1. Introduction

This report reviews the process of affiliation and negotiation of a collective agreement between the company Gildan DORTEX and the union Sitragil (affiliated to the Federation CITA Sindical), pursuant to the terms of reference and contract among the parties: Fair Labor Association (FLA), Worker Rights Consortium (WRC) and Fundación Laboral Dominicana (FLD).

2. Methodology

The review was conducted between March 22 and March 27, 2010, using the following methodology:

a. Review of the documentation from both unions and affiliation cards used by Sitragil to prove absolute majority of members (50% plus one) that allowed them to enter into the process of collective bargaining;

b. Interviews with company representatives involved in the process of verification of the majority of affiliation and the process of negotiation and collective bargaining;

c. Interviews with general secretaries of both worker unions: Sitragil and Sitragildan;

d. Meetings with unions and federation representatives to which both unions of the company are affiliated: Sitragil-CITA Sindical and Sitragildan-Fedotrazonas;

e. Interviews with workers affiliated to both unions;

f. Random interviews with members of the union that achieved the majority for collective bargaining;

g. Technical analysis was done on the legal process followed by Sitragil to reach a Collective Agreement on Labor Conditions with the company Gildan DORTEX;

h. Ministry of Labor consultation, specifically with the Department of Mediation and Arbitration, that allowed us to learn their views as well as precedents and possible resolution in similar instances.

3. Interviews with Gildan DORTEX’s representatives

3.1 Regarding the verification process of Sitragil’s majority affiliations

Three company representatives were interviewed: Human Resources Manager, Production Director, and Process Engineering Director. The three interviewees were involved in the entire process of negotiations of the collective agreement.

Factory management describes the negotiation process as agile and devoid of major difficulties. The Human Resources Department was responsible for verifying that the affiliation documents presented by Sitragil represented a majority of the workers. At the time the list showing that Sitragil had a majority, the factory had 1052 workers on the payroll, of which 897 were apt to be

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1 See described process of the judicial analysis in section 7.
unionized; therefore the majority threshold to enter into collective bargaining would be no fewer than 450 workers affiliated to the union.

The Human Resources Department indicates that despite being notified several times by Sitragil that it had reached the majority threshold, it was not until January 28, 2010, that Sitragil submitted a list which was validated through a review of list of affiliates and that the affiliation cards were not used as a reference to validate them.

It is opportune to clarify that the list of affiliated workers contains only the names, and the Identification and electoral registration number for the affiliated worker. The affiliation card contains information regarding the affiliated individual, including his or her signature signifying affiliation with the union and authorizing the union to represent him or her before the company.

3.2 About the collective bargaining of the working conditions process, Sitragil-Gildan DORTEX

The negotiation of the collective bargaining agreement took place between February 11 and February 26, 2010, as recorded in the minutes of the collective bargaining process. The following delegates participated in the negotiations:

For the Company:
- VP Senior Manufacturing
- Country Manager, assisting the VP Senior Manufacturing
- Human Resources Manager
- Process Engineering Director
- Production Director
- Gildan DORTEX Attorney

For Sitragil:
- General Secretary, Sitragil
- Education Secretary, Sitragil
- CITA-Sindical President
- International Affairs Manager, CITA-Sindical.

The three company representatives interviewed, chosen as a sample (Human Resources Manager, Process Engineering Director, and Production Director), were present throughout the collective bargaining process. The Human Resources Manager headed the negotiations representing the company, in addition to being the liaison between Gildan DORTEX and Sitragil.

The Production Manager and the Process Engineering Director evaluated the collective bargaining process as agile, although they expressed not to be experienced regarding this kind of negotiations. Nevertheless, they concluded that the negotiations were carried out harmoniously, even in situations where there were conflicting positions related to the economic aspects, but agreements were always reached, after discussion among the parts.

The Human Resources Manager evaluates the negotiations as successful, with both parts yielding in situations that were considered as controversial and ultimately reaching consensus agreements. She explains that the process was even faster because they took advantage of one week off when the company was temporarily closed to carry out negotiations, as the process of selection of delegates had been completed.

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2 See Appendix 2, Document No.001, which contains minutes of a meeting regarding collective bargaining on working conditions between Gildan DORTEX/Sitragil dated February 11, 2010
According to the Human Resources Manager, a crisis began at the factory with the company’s announcement that the collective bargaining agreement had been reached. The union Sitragildan reacted alleging disinformation about the process\(^3\) not only with respect to obtaining 50% plus 1 of affiliates but also with respect to the collective agreement. Similarly, worker complaints began regarding the appearance of his/her name in the list of Sitragil’s affiliated members, with some of them arguing that they had not affiliated\(^4\).

