

# Independent Investigation

## **Final Report GILDAN STAR S.A.**

*El Progreso, Yoro Department*

*Honduras*

*July 29 to August 2, 2019*

*For:*

*FAIR LABOR ASSOCIATION*

*Prepared by:*

*Ena Nuñez O'Brien*

*and*

*Katya Castillo*

<b>I.</b>	<b>CONTEXT AND SCOPE OF THE INVESTIGATION</b>	<b>3</b>
<b>II.</b>	<b>INVESTIGATION METHODOLOGY</b>	<b>4</b>
<b>III.</b>	<b>CONSTRAINTS OF THE INVESTIGATION</b>	<b>5</b>
<b>IV.</b>	<b>BACKGROUND</b>	<b>6</b>
<b>V.</b>	<b>RESULTS OF THE INVESTIGATION</b>	<b>6</b>
<b>VI.</b>	<b>CONCLUSIONS</b>	<b>26</b>
<b>VII.</b>	<b>RECOMMENDATIONS</b>	<b>28</b>

## I. CONTEXT AND SCOPE OF THE INVESTIGATION

This report contains the results of an independent investigation carried out at the request of the Fair Labor Association (henceforth “FLA”), at the facility STAR S.A. (henceforth “Star”), located in El Progreso, Yoro Department, Republic of Honduras, in Central America. The facility is owned by Gildan Activewear Inc. (henceforth “Gildan”), a company affiliated with the aforementioned organization. The investigation was carried out in light of a Third Party Complaint presented on July 8, 2019 by the union *SINDICATO DE TRABAJADORES DE STAR S.A.* (SITRASTAR) (henceforth “the Union”) regarding the announced closure by Gildan of the Star facility.

The Union stated in the Complaint that the factory's closure was motivated by an attempt by Gildan to eliminate the labor organization and terminate the Collective Bargaining Agreement (henceforth “CBA”) signed by Star and the Union in 2018 valid until December 2021.

In this context, the FLA decided to send a team of independent external investigators to the city of San Pedro Sula, Honduras to investigate the following issues:

- Whether the company complied with its internal bylaws, policies and procedures, with Honduran labor law and with FLA Code of Conduct and Compliance Benchmarks regarding Employment Relationship ER.1.1, ER.32.1 and ER.32.5 with respect to the announcement and implementation of the closure;
- Whether the company communicated in a clear, transparent and timely manner with workers and their representatives regarding the decision to close the Facility, in compliance with applicable legal requirements and with the provisions regarding Employment Relationship ER.25.2 and ER.32.3;
- Whether the termination benefits for dismissed workers were calculated and paid pursuant to applicable legal requirements, including the CBA in place and the provisions of the FLA Code of Conduct and Compliance Benchmarks regarding Employment Relationship ER.19.1 and Compensation C.5 and C.6;
- Whether channels were established for workers to address problems or concerns relating to any legally-owed payments with respect to the closure, including the provisions of the FLA Code of Conduct and Compliance Benchmarks regarding Employment Relationship ER.19.2 and Compensation C.19;
- Whether employment alternatives were offered to workers to minimize the negative impact of the closure, after consulting with worker representatives and receiving their input, pursuant to the provisions of the FLA Code of Conduct and Compliance Benchmarks regarding Employment Relationship ER.25.2, ER.32.4 and ER.32.5;
- Whether the benefits and severance payouts for pregnant and nursing workers were respected consistent with legal requirements and FLA Code of Conduct and Compliance Benchmarks regarding Employment Relationship ER.22, Non-discrimination ND.8.1 and Compensation C.5;
- Whether the company complied with all legal regulations, the CBA and the provisions of FLA Code of Conduct and Compliance Benchmarks regarding Freedom

of Association FOA.7 with regard to the protections granted to union representatives;

- Whether the company complied with the provisions of the current CBA between management and the Union at the facility with regard to the process of negotiating with worker representatives with respect to the facility's closure, pursuant to the provisions of the FLA Code of Conduct and Compliance Benchmarks corresponding to Freedom of Association FOA.19.1;
- Allegations of unlawful calculations of severance payouts to workers dismissed in 2018, a matter that the Union states is being reviewed by the Ministry of Labor, pursuant to the provisions of the FLA Code of Conduct and Compliance Benchmarks regarding Employment Relationship ER.19.1 and ER.22 and Compensation C.5 and C.6;
- Allegations of threats and intimidation by Gildan management as an instrument to force workers to accept their termination and receive their severance payments, pursuant to the FLA Code of Conduct and Compliance Benchmarks regarding Employment Relationship ER.19.3;
- Allegations that Gildan's decision to close the Star facility represented an act of anti-union discrimination and a means to avoid compliance with the Collective Bargaining Agreement, pursuant to the FLA Code of Conduct and Compliance Benchmarks regarding Freedom of Association FOA.5 and FOA.8.2.

## II. INVESTIGATION METHODOLOGY

Between July 29 and August 2, 2019, the team designated by the FLA conducted an in situ visit. The investigators were received at the Gildan San Antonio facility located in San Pedro Sula because the Star facility was undergoing maintenance, according to management. Likewise, they visited the Union at their office in El Progreso in order learn about the circumstances related to the closure of the Star facility from both perspectives.

The investigative team conducted interviews with the interested parties associated with the case<sup>1</sup> such as factory representatives, Union leaders, a sample of former workers affiliated with SITRASTAR and not affiliated rehired at the Gildan San Antonio plant<sup>2</sup> and the Gildan San Miguel plant<sup>3</sup>, former workers who have not been rehired, a representative of the Ministry of Labor and Social Security of El Progreso (henceforth "STSS"), and representatives from civil society organizations and from the labor confederation *Confederación Unitaria de Trabajadores de Honduras* (CUTH).

In addition, the investigation included reviewing documents and information provided by Gildan, SITRASTAR and STSS.

---

<sup>1</sup> See Appendix for details regarding interviewed subjects.

<sup>2</sup> Plant located in the Municipality of San Pedro Sula.

<sup>3</sup> Plant located in the Municipality of Choloma.

### ***Applicable regulatory framework***

The Constitution of Honduras and the Labor Code (henceforth “L.C.”); International Labor Organization (ILO) international conventions ratified by Honduras, particularly Conventions No. 87 and 98 regarding Freedom of Association and Protection of the Right to Organize and Collective Bargaining; the General Labor Inspection Law; the Star CBA; Gildan policies and procedures related to the subject matter of the investigation; and FLA Compliance Benchmarks, particularly those regarding Worker Termination and Retrenchment and regarding guarantees for the respect of Freedom of Association and Collective Bargaining.

### **III. CONSTRAINTS OF THE INVESTIGATION**

There were considerable delays both by Gildan as well as SITRASTAR with regard to providing the information requested by the investigators that were critical for the investigation.

Gildan, which received a detailed list of the requested information prior to the in situ visit, on repeated occasions expressed that it was difficult to provide the information because the closure process of Star was still ongoing and the information and the relevant personnel to address the concerns that emerged during the investigation process would have to be moved from El Progreso to Gildan San Antonio. Furthermore, the investigators were informed that Star did not have computerized personnel records, which made it difficult to consolidate information for all employees. The review of the status of employees occurred much later than anticipated because consolidated information based on manual records was provided after the in situ visit. Post visit, Gildan has explained that it does have a payroll system called NAF and information of employees’ severance payouts is available. However, the investigators were not informed about this during the investigation, and therefore they could not verify whether such system existed.

SITRASTAR stated that it had difficulties in providing the requested documents, arguing also that it was resolving issues stemming from the Star closure.

From the point of view of the investigators, the late delivery of the information requested from the interested parties limited the opportunities to inquire and dig deeper into the facts alleged by Gildan and SITRASTAR, in addition to limiting the possibility of broadening the investigation or requesting additional documental information regarding the subject matter of the investigation.

#### IV. BACKGROUND

The Union was established in 2007 as a labor union at the company Star S.A. (“SITRASTAR” according to its acronym in Spanish), when the factory belonged to ANVIL HOLDINGS INC. In 2012, Star was acquired by Gildan.

Since the announcement of the acquisition, rumors emerged -- which were dismissed at the time -- regarding the possibility of the closure of the factory. However, the rumors persisted and gained force after the closure of production areas and personnel cuts that occurred from 2012 to 2017.<sup>4</sup>

At the time Gildan acquired Star, the Union and the company had already negotiated two CBAs, and during Gildan’s ownership, three CBAs have been signed. The last one was signed in March 2018, valid for a term of four years, from January 1, 2018 to December 31, 2021.<sup>5</sup> Star management clarified that extending the term to four years was its initiative, as the previous CBAs had a term of two years.

