 31, 2013
TEXOPS annually conducts training on policies and procedures for all employees, including non-discrimination and buyers' codes of conduct. TEXOPS will implement an evaluation component to assess the knowledge acquired by workers through this training. Documentation of the training materials and evaluations will be maintained for later review.	Human Resources Manager	July 31, 2013 (and ongoing)
TEXOPS will review the Communications Committee functions and procedures and clarify its operating role so as to not interfere or cross over into the duties of a duly elected union/worker representative body.	Human Resources Manager	July 17, 2013

The Ministry of Labor of El Salvador (MINTRAB) is conducting its own investigation regarding confirmation of payments for time made-up. TEXOPS will follow MINTRAB’s recommendations. The factory is independently reviewing these calculations through its accounting department.	Human Resources Manager	June 30, 2103
TEXOPS will inform SITRASACOSI and other stakeholders about the scope and social impact of the “Garrobo Project.”	Company President; Human Resources Manager	July 31, 2013

In addition to the recommendations above, the FLA staff recommends the following actions in order to help strengthen the implementation of the remediation plan and contribute to the improvement of the industrial relations environment at TEXOPS:

- Develop and implement disciplinary procedures that respect the right to due process of workers, especially in cases of dismissals. Workers should be properly informed of the procedures.
- Invite TEXOPS to consult with MINTRAB and other government agencies with jurisdiction regarding the “Garrobo Project,” to ensure that it complies with national law.
- Consider establishing a temporary ombudsperson position to help mediate between workers and management, assess the industrial relations climate in the factory, and recommend appropriate training based on needs. The ombudsperson should provide FLA-affiliated companies with monthly updates regarding implementation of the remediation plan and advise of any relevant disagreement or communication issues in a timely manner.

### **Next Steps**

The FLA will monitor the implementation of the above remediation plan, particularly the reinstatement of workers, and will commission an independent verification of progress in the last quarter of 2013.