The Human Resources Department representative stated that they recommend workers to approach Sitragil and clarify any situation and reiterated the company’s position to respect freedom of association and the workers rights to affiliate or not to a union. This information is corroborated by the interviewed workers. It is important to point out that the collective bargaining agreement reached by Sitragil and Gildan DORTEX is posted in the bulletin board at the company cafeteria for all workers to see. Likewise, during the interview, the representative of the Human Resources Department reported having conducted sessions with workers on the most relevant aspects of the collective agreement.

In reference to the conflict generated by Sitragil reaching 50% plus 1 of the affiliations and Sitragildan’s position, the Human Resources Manager states that such position is not surprising. She argues that since its inception, the latter union has chosen to raise grievances and complaints to the Ministry of Labor\(^5\) and indicates that currently there are strong contradictions between both unions, manifested through spreading offensive flyers, accusations against each other, and even strong arguments between the parties.

4. Interview with Sitragil

Positions of the General Secretary, workers affiliated with Sitragil and CITA-Sindical Federation representatives

An initial meeting was held with the Sitragil General Secretary and through him, FLD requested a meeting with some union members and representatives of CITA-Sindical Federation, to which Sitragil is affiliated and whose delegates were active participants in the collective bargaining process.

About the affiliation process, the general secretary, Sitragil members, and CITA-Sindical indicate that the affiliation process was arduous, that they made visits to workers at their homes to promote the union and seek affiliations. CITA indicates that they did not get involved in the process of filling out affiliation cards with respect to Sitragil affiliations. Workers/members of the union are the ones who gathered from affiliates the cards to obtain 50% plus one. They indicate that part of the strategy to obtain affiliates was to conduct promotional activities in public places, encouraging workers to affiliate to the union. In addition they distributed flyers at the stops of the company’s buses.

They state that in order for Sitragil to obtain the recognition of 50% plus one of the workers, they had to submit the list of affiliates to the company twice, due to some difficulties that arose\(^6\), which where successfully overcome, with Sitragil obtaining approximately 460 affiliations, and membership continues to grow.

The CITA-Sindical Federation representative explained in detail the process that was followed prior to the collective bargaining, describing it as transparent and consistent with the law. He states that prior to the start of collective bargaining, they held an Assembly to amend the statutes, at which assembly they made certain changes to representativeness, as it was was too expensive to bring together more than 200 workers. After the approval of the amendments, the Assembly is constituted by approximately 33 delegates, representing the different work areas. Thus,

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\(^3\) In subsection 7 we refer to the legal notifications between Sitragildan and Gildan DORTEX, 
\(^4\) Legal repercussions are addressed in subsection 7. 
\(^5\) Referring to the complaint filed by Sitragildan against Gildan Activewear Dominican Republic Textile Company Inc before the office of Mediation and Arbitration, Ministry of Labor, dated February 19, 2010, concerning violations to the labor law. 
\(^6\) See section 7 for legal analysis of the process of obtaining majority.
28 delegates out of 33 discussed and approved on November 21, 2009 the list of demands to be submitted by Sitragil to Gildan DORTEX in the collective bargaining. Likewise, as stated in documentation provided by the company, the negotiating committee for the collective agreement was chosen.

They further reported that the start of collective bargaining was notified to the Ministry of Labor, but that the Ministry did not send any representation to monitor the process because they considered that the absence of conflicts between the parties in the negotiation meant that their presence was not absolutely necessary.\(^7\) CITA-Sindical and Sitragil expressed that they do not have anything to question about the process, that they consider it to have been successful, that it resulted in the achievement of significant gains for workers, and that they restate their commitment to the collective agreement above any particular or parochial interest.

About the conflicts that have arisen as a result of the Collective Agreement; their position is firm. They accuse Sitragildan of having intentions to harm the image of the Sitragil union and the Cita Federation; they also question the role Sitragildan along with Fedotrazonas (the Federation to which Sitragildan is affiliated) play as trade unions, accusing them of having alliances with international organizations promoting the closure of companies in the country, so investments are driven toward North American territory.