#### V. RESULTS OF THE INVESTIGATION

According to the Union, Star had been planning the closure for years with the objective of eliminating the labor organization and revoking the CBA. As mentioned previously, the last CBA was signed in March 2018 and expires in December 2021.

Furthermore, the Union stated that Star had conducted massive employee layoffs previously. In 2014, they closed the distribution center which, in the Union's opinion, represented the first step in a process that would result in the factory closure. In 2015, Star closed the cutting area, with some employees given the option to retire taking their severance payment and others to be relocated. In 2016, there were massive layoffs: eight production lines in each shift were eliminated and production for some brands<sup>6</sup> was relocated to other plants. In 2017, Gildan announced further layoffs, but due to the Union’s actions (among others, engaging in dialogue with Star representatives, sending communications to Gildan representatives, and requesting the intervention of the Labor Inspectorate) the personnel changes were suspended, and workers were relocated<sup>7</sup> to the Villanueva plant<sup>8</sup>. The Union saw these actions as signals that the closure of the factory could become a reality at any time.

The final part of the strategy, according to the Union, was carried out beginning in 2018. During the month of February<sup>9</sup>, the company announced a **plan to implement the team production system replacing the individual production system**. After months of

---

<sup>4</sup> Minutes of meetings between the Union and Star from 09/20/2012, 07/04/2014, 01/19/2015, 05/31/2017 and a letter from Gildan to the Union dated 07/12/2017. Report of Independent Investigation requested by FLA from COVERCO/Sept. 2012.

<sup>5</sup> CBA 2018-2021, clause No 27.

<sup>6</sup> VF and Reebok.

<sup>7</sup> According to the Union there were 350 workers.

<sup>8</sup> Letter dated 07/12/2017 signed by Mr. Benito Masi, Executive Vice-president of Manufacturing and Mr. Peter Iliopoulos, Vice-president of Public and Corporate Affairs, both Gildan executives.

<sup>9</sup> Minutes #1 from February 22, 2018 of meeting between Star and SITRASTAR.

discussion an agreement was reached between the Union and Star to facilitate the implementation of the team production system, even though the Union originally opposed the measure. The Union mentioned that this change was implemented by the company with the objective of reducing costs because other Gildan facilities paid their workers less and with this change they would be comparable.

Subsequently, in 2019, the Union expressed that the company entered into an agreement for workers to be "loaned" (temporarily relocated) to other Gildan facilities in the month of April. As a result, approximately 130 workers from the sewing area at Star worked for two months at Gildan San Miguel. In addition to the aforementioned temporary relocation of workers, which left Star without some of its production lines, Gildan decided to add new garment styles in the majority of the production lines at Star. Both of these measures caused reductions in production which allowed Gildan, according to the Union, to justify and adopt the decision to close, based on what the company called "production consolidation".

This decision was announced by Gildan on June 26 together with a severance package for the payment of labor benefits to workers affected by the measure, which was projected to be take effect on July 2 and 3, 2019. The Union maintains that Star did not give it an opportunity to evaluate other options to the plant closure and estimated that the benefits offered were insufficient to compensate for the damage the closure would cause, both to workers individually as well as to the labor organization by terminating the CBA, which was to be in effect until December 2021.

With respect to the facts alleged by SITRASTAR, and more specifically the decision to close the Star plant, the company expressed that the decision to consolidate production was based strictly on operational factors, as it sought to keep the competitiveness of the plant, standardize production processes, and optimize the utilization of production capacity of Gildan's plants in Honduras, particularly because Gildan San Miguel and Gildan San Antonio had underutilized capacity. In addition, the lease agreement for the Star facility was about to expire; as this lease implied a high cost for the company, this was the right time to make the decision. Gildan's view is that there is no violation of freedom of association or of collective bargaining because the factories where the workers have been hired or will be hired -- those who wish to pursue this option -- will have a union and a CBA in effect.

Moreover, the temporary relocation of workers to Gildan San Miguel and the introduction of new garment styles were two unrelated events. The temporarily relocation of workers was caused by an extraordinary production need for a particular garment style on which Star's employees had experience. This style could not be produced at Star because the plant was not certified by the client at that time. The garment styles that were added had been produced at Star in previous years, with the exception of one style that was new for workers, but at that time there was an important production need for it.

## V.1. CROSS-CHECKED FACTS REGARDING THE CLOSURE OF GILDAN STAR

### **Information about the Star closure process according to documented evidence and accounts of the parties:**

On June 25, 2019, Star management sent a notice to the Union calling for a meeting to be held the following day (June 26). At the meeting, a Gildan representative explained in detail to the Union the following: "That GILDAN CORPORATION had decided to initiate a process of production consolidation in order to simplify and streamline company resources, which meant transferring Star's production to other plants"<sup>10</sup> such as Gildan San Miguel in the Industrial Zone in the city of Choloma, Cortés Department, and Gildan San Antonio in Zip San José in the city of San Pedro Sula. Management further explained that "with this consolidation, all installed capacity available at other plants not in use would be utilized, which would permit better customer service and improvement of production efficiency".

The record shows that subsequently Gildan presented the Union with a proposal with the following terms:

1. Hire all of Star's personnel (without a trial period) at Gildan San Miguel (70% of personnel) and Gildan San Antonio (30% of personnel);
2. Pay 100% of benefits in compliance with the law;
3. Free transportation to the new plants; and
4. For workers who did not wish to be rehired at the new locations, a guarantee of three months Social Security coverage, support and guidance to relocate to another job and a training program in various skills.

After the meeting, the Union decided to inform the workers of the news given by Star.

In response to the action of the Union, and as is documented in the Acta drafted at the request of Star's General Manager, at 8:30 a.m. on June 27, Star management initiated the process of communicating the consolidation plan to workers in groups. It was a process that went on until June 29 and consisted of reading an official company statement, after which the Human Resources Manager for Central America, Mr. Manuel Shugert, explained in detail its content, stating that workers would receive an information letter with the date on which they should come to the factory to receive their severance payment and information regarding the plant at which they would be rehired, including the operation they would perform and the corresponding shift. Afterward, according to the Acta, workers were given an opportunity to ask questions, which were answered by the company. Only one of the groups of workers is mentioned as having expressed dissatisfaction, while the others understood the company's goals. In the majority of the meetings a union representative was present.<sup>11</sup> (The Union, however, stated that not only one group expressed dissatisfaction with the announcement )

---

<sup>10</sup> Simple copy of unofficial notarial act prepared by the notary Julio Cesar Lagos Reyes dated 06/26/2019. The Union stated it was not informed that the notary would keep a record of the meeting and a copy of the Acta was not shared with it.

<sup>11</sup> Copy of notarial act dated 7 a.m. on 06/27/2019.



In that context, the Union approached the El Progreso STSS on June 27 to inform them of Star's announcement regarding consolidation and requested that a team of inspectors visit the site to be apprised of the situation. The STSS inspectors arrived at the factory and held a meeting with representatives from Star and the Union. The Union maintained its rejection of the factory's closure and requested time to talk the process over with affiliated workers. STSS officials present at the factory acknowledged the company's notification of the Union and called for dialogue, as STSS believes in promoting social dialogue and seeking alternatives that would lead to the well-being of the workers and the local and national economy. STSS officials offered their support to continue the dialogue.<sup>12</sup>

According to the Acta, at 6 pm that same day (June 27), two labor inspectors from STSS arrived at the factory, this time at the request of the company, to confirm the notification of all workers regarding the production consolidation decision.<sup>13</sup> Management's statement regarding consolidation was explained to the workers in sessions lasting one or two hours over the course of four days to ensure an effective communication process and comprehension of the measure by workers and an opportunity for their feedback. However, the company's statement was not posted anywhere within the facility. The above was confirmed by Gildan representatives,

During the days that followed there were various hearings at STSS in order for the company to address specific issues that had not been considered in the initial proposal presented to all the workers, such as the cases of pregnant workers and workers with a medical condition caused by occupational disease or accident, and the conditions for their relocation.<sup>14</sup>

The disbursement of the severance payments, according to the interviewees and documents received, started on July 2 with the group of workers that had entered into a "temporary relocation" agreement to the Gildan San Miguel plant<sup>15</sup>. The labor inspector who was present consulted with such workers whether they wanted to have the presence of a union representative and their answer was in the negative<sup>16</sup>.