With respect to affiliation cards and worker complaints, they indicated that they have information about some worker complaints, which they attribute to two basic reasons: Some workers, after the conflict between Sitragil and Sitragildan begun, have felt fearful and have denied their affiliation to Sitragil. Another reason they attribute to Sitragil is that they accuse Sitragildan of sleight of hand, infiltrating a Sitragildan affiliate into Sitragil to harm the affiliation process. In any event, they express that those individuals who complain that their signatures have been forged must submit documents to prove it, since this it is a very delicate accusation.

Concerning the accusation that there are workers who are affiliated with both unions; the representative of CITA-Sindical expresses that those who have dual affiliation will be expelled from Sitragil.\(^8\) Some of the Sitragil affiliates present at the meeting expressed surprise that this situation had arisen, because they affiliated voluntarily to the union.

They explained that the financial resources that have been used to finance Sitragil's promotion of affiliations was provided by CITA-Sindical, and that neither contributions nor union dues were requested of workers, as they consider that workers prefer not to join a union where dues are charged. One of union members in attendance described the advantages gained by workers in the collective agreement and even reported that there have been fewer company layoffs and more tolerance since the creation of Sitragil and the signing of the collective agreement.

At the end of the meeting, we individually interviewed ten people from those convened by Sitragil; four of them did not appear in the list of Sitragil affiliates provided by the company, although they expressed in the interviews that they are its members. One of the Sitragil affiliated interviewees preferred to remain anonymous.

5. Interview with Sitragildan

Positions of the General Secretary, workers affiliated with Sitragildan and representatives of Fedotrazonas-Sindical Federation

The positions of the General Secretary of Sitragildan coincide with those of representatives of Fedotrazonas with respect to the affiliation process, reaching of majority for collective bargaining and the collective bargaining agreement.

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\(^7\) Irrespective of whether or not there were contradictions between Sitragil and Sitragildan, these had not been notified to the Ministry of Labor of the Dominican Republic at the time of signing the collective agreement.

\(^8\) It is the statutes of the trade unions that set out the causes for which a member may be expelled with due justification, since the union can be held accountable before the courts if it is found that the expulsion was not carried out for justified or valid reasons.
They indicated that the process was not transparent; affiliations were carried out by Sitragil leaders using a list of workers in the factory which they claim was given to them by the company, although they do not have documented evidence. Sitragiland’s General Secretary holds this position as he understands that only the company has personal information about the workers.9

Sitragiland did not claim to have a majority of workers affiliated with it. They state that Sitragil has not reached a real majority either, as it used fraudulent means to do so.

In a meeting with FLD, workers affiliated with Sitragiland expressed that there are about 141 workers affiliated with Sitragil who are actually on the list of workers affiliated with Sitragiland, as were able to verify in their records. Sitragiland also presented documentary proof regarding workers affiliated with Sitragil who claim that the signatures appearing on the affiliation documents have been falsified. At the end of the meeting, 10 workers convened by Sitragiland were interviewed who argued that although they appear as affiliated with Sitragi, the signatures on the affiliation cards are not theirs. These workers presented a copy of their personal identification documents to prove the differences in the signatures.

Regarding the collective bargaining negotiations between Gildan DORTEX and Sitragil; Sitragiland and Fedotranzonas affiliated expressed that it is not true that Sitragil held an assembly to inform about the union’s positions going into the negotiations and that Sitragil affiliates are not aware of the topics discussed in the negotiations and contained in the agreement. They stated that workers knew about the agreement after it was made public by the company in the factory.

They argued that the affiliation process was accelerated because the company was concerned that Sitragiland was getting close to the majority needed to enter into collective bargaining and the company decided to propel Sitragil as a union affiliated with Cita-Sindical. They questioned Cita-Sindical stating that it is a federation that organizes workers with companies’ support and agrees to collective agreements that are comfortable for management. They made reference to situations in other companies in free trade zones where they are convinced the same has occurred concerning the mentioned trade union federation.

5. Direct Interviews with Workers

During the week from March 22 to March 27, 2010, while gathering information about this case, approximately 66 random interviews with workers were conducted, of which 46 corresponded to workers in the factory from the four shifts, A, B, C and D and 20 outside of the factory. Of the 66 workers interviewed, 16 were contacted without Sitragil affiliation cards and 50 were contacted using the affiliation cards as a way to verify Sitragil affiliation.

The procedure to select the sample in the factory was as follows. Out of the total of approximately 477 Sitragil affiliation cards supplied by the company, we randomly selected 12 cards for every shift, seeking to cover 10 % of the members. The information supplied in the affiliation cards was confirmed in the company’s payroll. With a set of questions as guide, we interviewed the workers and used the affiliation cards to verify the information provided.

The interviews were a great challenge, as the information that appeared in the affiliation cards not always matched with the one in the payroll. This meant that workers could not be located in the positions and shifts that appeared on the cards. Although this situation was not generalized, we can affirm that it was important, since it delayed the completion of the review.

It is important to clarify that the interviewees listed as anonymous are workers who were interviewed randomly, to replace those who could not be located with the information shown in the cards at the time of the interviews.

9 Art. 15 of Regulation 258-93 of the Labor Code requires employers to submit such documentation to the Department of Labor. In accordance with the general free access to public information law, once submitted to a public institution, such information can be requested in writing to the Department of Labor by an interested party.

10 The number of workers reported to the Ministry of Labor in order to establish a majority for collective bargaining Sitragil/Gildan DORTEX was 460 affiliations, nevertheless the list provided by the company for this verification process had 477 names.
5.1 Population interviewed directly inside and outside of the factory

<table>
<thead>
<tr>
<th>Description</th>
<th>Anonymous (Within total)</th>
<th>No. of Interviewees</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Interviewed in the factory with affiliation cards</td>
<td>7</td>
<td>34</td>
</tr>
<tr>
<td>2 Interviewed in the factory randomly, without affiliation cards</td>
<td>1</td>
<td>12</td>
</tr>
<tr>
<td>3 Interviewed at Sitragil</td>
<td>1</td>
<td>10</td>
</tr>
<tr>
<td>4 Interviewed at Sitragildan</td>
<td></td>
<td>10</td>
</tr>
<tr>
<td><strong>Total Interviewed</strong></td>
<td><strong>8</strong></td>
<td><strong>66</strong></td>
</tr>
</tbody>
</table>

In the case of workers interviewed at the meetings held with the unions and their federations, the interview selection was by open notification. At the end of each meeting, participants were informed of the interest in conducting ten individual interviews from each organization. On a voluntary basis, we interviewed 20 workers. Of this total, 16 had Sitragil affiliation cards. Four (4) stated that they were affiliated with Sitragildan but appeared in Sitragil's list, that is to say there was double affiliation, three stated that they were affiliated with Sitragil did not appear in the affiliation list supplied by the company for this verification and one (1) worker was anonymous.

5.2 Workers affiliated with Gildan DORTEX unions interviewed directly outside of the factory

<table>
<thead>
<tr>
<th>Description</th>
<th>Interviewed at Sitragil</th>
<th>Interviewed at Sitragildan</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Number of interviewees</strong></td>
<td>10</td>
<td>10</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Status of the interviewed</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Affiliated with Sitragil with affiliation cards</td>
<td>6</td>
<td>10</td>
</tr>
<tr>
<td>2 Dual affiliation Sitragildan/Sitragil</td>
<td></td>
<td>5</td>
</tr>
<tr>
<td>3 Express to be affiliated with Sitragil and do not appear on affiliation cards</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>4 Anonymous</td>
<td></td>
<td>1</td>
</tr>
</tbody>
</table>

Observing the data in the previous tables, the total number of interviewees with affiliation cards was 50 workers, of whom 16 were interviewed in the union offices and 34 in the factory.

For the purpose of the analysis that follows, we will take as a sample the 50 workers that were interviewed directly and from whom we have their affiliation cards with Sitragil.

Out of the total of 50 affiliation cards used in the interviews, 31 workers, corresponding to 62 %, stated that they had not filled out affiliation cards and that the signatures that appear at the end of the cards do not correspond to theirs. Nineteen (19), 38 %, stated that they were affiliated with Sitragil. Finally, five (5) of the interviewees who appeared in the records as affiliated with Sitragil stated that they are affiliated with Sitragildan. 11

5.3 Interviews with workers at Gildan DORTEX with Sitragil affiliation cards

<table>
<thead>
<tr>
<th>Description of Interviewees</th>
<th>No. of Workers</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Confirm Sitragil affiliation</td>
<td>19</td>
<td>38%</td>
</tr>
<tr>
<td>2 Registered in Sitragil’s affiliation cards, but deny their affiliation and assure that the signature in the card is not theirs.</td>
<td>31</td>
<td>62%</td>
</tr>
</tbody>
</table>

11 See Appendix 8 for a list of interviewees list during the process of verification of affiliation with Sitragil and Gildan DORTEX/Sitragil collective bargaining process
In the interviews with the workers, the following information was gathered:

- Regarding the 31 workers whose names appeared as Sitragil affiliates who indicated that they had not filled or signed the affiliation cards, they state that they had only heard rumors within the factory of the existence of a union. They state that they have not ever taken part in any meeting or assembly. They do not know the General Secretary or the members of the Board of the union. They also state that they found out about the Collective Agreement through the Human Resources Department which held a general meeting to report on the most important aspects of the Agreement.