Afterwards, on July 9 and 10, the severance payout of personnel physically present at the Star plant began. Thus, 286 workers received payment of their benefits and signed their contract termination by mutual agreement; the Union was present as well as a Labor Inspector.<sup>17</sup>

---

<sup>12</sup> Simple copy of STSS Act from 06/27/2019 at 1:45 p.m.

<sup>13</sup> Simple copy of STSS Act from 06/27/2019 at 6 p.m.

<sup>14</sup> Simple copy of acts of hearings held at STSS El Progreso on July 1 and 5. Workers were accompanied by CODEMUH and SITRASTAR.

<sup>15</sup> Gildan mentioned that all workers, except 5 who opted to return to Star, were rehired at Gildan San Miguel

<sup>16</sup> STSS Acts from 07/02/2019 and 07/03/2019

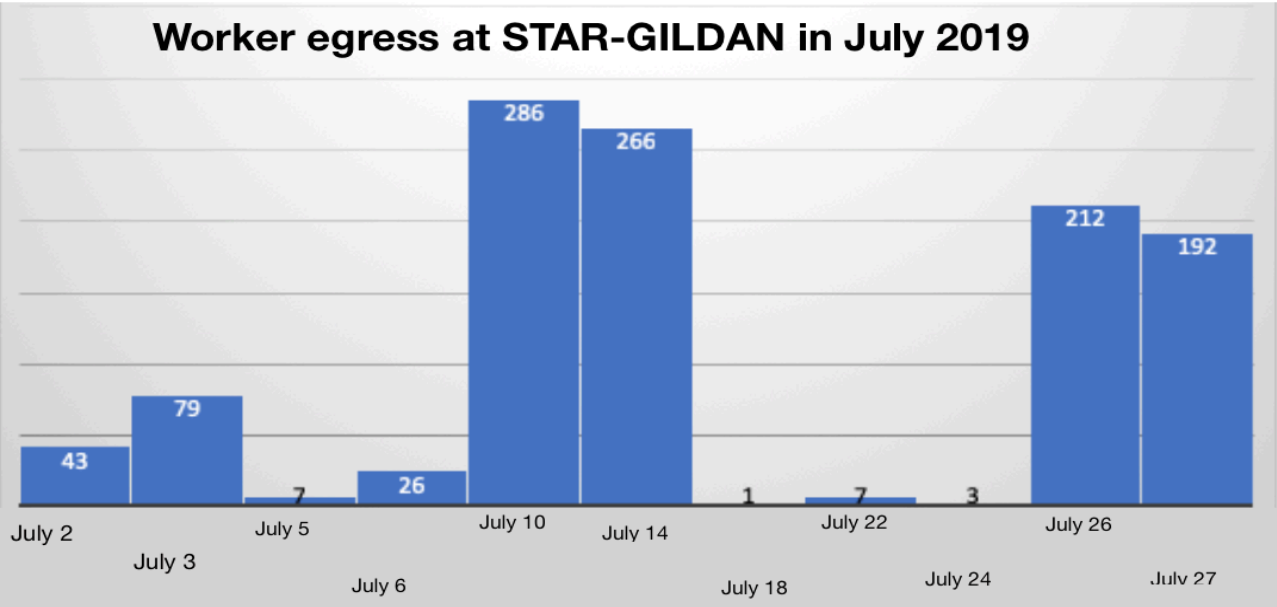
<sup>17</sup> STSS Act from 07/09/2019.

On July 14, another 266 workers decided to receive their severance payment before the date scheduled for the permanent closure; at the same time that they were received their severance payment, they were hired to work at other plants if that was their decision.

The date of the permanent closure had been set for July 22-23<sup>18</sup>; however, it was executed on July 26-27, the dates on which the last two remaining groups were formally terminated. The termination of workers became final on August 1, with the dismissal and severance payment of all members of the Union Board, in the presence of three STSS officials from El Progreso, coinciding with the in situ visit of the investigators to the Gildan San Antonio facility as part of the data collection aspect of this investigation<sup>19</sup>.

At the beginning of the consolidation process and closure, Star had 1126 employees.

Based on data provided by the factory, the following graph was prepared that identifies workers' outflow:



Source: Data provided by company.  
Note: The graph does not include the egress of 4 Staff employees.

<sup>18</sup> Memorandum of Understanding subscribed in the city of Tegucigalpa at STSS dated July 16, 2019.

<sup>19</sup> STSS Acta dated 08/01/2019. In this Acta, the Union reaffirmed their opposition to factory closure and accepted their severance payouts under “protesta”.

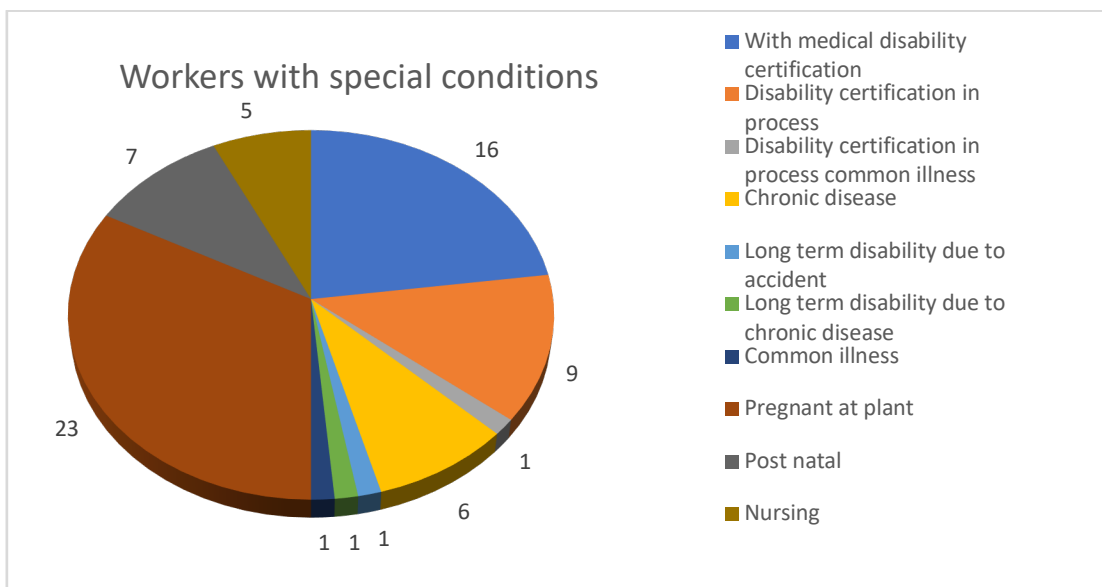
The status of all affected workers, according to the categories assigned by Star in the consolidated records provided to investigators, is the following<sup>20</sup>:

CURRENT STATUS	Quantity
Decided not to continue working (certificate of medical condition)	9
Gildan Trading	22
Will no longer work (Chronic Illness)	2
Pending plant assignment	2
Pending disability certification	2
Awaiting call	5
Pending STSS procedure	7
Rehired in San Antonio	197
Rehired in San Miguel	331
Pending contact	339
Others	210*
<b>Total</b>	<b>1,126</b>

\* This category includes those waiting to be contacted and those that for various reasons did not accept to be rehired or did not sign up to be called.

Note that the categories used by Star to classify the information are not uniform, lacks coherence, and are repetitive in some instances, therefore not providing certainty about the actual status of all affected workers. It should be noted that at the time of the in situ visit the database was being populated with the information from the closure and this delayed the delivery of the consolidated data to the investigators.

The following graph identifies 72 workers with special conditions:



<sup>20</sup> The consolidated information was sent by email to the investigators on July 5, 2019.

### ***Regarding the dialogue between the Union and Star:***

Beginning on June 26, the date on which Star communicated the factory closure to the Union, both parties engaged in a dialogue with the participation of STSS, even having meetings with the Ministry of Labor in Tegucigalpa (on July 16) and at the Regional Offices in San Pedro Sula and El Progreso, all aimed at addressing Star's proposal regarding a severance package for workers and the demands of the Union with regard to compliance with the CBA or payment of damages due to the unilateral breach by Star of said CBA. Various documents from these meetings, to which the investigators had access, confirmed the occurrence of the meetings, as do also the testimony of representatives of Star and the Union. At several of these meetings a representative of the Worker Rights Consortium (WRC) was also present as an observer.<sup>21</sup>

Communications exchanged between Gildan and the Union illustrate coordination problems in holding meetings between the Union and the company. The Union did not attend various sessions convened by Gildan. The Union leadership expressed to investigators that the very broad implications of Gildan's decision generated a series of proceedings that they were unable to cover since there were only six available Union committee members and on occasion, they had to cover various events occurring at the same time. In addition, they needed to get various forms of support and legal advice related to the scheduled meetings, which did not allow them to enlist staff and sufficient preparation to attend all meetings with the company. Finally, they stated that the majority of Union committee members had been recently appointed and therefore lacked familiarity with all topics under discussion.

In addition, it has been confirmed that the Union requested information regarding the treatment of pregnant and nursing women, workers with a medical disability certification or in process of obtaining a medical certification, addresses of workers, etc. which was denied by the company, alleging reasons of confidentiality<sup>22</sup>.

The various acts containing meeting minutes show that the original Star proposal was modified as the negotiations with the Union progressed. The company has come closer to the Union's demands related to employee benefits, some of which have been accepted.

The outstanding issue seems to be the compensation that the Union is requesting for all workers because of Star's breach of the CBA, given that the CBA was due to be in effect until December 2021 and the closure of Star – according to what the Union claims – eliminates all of the labor organization's achievements on behalf of workers since its establishment and simultaneously causes the elimination of the Union.

---

<sup>21</sup> The Union requested the participation of the WRC and of the *Equipo de Monitoreo Independiente de Honduras* (EMIH) in the meetings, but the company only accepted the participation of the WRC as an observer.

<sup>22</sup> Gildan argued that in addition to the fact that it was confidential information, it was also personal information (for example, medical records) that can only be shared with the authorization of each worker and that even to share it with a public entity there must be an authorization from the Attorney General's Office or by a court.

Below are, in summary form, the proposals made by the Union and Gildan, through August 2, the date the in situ visit concluded:

No.	Issue	SITRASTAR	GILDAN
1	Severance	Payment of benefits pursuant to the law, calculations based on highest average salary prior to the change from individual production to team production in April of 2018. Gildan must cooperate with STSS to finalize the review of calculations for payments made in 2018 and pay the adjustment.	100% of payment of social benefits pursuant to the law: Payment of one week lag, compensation in lieu of notice ( <b>previsto</b> ), severance, proportional severance less the advance payment previously provided, acquired rights, vacation days. Calculated based on highest average salary.
	Additional Compensation <sup>23</sup>	Rehired : 22 months of salary  Not rehired : 24 months of salary  \$2,500: worker daily salary	For those rehired, two options: a) Between 2 and 3.5 months of salary based on seniority; b) Two months of salary regardless of seniority. Not rehired between 2 to 5 months of salary based on seniority.
2	Health and IHSS	Union accepts Gildan's offer to pay the indemnity to each worker when the medical disability certification is approved.  Gildan must keep workers registered with IHSS through the entire process of obtaining medical disability certification and/or during the entire time of the illness.  Gildan and SITRASTAR must establish as part of the agreement a list of workers who qualify for this benefit.  For workers who decide not to transfer, Gildan to cover one year of social security.	All rehired workers with a medical disability certification or in the process of obtaining one will be registered with IHSS pursuant to the law. By mutual agreement with the Union, Gildan will review a list of workers with these conditions. Those who decide to not continue employment will receive two additional months of IHSS coverage and three additional months of service at a medical clinic which will provide general health services located in El Progreso. In addition, any worker included in the prepared list, who decides that they will no longer work will be provided with two additional months of base salary as compensation.
3	Workers that are pregnant or breast feeding	Union accepts Gildan's proposal to pay pregnant and workers who are breast feeding the amount established in the CBA, in addition to the indemnity for dismissal of pregnant workers. For those transferred to other plants while pregnant, Gildan must comply with the prenatal, postnatal and nursing period pursuant to the law or collective bargaining agreement for the company to which they relocated.	Reiterates its commitment to pay in accordance with the terms set out.  Note: Payments already have been provided.
4	Transportation	Union accepts company's proposal to provide transportation. Gildan must permit arrival a half hour after other workers and leave a half hour before (because of the distance to a from their homes)	Agrees to provide transportation from the bus stops established by the Company to the factory, <b>however</b> following the schedules for each plant.
5	Employment at other Gildan companies/transportation expenses	Union accepts Gildan's proposal to offer employment to STAR workers at other Gildan factories without having to pass a trial period. Accepts an amount of L.8,000.00 to cover relocation expenses for each worker that decides to relocate to another city close to the new job center.	Confirms its commitment to rehire all workers at the San Miguel, San Antonio and Villanueva plants without passing any exam or recruitment process nor a probation period  Gildan will pay L.5,000.00 for each worker once it confirms the change of address.

<sup>23</sup> The Union requested this indemnity to compensate for the CBA's breakup, and Gildan called it additional compensation to workers rehired and those who did not accept to be rehired.

6	Union	SITRASTAR accepts the proposal to pay 11 months as compensation for loss of union immunity ( <i>fuero sindical</i> ). Gildan to turn over the deducted union dues not delivered to the Union yet. Gildan to pay the Union an amount of L.150,000.00 to cover debts and a lease for the union office until December 31, 2019.	Confirms its commitment to SITRASTAR proposal with respect the payment of 11 months as compensation for <i>fuero sindical</i> Gildan will turn over the deducted union dues and those pending to be delivered during the time the plant remains open. Will pay to the Union an amount no more than L150,000.00 to cover Union's debts once they are corroborated. Note: Gildan has already made the payments related to <i>fuero sindical according to the CBA</i> <sup>24</sup> .
7	Serious diseases		Workers with illnesses such as: cancer, diabetes, renal failure, deep vein thrombosis, epilepsy, Bell's palsy, severe coronary failure and severe asthma identified at the moment of the agreement will be rehired at the plant closest to El Progreso maintaining current IHSS coverage.
8	Bonus for single mothers <sup>25</sup>		Gildan to provide a bonus of L.3,000.00 to 150 single mothers from rural areas (detailed in a map presented by the company) who accept to be rehired as assistants for providing childcare.
9	Office for support of employment relocation		The company will provide counseling and orientation during two months for those who wish to relocate to other places or wish to start a business activity.
10	Monitoring	WRC, EMIH, FUTH, CUTH and one representative from SITRASTAR.	WRC/FUTH/CUTH and one worker representative.

## V.2. APPLICABLE LEGAL PROVISIONS REGARDING A COMPANY CLOSURE IN HONDURAS

The applicable regulatory framework is the L.C. Below are the pertinent provisions related to the closure/liquidation of a company or establishment with regard to closure procedures and the requirement to pay severance in cases of unjustified dismissals:

Legal provision	Content
Art. 111 No 9 <sup>o</sup> and 13 <sup>o</sup>	Paragraph 9 <sup>o</sup> ) Establishes as a cause for termination of employment contracts, among others, the liquidation or permanent closure of a company or establishment. Paragraph 13 <sup>o</sup> ) states "In the case of subparagraph 9 <sup>o</sup> , the employer is required to proceed in the same manner as with respect to an employment contract suspension as established in articles 101 and 102 (...)

<sup>24</sup> Acta from 08/01/19

<sup>25</sup> SITRASTAR argued after the visit, that they proposed a weekly bonus for single mothers in rural and urban areas; However, this is not recorded in any document.

Arts. 101 and 102	These standards regulate the cases of employment contract suspensions and establish that the employer must initiate proceedings for the authorization of the suspension before the Ministry of Labor. The Ministry of Labor must ascertain the existence of cause and its justification, otherwise it must declare the inadmissibility of the suspension and safeguard the rights of the workers. Furthermore, the standards state that workers must be notified thirty days prior to work interruption, otherwise the employer must provide compensation equivalent to thirty days of salary or if work is interrupted before the end of the thirty-day term, pay the days remaining in the term.
Art. 126	Establishes that whether an employer liquidates or ceases business voluntarily or not, it must pay the indemnity required by articles 116, 120 and 121 concerning compensation in lieu of notice ( <i>preaviso</i> ) and severance aid in cases of an unjustified termination.

The L.C. does not establish a specific procedure for the case of a closure or company liquidation; however, it refers to the procedure explicitly indicated for cases of employment contract suspensions regulated by Articles 101 and 102 of this regulatory framework.