- Only the Sitragildan-affiliated workers who were listed as Sitragil affiliates stated that they knew about the existence of Sitragil; some of them know about so-called recreational activities sponsored by Sitragil to get members.

- Eight (8) of the 31 workers who are listed as being affiliated with Sitragil but claim not to be members provided copies of their identity documents as proof that their signature is not the one that appears in the cards that contain their information. Another ten (10) showed their identity documents and / or signed on a sheet of paper to demonstrate that it is not their signature that appears in the records.

- Eight (8) of 19 Sitragil-affiliated workers interviewed stated that they had had the opportunity to participate in union meetings. The rest of stated that due to work and family issues they had not been able to attend. The same number of interviewees stated that the affiliation problems that have arisen are the result of individuals becoming afraid after having signed the card and deny their affiliation.

- Eleven (11) of 19 Sitragil-affiliated workers interviewed indicate that they knew the list of demands and the collective agreement after it was signed. A minority claims that they heard about the collective agreement through the union leaders and most of them, like other factory workers, through the announcement by Gildan DORTEX’s Human Resources Department.

6. About information gathered randomly in the factory

Although the interviews were conducted using a guide, the random interviews outside of the affiliations cards records were intended to provide an element to measure workers perception regarding the situation generated by the affiliation or non-affiliation to Sitragil, the campaign to attract affiliates to reach majority, the collective bargaining process and subsequently the Collective Agreement on Working Conditions.

Twelve Gildan DORTEX workers who were not selected in the random sample were interviewed; 7 of the interviews were anonymous. Following is a summary of their statements, from the process of gathering members to the time when the signed collective agreement between Gildan DORTEX and Sitragil was made public.

According to interviewees' opinions, which were not documented or verified by FLD, developments were driven by an agreement between the company and Sitragil’s General Secretary. They assume that the affiliation process was done with a list of workers that the company provided to the General Secretary so that he could fill out cards for the 50% plus one of the workers apt to be unionized as only the company’s Human Resources Department has the personal information of all and in this way lead to a collective bargaining agreement that even if it brings some benefits for the workers, causes no harm at all to the company. Workers interviewed assert that the fact that collective bargaining negotiations were happening was not known within the factory.

Interviewees state that when they returned from a one-week closing of the factory for a week, the Human Resources Department called for a meeting to inform workers that the company
and Sitrail had signed a collective agreement on working conditions. This view was corroborated by interviews with workers affiliated with Sitrail.

Regarding the problems that have arisen with affiliation cards, interviewees state that after the collective agreement was announced, someone began to circulate a list with the names of Sitrail affiliates, and this is when the problem occurred. Some individuals found their names on the list even though they had never filled an affiliation card and word spread out among the workers in other shifts. Later on, during a meeting held by Human Resources where the agreement was explained and the company announced its position to respect workers’ rights to join or not to join a union, workers challenged the Human Resources representatives regarding the list with the names and signatures. Human Resources representatives separated themselves from the process, stating that such information should be provided by the union, saying that the company does not involve itself in the affiliation process of any of the existing unions. The interviewees state that there is much dissatisfaction with the lack of information over the affiliations to the union. Some workers stated that they do not wish to participate in either of the unions and want to find the mechanism to verify whether or not they appear on Sitrail affiliation list and to get their name taken out of such list.

Based on this testimony, we could verify that workers are demanding information related to affiliations to Sitrail, as the information that they have received comes from rumors. During our stay at the plant, persons whom were not part of the sample approached us to ask if we had the list of affiliates, because they wanted to verify the truth of the rumors. Some were more moderate, others were visibly annoyed; but generally speaking, it became clear that a real problem exists around the affiliation process and the majority affiliation reported by Sitrail to achieve the negotiation and the Collective Agreement.