The investigators reviewed several documents related to the closure of Star and requested several times from factory management evidence of the process followed before the STSS, but none of the documents shared by Gildan or those gathered directly from the STSS showed a procedure through which Star management had requested from STSS an authorization for the closure or liquidation of the Star factory. The L.C. clearly refers to the application of regulations concerning employment contract suspensions that require giving advance notice of 30 days to affected workers and citing the causes leading to the decision to cease operations in order for the authority to evaluate them and determine if such causes do exist and whether they are justified to authorize the closure or liquidation.

Moreover, it is clear that the provisions of Art. 126 of the L.C. state that closure or liquidation of a company or establishment is not a justified cause to dismiss workers, and therefore the employer is required to pay the corresponding indemnity.

The reality is that the STSS does not enforce the procedure established in the relevant legal provisions and, as in this case, limited its role to that of a mediator and dialogue facilitator between the company and worker representatives, without intervening in the evaluation or qualification of the reasons for the closure; and to confirming by means of an inspection the legality of payments made to workers. In spite of this, it must be noted that no practice or custom substitutes for the requirements established by the law. As previously mentioned, the purpose and express wording of Arts. 101 and 102 of the L.C. are clear to the investigators, and based on acts and documents provided, no actions were taken to implement them.

During the drafting of this report, Gildan sent to the FLA a document dated June 28 addressed to the Minister of Labor and presented in Tegucigalpa on July 5, through which Gildan notified Star's closure and liquidation. This letter was not shared with the investigators. Nevertheless, its existence does not change the investigators' views, as it is limited to a notification and was filed while the closure was being implemented, and therefore it did not follow the process indicated in the aforementioned Arts. 101 and 102.

### V.3. REGULATIONS AND INTERNAL GILDAN PROCEDURES FOR THE TERMINATION OF EMPLOYMENT CONTRACTS DUE TO A CLOSURE

#### a) Internal Work Rules

Star's Internal Work Rules<sup>26</sup> regulate the termination or suspension of employment contracts. The regulation is brief and refers to the causes for terminations established in the L.C. However, it does not establish any procedure to be followed and it does not refer to the procedure for the suspension or termination of employment contracts in the case of closure or liquidation of a company referred to in the L.C. in Arts. 101 and 102. With regard to indemnity in the case of termination due to company closure or liquidation, the Internal Work Rules do not provide any clarity, even though Art. 126 of the L.C. establishes that in this instance the indemnity corresponding to unjustified terminations is applicable, that is, the employers bear responsibility.

In sum, the Internal Work Rules do not contain any provisions regarding the causes and how to proceed in cases of employment contract termination due to a company or establishment closure or liquidation.

#### b) Policy and Procedure for Termination due to Closure

Gildan has a procedure termed "*Procedure for employee retrenchment*", that includes the process to be followed in case of closure as follows:

- In the event that Gildan raw materials procurement and planning staff anticipate the possible closure of a facility, they must immediately notify personnel from the Corporate Social Responsibility (CSR) and Human Resources (HR) departments.
- HR and CSR will jointly evaluate the potential impact on workers and take the appropriate measures to mitigate and minimize the negative impact to workers (...):
  - Payment of all wages and benefits and severance pursuant to the law;
  - Respect of the requirements for termination applicable by law, the CBA, or employment contracts;
  - When possible, coordinate with local authorities and NGOs to look for available jobs.
- If possible, provide **sufficient notice** to employees prior to dismissal.
- Under certain circumstances, Gildan will work with NGOs and/or local government to manage these terminations.

---

<sup>26</sup> Authorized through resolution No SDGT-RIT-128-2015 of the STSS Labor Sub-directorate General, Tegucigalpa, 05/14/2015.



Gildan's procedure, as noted above, requires that the company provide **sufficient notice** to workers prior to the dismissal. It is understood that by this term is meant **sufficient time**, **although** it must be noted that these ambiguous terms do not provide certainty or clarity. In this type of situation, the procedure must be clear and precise and establish concrete terms which can be verified.

One aspect to be pointed out is that Gildan's procedure does not include a requirement for "consulting" workers or their representatives, which is not in line with FLA Compliance Benchmarks.

The CBA subscribed by Star and the Union does not contain clauses related to how to proceed in the case of contract termination due to company closure or liquidation. It only contains a clause relating to retrenchment or temporary suspension of personnel. According to clause #3 of the CBA, since the above situation is not stipulated specifically, it would be addressed pursuant to the provisions of the L.C. and all current legislation or direct agreement between the company and the Union.

Furthermore, clause #29 of the CBA establishes that both parties agreed to hold monthly meetings, committing to submit an agenda with the issues to be addressed one week in advance, and in the case of special meetings convened by the other party with three days' notice.

#### V.4. ANALYSIS OF FLA COMPLIANCE BENCHMARKS IN THE CASE OF THE STAR'S CLOSURE

According to FLA Compliance Benchmarks, when an employer faces changes in production, programs, structural organization or technology, and those changes result in temporary or permanent personnel layoffs, ***the employer must notify worker representatives as soon as possible of any alternative to the retrenchment with the aim of avoiding or minimizing the layoffs*** (Compliance Benchmark regarding Employment Relationship ER. 32.3).

Gildan did not comply with this standard because when it informed the Union of the decision, it did only for informational purposes. It was not to hear the Union out and take its opinions into account or to consider other alternatives to avoid closure. This is confirmed by the statements in the notarial act describing the events of the meeting at which the Minister of STSS was present. On that occasion, a high ranking Gildan official stated that "it was a decision in which they invested time and analysis because it was an important decision..." and added: **"these are organizational changes that are necessary for operations, with respect to the consolidation it is a decision that has been made, we are here to further it and execute the decision."**<sup>27</sup>

Gildan's actions also breached the Compliance Benchmark regarding Employment Relationship ER.25.2, which requires a clear and transparent system for communication between management and workers' representatives. While Gildan was discussing the possibility of a closure and had a monthly discussion space with the Union, it did not inform

---

<sup>27</sup> Bold font added by the investigators

the workers of the situation until one week before implementation of the closure decision, which points out the lack of transparency and calls into question the company's good faith, particularly when it had been meeting with the Union periodically in prior months and even only weeks before the announcement of the closure.

FLA Compliance Benchmarks establish that, when personnel cuts are inevitable -- be they temporary or permanent -- the company must develop and implement **a plan to mitigate the negative effects of these changes on workers and their communities** (ER.32.4). According to Gildan, it sought to mitigate the negative effects as previously stated. In this respect, although Gildan had a plan, in the opinion of the investigators it cannot be considered to be comprehensive, because it did not include ways to mitigate other aspects that would fundamentally affect workers.

With respect to the plan required by the FLA's Compliance Benchmarks, these benchmarks also **require that the plan be communicated clearly and made public (posted)** and include channels for feedback from workers that would allow them to ask questions and request clarification (ER. 32.5). Gildan and interviewed workers stated that a statement was read to the entire workforce regarding the company consolidation and closure of Star. Workers were called by work teams on June 27, 2019 and they were given the opportunity to hear the news and have the company respond to their concerns. While the statement was in fact read, **it was not subsequently posted within the facility, a fact that was confirmed by management.**

FLA Compliance Benchmark regarding Employment Relationship ER.32.6 establishes that employers must give laid off workers the opportunity to transfer to other plants they own in the country with a comparable salary and make every effort to hire personnel at other facilities in the country. This standard was met because Gildan offered personnel from Star to be rehired at Gildan San Miguel and Gildan San Antonio.

It is worth noting that from the interviews the investigators conducted with workers, while the workers expressed that they had adjusted to their new job center, they are still uncertain about their future and they have no knowledge about what the Union is negotiating or the status of the negotiations; although they have expectations regarding the agreements that could be reached and believe that the transportation routes should be adjusted since some are still convoluted, travel time is long, and they would like more information on the matter and better coordination so that their opinions can be taken into account.

Many of the workers interviewed expressed that they believe the factory closed because of the Union and because companies do not like unions, and that in the plants in which they are currently working, they do not know who their union representatives are and do not know the content of the CBA.

#### **V.5. REGARDING SEVERANCE PAYMENTS**

From the lists provided by Gildan management regarding workers terminated at Star and relocated to Gildan San Miguel and Gildan San Antonio, the investigators selected a sample

of 24 worker personnel files with their corresponding severance payments. Based on a review of the files provided by management, it was observed that the severance payments corresponded to the calculations and the amount required by the L.C. in cases of dismissals, in addition to including payment of other benefits such as the payment of vacations established in the Star CBA.

For the review of the severance payments, the investigators requested help from Gildan HR personnel and a legal counselor to explain the formulas used to determine the average salary, the base salary, and the ordinary salary, which are the inputs for the calculation of benefits. Upon consulting what the legal basis was for the formula, that is, whether there was a standard or instruction manual that establishes the formula, the investigators were informed that the legal basis was a legislative interpretation of subsection b) of Art. 123 of the L.C., which states that the severance pay calculation for dismissal must be made taking into account as a base the average salary earned by the worker on days effectively worked during the last six (6) months that the contract was valid<sup>28</sup>.

The HR Manager informed the investigators that Star did not have automated information systems, and that everything was being done “by hand” – a situation that, for a company of more than one thousand workers, casts doubts on the reliability of the information and for the investigators could constitute non-compliance with FLA Compliance Benchmarks regarding Compensation C.5 and C.6.

The investigators reviewed the calculations in the 24 files taking using the data regarding earned wages and days worked per month, which appeared to follow the law, and did not identify any irregularities. . However, it is not possible for the investigators to guarantee that the information on which these calculations were based was correct, since this would have implied reviewing payroll and timecards, among other documents. This was not possible in the framework of this investigation because the files were at the Star plant in El Progreso.

The calculations of the severance payments are being reviewed by STSS in Tegucigalpa. In the framework of the closure, a team of STSS inspectors arrived at Star and reviewed some calculation onsite<sup>29</sup>, and, subsequently they are reviewing a sample of 300 severance payments calculations to corroborate their compliance with the law. The review by STSS is still in progress, and the ruling by this authority will determine the legality of the payments.

#### **V.5.1. ADMINISTRATIVE GRIEVANCE REGARDING THE ADVANCE PAYMENT OF SEVERANCE AID IN 2018**

As part of the agreement between the Union and Star, within the scope of the implementation of the change from individual work to teamwork that occurred in 2018, workers who decided to continue employment were offered advance payment of benefits (severance and acquired rights) and a guarantee of seniority; those workers who decided not to continue with the company were paid 100 percent of their benefits.

---

<sup>28</sup> Legislative Decree No 65 from 1966.

<sup>29</sup> Inspection act from 07/19/2019 at 2 p.m.

Once the payment was disbursed, the Union filed a grievance with the STSS in Tegucigalpa because they considered -- among other allegations -- that the calculations had not been made pursuant to the law and did not comply with some clauses in the CBA. The STSS in Tegucigalpa designated a labor inspection team to conduct the investigation and verification according to the Labor Inspection Law (hereinafter, LIL). Once the inspection was completed, the labor inspector issued an Acta<sup>30</sup> finding that there were several infractions by the company, among them the existence of differences between the calculations of benefits paid and what was owed workers pursuant to law.

The company was summoned and given a period of five business days to correct the indicated infractions subject to a fine if it failed to comply within the time limit. At the time of the in situ visit, the administrative sanctioning procedure against Star<sup>31</sup> was still ongoing. In such procedure, the company presented its evidence at a hearing held on October 8, 2018 and a resolution is still pending<sup>32</sup>. According to Art. 81 of LIL, the resolution issued is binding with respect of the obligations it contains.

Based on documents and interviews, it was observed that the central point of the discussion regarding the calculations lies with what is considered “days effectively worked” in a system with a 4x4 work shift, such as the one implemented at Star, as this is what causes the variations in the amounts calculated. This issue must be clarified by the STSS when it rules on the calculations by Star in the 2018 case and regarding the closure that are also being reviewed by this authority.

#### **V.6. REGARDING SEVERANCE PAYMENTS TO PREGNANT WORKERS**

In the context of the investigation, Gildan management provided the investigators with the calculations and receipt for the severance payments for pregnant workers and workers on maternity leave affected by the closure. The investigators were only able to review the receipts for severance payments without the employee files because the files were located in El Progreso, as argued by Management. These calculations reflected the payment of the benefits established in the L.C. in cases of dismissal of pregnant workers, that is, amounts paid for prenatal and postnatal leave and severance -- two months’ salary -- corresponding to an unjustified dismissal of a pregnant worker. Gildan informed the investigators that in addition to the payment of the maternity leave to pregnant workers, this benefit would be recognized and paid at the Gildan San Antonio and Gildan San Miguel plants where they would be rehired.

However, as stated above, the fact of not having access to pregnant women’s personnel files made impossible to verify whether the hiring date used to calculate seniority for severance matched that in the signed individual employment contract, so cannot be determinate the compliance or not with FLA Compliance Benchmark ND.8.1 and C.5. The pregnant workers interviewed stated that the payments were correct.

---

<sup>30</sup> Art. 53 LIL

<sup>31</sup> Arts. 54, 55, 56 y 67 LIL

<sup>32</sup> Actas issued by Tegucigalpa Labor Inspection Office and the hiring acta conducted at STTT Tegucigalpa on October 8, 2018.

On July 1 a hearing was held at STSS in El Progreso at the request of five workers with a pending medical disability certification before Social Security. Subsequently another hearing was held on July 5, bringing up the total number of workers to 20; among them there were also pregnant workers. The company informed the investigators that at this hearing it pledged to: a) respect the job relocations due to medical certifications in process with Social Security, b) pay all indemnity due to occupational disease once the female workers presented their corresponding medical certification and calculation, which will be paid respecting their current salary, c) respect the job relocation certificates issued before the labor inspector regarding already rehired female workers, and d) “relocate”<sup>33</sup> the majority of female workers to the Gildan San Antonio plant in San Pedro Sula subject to plant’s availability of job positions at the time of the consolidation, and to not modify the salary of middle management.<sup>34</sup>

During the interviews the investigators became aware of a worker with a medical certification for job relocation before the closure and whose relocation had not been honored at the new plant. This situation was discussed and the company representatives stated that they were evaluating the case because they did not have a position equivalent to the one held by the worker at Star, but she had been placed in a position they considered appropriate. Gildan must comply with certifications for job relocation in all cases, making the necessary adjustments<sup>35</sup>.

#### V.7. VIOLATIONS OF FLA COMPLIANCE BENCHMARKS REGARDING FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING IDENTIFIED IN STAR’S CLOSURE

Freedom of Association is a fundamental right, recognized by the Constitution of the Republic of Honduras<sup>36</sup>, and particularly in ILO Conventions No. 87 and 98 ratified by Honduras and therefore part of the internal legal system<sup>37</sup> with mandatory compliance for private entities as well as for the government authorities.

As a result of Gildan’s decision regarding the closure and liquidation of Star, the following effects were inevitably produced:

1. The dismissal of all members of the Union's executive committee even though their term in office had not concluded, violating the guarantee of job stability and immunity (**fuero sindical**).<sup>38</sup>
2. Star workers covered by the current CBA lost the improvements to their labor conditions achieved by that CBA at Star<sup>39</sup> and were stripped of the Union’s representation for the defense of their legitimate interests, in addition to the

---

<sup>33</sup> This term was used by Gildan’s representative in hiring at the STSS

<sup>34</sup> Copy of Acts subscribed at STSS on July 1 and 5 2019.

<sup>35</sup> Gildan informed that following the Medical Commission requirements, the job position granted in Gildan San Antonio respects her medical *dictamen*.

<sup>36</sup> Arts. 78 and 128 Cn.

<sup>37</sup> Art. 16 Inc. 2o Cn.

<sup>38</sup> Art. 516 L.C.

<sup>39</sup> Among the primary improvements of the Star CBA with respect to the CBA at SM and SA are: prenatal and postnatal leave, paternity leave, aid for death of relative, collective life insurance, leave for marriage, vacation, Christmas basket, increases to salary and the contract term

automatic cancellation of their union membership against their will, *de facto* dissolving the union.

3. Upon rehiring to other plants, the workers were now covered by the existing CBA at these plants, which do not embody the progress of the improvements obtained under the fifth CBA at Star.
4. Unilateral termination of the CBA.
5. Dismantling of the Union at Star, loss of their grassroots base, representation of workers, union dues, etc.
6. The Union lost its capacity for action.
7. Material damages: Economic costs to the Union in the framework of the closure and the remaining processes.

FLA Compliance Benchmarks regarding Freedom of Association and Collective Bargaining FOA 8.2, in line with the parameters of the ILO Committee on Freedom of Association<sup>40</sup> in application of Conventions No. 87 and 98 regarding protections for Freedom of Association and Collective Bargaining, establish that it is the **obligation of the employer to provide evidence to show** the validity of the reasons for the closure when there is the question that this may have occurred to harm the legitimate exercise of the right to freedom of association.

In this sense, the documents provided by Gildan regarding the reasons for the closure only confirm the information provided to the Union, and do not provide any additional evidence that could be evaluated to expand the justification for the measure.

On the contrary, the elements pointed out in this report regarding Gildan's behavior in communicating the decision to the Union without the required advance notice<sup>41</sup>, not taking into consideration the effects of the unilateral termination of the CBA, and the automatic dissolution of the Union that the closure of Star would entail, among other aspects, as well as the lack of evidence provided by Gildan regarding valid and duly justified motives for the action, leave for the investigators no doubt that FLA Compliance Benchmark FOA.8.2 was violated.

Finally, the Compliance Benchmark regarding Freedom of Association and Collective Bargaining FOA.19.1 establishes that: "The employers, unions and workers will honor in good faith, for the term of the agreement, the terms of any collective negotiation to which they have agreed to and signed." Gildan ignored the fact that a CBA that created obligations for both parties existed, the unilateral breach of which would carry serious liabilities. There is no evidence of any effort to live up to this standard prior to June 26, one week before initiating the execution of the consolidation. Therefore, in the view of the investigators, this standard was also violated.

---

<sup>40</sup> General Study regarding Freedom of Association and Collective Bargaining. ILO Committee of Experts for the Application of Conventions and Recommendations from 1994. Paragraphs 217 and 218. And, Digest of Decisions of the ILO Committee on Freedom of Association. Fifth Edition revised in 2006, paragraph number 819.

<sup>41</sup>Letter signed by Gildan addressed to the Union from 07/15/2019.

### V.7.1. TERMINATION OF EMPLOYMENT CONTRACT BY MUTUAL AGREEMENT AND SIGNING OF SEVERANCE PAYMENTS

The investigators found in the documents provided by the company and in the interviews conducted with the affected parties that the workers who received their severance between the date of the announcement of the consolidation and July 25 signed a document for contract termination by **mutual agreement**, even though ending the employment relationship or continuing to work for Star “was not an option”; what was optional for workers was whether to be rehired at other plants. Gildan gave the workers a deadline to accept the offer in order to avoid reaching the final date, which is what happened with the group that stayed until July 26 and 27.

The investigators view it as necessary to point out that the figure of a mutual agreement hide a unilateral termination of the employment contract (which is how it should have been documented and recorded). The legal consequences for workers are different in both cases. While it is true, a mutual agreement is a cause for termination, it is based on the "will" of the parties; that is, of your free consent as long as you can decide to do it or not, that option was not available to Star workers.

Furthermore, all Star workers, including those who signed by mutual agreement, also signed a document called “payment letter and solvency settlement” through which they acknowledged receiving the amount of the severance payment -- while at the same time freeing the company from any responsibility under the following terms: ***“I free the above mentioned company of all Legal-Labor claims, past, present and future which could be derived from the employment relationship we had, as well as from the payment of the compensation in lieu of notice (preaviso), proportional severance aid, vacations, proportional vacations, proportional thirteenth month covering the Christmas bonus, proportional fourteenth month covering social compensation, wages and compensation for occupational health risk or work accident, prenatal and postnatal leave, compensation for maternity and lactation.”***

From the same text we can see that the signature of the worker was not optional because it was included in the same body with the receipt for payment (payment letter) and if the worker did not sign, he or she would not receive a check.

The above was confirmed through interviews with workers. In general, the workers expressed that they understood that they had no choice and therefore agreed to sign the mentioned document, but that they were not threatened into doing so. Only the interviewed workers who received their severance on July 26 and 27 stated that the HR Manager threatened that they would be held in contempt of authority if they did not sign their severance document. When consulted by the investigators, the HR Manager responded that she did mention to workers that they would be in contempt of authority, but that it was not done in a disrespectful way, but rather because if they did not pick up their severance payment, she would have to remit their checks to the Ministry of Labor.

Recall that FLA Compliance Benchmark Employment Relationship ER.19.3 establishes that: “The employers will not force workers to sign (...), waivers of responsibility or consent

forms with respect to other rights as a condition to receive their severance payment or other complementary benefits from the company, and shall not threaten to hold back complementary benefits if workers do not sign.”

Likewise, it was confirmed through statements from workers as well as from management that Star had not provided workers a copy of the letter or of the calculation sheet for subsequent verification.

## **V.8. OTHER FINDINGS**

### **a. Rehired workers did not receive a copy of their employment contract**

The investigators had access to 534 employee files for rehired workers, 200 from Gildan San Antonio and 334 from Gildan San Miguel; from these files they reviewed approximately 100. It was noted that the files only included the new contract, documents related to the induction process, and personal documents for each worker. Their contracts are for an indefinite period and a probationary period was not included; however, the investigators identified that even though the files state that the workers received a copy of the contract, worker interviews confirmed that none of the workers had in fact received them.

When Gildan representatives were consulted, they admitted that this allegation was correct but expressed that delivery of the contracts was part of a process and the company would be providing them to workers in the following days. By not providing a copy of the contract the company is violating the requirements of Art. 36 of the L.C. that states that the contract must be drafted with as many copies as the number of interested parties.

### **b. Allegation of dismissal of a worker (union delegate) at Gildan San Miguel**

During the visit to San Pedro Sula, the investigators received information from a worker alleging he was dismissed from Gildan San Miguel for reasons unrelated to the Star closure. One of the investigators interviewed the worker over the phone and he stated a series of facts that, in that investigator’s opinion, made it evident that the dismissal was based on anti-union motives and that it was agreed by the Union at that plant and the company because he had “crossed the established line.”

The investigators requested information from Gildan on two occasions from different representatives about the individual, and his name was provided to Gildan. Even though Gildan staff said they would look into the case, the investigators were not provided information or an explanation of what happened, nor did Gildan staff provide information about the worker’s position within the factory. Thus, it was not corroborated as to whether in fact the individual was a worker at the plant.

After the in situ visit, the investigators received documents regarding the termination of the worker by the HR Manager at Gildan San Miguel on July 10, 2019; as stated in the letter, it is a dismissal without justification<sup>42</sup>. Additionally, investigators also reviewed a

---

<sup>42</sup> Simple copy of worker termination letter, signed by the HR Manager for Gildan San Miguel, from July 10, 2019



copy of the act of the conciliation held on July 9<sup>43</sup>, where no agreement was reached. The day of the hearing, in the evening, the worker said he had received a call from an unknown telephone number, threatening him and giving him a deadline of 24 hours to accept the dismissal from Gildan.

At the time this report was being drafted and finalized, the FLA was informed that Gildan had investigated the allegations and that on September 9 the worker was reinstated to his former job, his seniority was respected, and he received payment of his salary since his dismissal.

---

<sup>43</sup> Closing Act for conciliation proceedings before STSS in San Pedro Sula dated July 9, 2019.

## VI. CONCLUSIONS

1. The dismissal of members of the SITRASTAR Board, the dissolution of the Union, and the unilateral termination of the Star CBA, resulting from the closure of operations at Star decided by Gildan, constitute a serious and irreparable violation of the right to freedom of association and collective bargaining, recognized by the Constitution of the Republic of Honduras, the Honduras L.C., ILO Conventions No. 87 and 98 (ratified by the Honduran state and therefore embodied into the legal system of the Republic) and the standards regarding Freedom of Association in the FLA Code of Conduct and the following Compliance Benchmarks regarding Freedom of Association and Collective Bargaining: FOA. 1, 2, 7, 8.2 and 19.1.
2. Gildan did not comply with the legal procedure required by Arts. 101, 102 and 111 of the L.C. for the closure of the Star plant. The intervention by the STSS was initially the result of a complaint by SITRASTAR regarding the announced closure and later by Star when it requested the presence of the STSS to witness the notification of the Union and the workers about its decision. Gildan notified STSS Tegucigalpa about the closure after it had already started the implementation of the closure.
3. The role of the STSS in the Star closure was limited to witnessing the processes of notification and personnel termination, as well as facilitating in some fashion dialogue with the Union in the course of the implementation of the company's decision.
4. Although Gildan had a plan for the closure, the decision was not consulted previously with the Union and other options were not considered jointly; Gildan only communicated the decision already made by company officials.
5. Notification to workers regarding the closure was only transmitted verbally; it was not posted in visible areas of the factory.
6. The initial proposal made by Gildan regarding the measures to mitigate the negative impact of the closure and the severance package did not take into account special cases of workers with health conditions, pregnant workers, and workers on maternity leave or breastfeeding, among others. However, through dialogue with the Union, progress has been made since on specific agreements for these categories of workers.
7. There are two issues pending before the STSS in Tegucigalpa regarding Star, one regarding the calculation of the advance for severance disbursed in April 2018 and the other regarding the calculation of severance payments provided in the context of the closure. The STSS in El Progreso sent a sample of 300 severance payouts to Tegucigalpa for revision, pending resolution.
8. Gildan does not have consolidated data about what has occurred to each of the former Star workers. The information provided to investigators is not uniform and

due to the fact that the rehiring is still in process and/or that information has not been updated, the database is not reliable. The files are at the Star plant and the termination documents have not been incorporated into the database.

9. Rehired workers are currently still in a stage of adaptation to their new work environment. As described by those interviewed, they still have doubts and unanswered questions about what Gildan and the Union might agree to and have clear concerns about their future. It should be pointed out that workers expressed uniformly that they have been treated well, and Gildan should be recognized for that.
10. Many workers interviewed are concerned about their job stability and have no knowledge about the terms of the conversations with the Union. Some only have knowledge about the company's view of developments. The majority no longer have any communication with the Union and at the same time note there are many rumors that can affect the credibility and legitimacy of the members of the Board.
11. Some workers expressed problems with the transportation to the new plants where they are now working. They request that the routes be adjusted so that they may arrive home in a reduced amount of time, adding that they believe this is possible.
12. The total number of dismissed workers in the framework of the closure process was 1126, according to the provided information. Of these workers, 334 were relocated to San Miguel and 200 to San Antonio; the outcome of the rest is uncertain mainly because the rehiring process is still ongoing.

## VII. RECOMMENDATIONS

1. Gildan should provide all workers affected by the closure of Star, whether they are rehired or not, an additional compensation amount to offset the serious effects they suffered. That additional compensation should be of two types: one for members who lost membership in their Union and thus the benefits of the CBA, and the other for non-members who were also affected by losing the benefits of the CBA but were not part of the Union membership. This is not intended to be a discriminatory measure, as the losses faced by each group are different: the members lost more than the non-members, so they are not in the same condition, and the compensation should be higher for them.
2. Gildan should cover all costs incurred by the Union related to its liquidation and in facing the closure process, in addition to the payment of compensation for each union officer for the loss of immunity (*fuero sindical*).
3. Gildan should make an announcement as soon as possible, through mass communication media, with the offer to hire workers who received their severance on July 26 and 27, stating the place, date, and time for those interested to attend and who express their interest in being rehired.
4. Gildan should provide a copy of the signed severance payment receipt to all affected workers as well as the new employment contract to all rehired workers.
5. Gildan should gather and automate all data related to the Star closure in reliable databases that permit the identification of the 1126 workers affected by the closure, correctly identify the place where they were rehired, and the total number of workers who were not rehired – in the latter case indicating whether it was because they were not interested or for another reason. In addition, the database should include clear and precise identification of the different categories of workers.
6. Gildan should guarantee and respect the seniority of Star workers who were rehired in Gildan's other plants.
7. Gildan should identify the files of workers affected by the Star closure who were rehired at the Gildan San Miguel and Gildan San Antonio plants, in order to follow up with those workers for any other investigations and/or verification and so that their work history is not lost.
8. Gildan should guarantee suitable positions for workers with special conditions, such as: workers with a certificate for job relocation, workers with a disability, pregnant workers, etc., and in general comply with commitments regarding these workers made with the STSS.
9. Gildan should revise transportation routes and make the necessary adjustments in order to address the needs of the workers.

10. Gildan should offer the members of the Union Executive Committee the option to be rehired at Gildan San Miguel or Gildan San Antonio based on their free choice.
11. Gildan should guarantee that all workers from Star rehired at Gildan San Miguel and Gildan San Antonio can exercise all of their rights, without any limitations other than those established by law.
12. Gildan should not retaliate against the worker who was fired from Gildan San Miguel and was then reinstated during the course of this investigation.
13. Gildan management should read a statement regarding respect for freedom of association and collective bargaining at the Gildan San Miguel and Gildan San Antonio plants, in front of witnesses such as the FLA and Honduran civil society organizations. The content of this communication should be defined jointly between Gildan and the FLA.
14. Gildan (with oversight from the FLA) should conduct a review in six months to examine the elements established in the present investigation that will ensure employment continuity for workers rehired at Gildan San Antonio and Gildan San Miguel, whether their seniority has been respected for the purpose of the calculation of the payment of their benefits<sup>44</sup>, whether a copy of their termination documents was provided to workers, whether their files were completed, and concerning the STSS determination of the accuracy of the calculations and payments for advances for severance aid for 2018 and for the closure, and payment of maternity benefits to pregnant workers at the plants where they were rehired, among others.
15. Gildan should review and amend the company's policies and procedures in order to establish processes and clear terms for termination of employment contracts due to permanent closure or company liquidation and guarantee communication and effective negotiation with worker representatives.
16. In case an agreement is reached with the Union, Gildan should post the agreement to inform all of the workers.

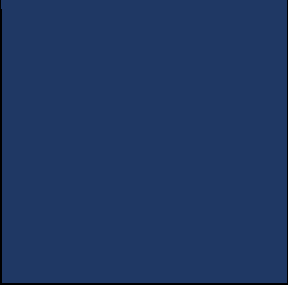
---

<sup>44</sup> For example: Annual leave (Art. 346 L.C.)

## APPENDIX

### Detail of interviews and reviewed documents

Interviews conducted outside of the Gildan San Antonio factory	3 group interviews with SITRASTAR, with the participation of the members of the Executive Committee (President, Vice-president, Secretary General, Recording Secretary, Legal Counsel and Treasurer)
	1 interview with the Local Coordinator from the Ministry of Labor in El Progreso
	1 interview with 3 representatives from <b>Equipo de Monitoreo Independiente de Honduras (EMIH)</b>
	1 interview with a representative of Worker Rights Consortium (WRC)
	7 interviews with Star workers who accepted their severance payment but not their relocation
	1 interview with the CUTH Secretary General
	1 interview with terminated worker from Gildan San Miguel
Interviews conducted at the Gildan San Antonio factory	2 interviews conducted with Management with the participation of Gildan CSR Officer, Officer responsible for Gildan Sewing Plants in Honduras, Officer responsible for Gildan Human Resources in Central America, the Human Resources Manager for Gildan Villanueva, the Senior Human Resources Manager for Sewing, Gildan's Labor Affairs Counsel, Legal Counselor and Human Resources Manager from Star.
Interviews with workers relocated to Gildan San Miguel and Gildan San Antonio	45 interviews classified as follows: - 31 women (12 at Gildan San Antonio and 19 at Gildan San Miguel). From this sample of 31 women, 4 were pregnant and 1 had a medical disability certification - 14 men (7 at Gildan San Antonio and 7 at Gildan San Miguel) Of the 45 interviews with workers, <b>9 workers belonged to SITRASTAR.</b> 1 worker from Gildan San Miguel (union delegate)
Reviewed documents	Procedure for employee retrenchment at Gildan
	Procedure for freedom of association at Gildan
	Collective Bargaining Agreement for Star
	24 employee files from Star and their severance receipts
	100 files for rehired workers
	18 severance receipts for pregnant workers
	Documents relating to the closure: presentation prepared for the Union regarding the closure, information regarding the lease agreement for the Star plant, information about production at Star since the decisions of 2018 and 2019, etc.
	List of workers terminated due to the Star closure; list of pregnant workers and workers on maternity leave affected by the closure.
	Acts from the Ministry of Labor
Acts regarding communications between Star and the Union	

	Notarial acts of negotiation meetings held between Star and the Union in the framework of the closure
	Proposals by Star and the Union in the framework of the negotiation of labor benefits encountered in the framework of the collective negotiation.
	List of personnel relocated to the Gildan San Miguel and Gildan San Antonio plants.
	Copies of the severance receipts for the Executive Committee at Star