7. Analysis of the legal process of union formation and registration, obtaining majority, negotiation and collective agreement Sitrail-Gildan DORTEX

7.1 Union formation and registration verification process

Based on a comparative analysis of the actions executed by Sitrail for formation of the union and what is established in the Labor Code of the Dominican Republic, we could verify that the formation of the union Sitrail and its registration with the Ministry of Labor were done in adherence with the dispositions of the Ministry.

This was verified throughout the analysis of the following documents provided by the company:

a) **General Assembly Act.** The Labor Code of the Dominican Republic provides for the establishment of an union that there must be a minimum of twenty (20) employees who are members, and we verified through this document that such assembly was conducted under the requirements of Article 358 and that the union conducted the required activities for the operation thereof, such as the approval of the bylaws, election of board members, and the first commissioners, in accordance with the provisions of Article 373 of the Code. The notification of the formation of the Sitrail union and its Board was made by act No.750/2009 dated September 4, 2009.

b) **Union Registration.** Once the previous requirement was fulfilled, the union proceeded to register with the Ministry of Labor. We understand that this department did an objective study following closely legal precepts of the application and of the documents provided. Since the union was registered, it acquired the legal capacity to act.

7.2 Process of obtaining majority

As we could ascertain, the process of notifying that a majority had been reached was formally begun on November 25, 2009, through a communication sent by Sitrail to the company, notifying that it had affiliation of 50% plus one. Likewise, through correspondence dated December 1, 2009, the company requested Sitrail for time to check the supplied information and on December 4, 2009 informed Sitrail that, according to its review, Sitrail had not fulfilled the
conditions established by the Labor Code of the Dominican Republic to initiate negotiation of a collective agreement on working conditions.\textsuperscript{12}

Along the same line, on December 2, 2009, Sitragildan notified the company of its opposition to negotiation and signing of a collective agreement with Sitragil, "because this organization does not represent the legitimate interests of the majority of the company's workers"\textsuperscript{13}. The company responded to Sitragildan that the company "will not oppose the negotiation of a collective agreement on working conditions with the organization, formed under the provisions of Arts. 373 and following of the Labor Code that so requested, so long as such union additionally had authentically demonstrated and our company verified that it fulfills the requirements established in Article 109 of the Labor Code\textsuperscript{14} of the Dominican Republic."

On December 17, 2009, for the second time, Sitragil notifies Gildan DORTEX, through legal notification, that it had reached a majority of affiliates and attached the list of affiliates and affiliation cards indicating their names, identification and electoral registration number, and signatures\textsuperscript{15}. The company notified Sitragil that "the following anomalies where found after reviewing the list of the purported active affiliates of Sitragil: repetition of names and electoral registration of purported members, names and electoral registration numbers that do not match the list notified by the union and names of persons who are not company employees," and therefore do not meet the conditions set by the law to opt for collective bargaining\textsuperscript{16}.

Finally, on January 28, 2010, Sitragil again notified the company of a request to enter into collective bargaining, attaching a list of affiliates, the negotiating commission and a request to negotiate\textsuperscript{17}. The company responded to this request that "based on the review of the list and of the affiliation cards of the active members of the union, the Company has verified that the 460 members of the union, are in fact its employees with aptness to be part of a union as provided by the Labor Code of the Dominican Republic\textsuperscript{18}.

Accordingly, the company accepted the request to attend the meeting proposed by the union for the purpose of beginning negotiations for a collective agreement on working conditions and proposed the first meeting for February 5, 2010.

Reviewing the documents and comparing them with the opinions expressed by the Human Resources Department, we assess that the verification of the majority (50% plus 1 of workers affiliated), was not conducted with the rigor that was warranted by the fact that earlier Sitragil had provided Gildan DORTEX with two lists containing information with irregularities and also Sitragidan had reported opposition to collective bargaining, while the company had stated the commitment to negotiate with the union that obtained authentically and reliably the majority and was so verified by the company. Therefore, in the context of a sensitive environment, it would have been absolutely necessary to approach the process with a degree of accountability and transparency that was required by the circumstances.

Given the fact that there was a history of disagreements between the two unions, Sitragil and Sitragildan, and the fact that Gildan DORTEX had been legally notified of this and the legal implications that such actions could cause them in the future, the company should have, in response to this request and to Principle VI of the Labor Code of the Dominican Republic (that states: "In labor matters, rights must be exercised and obligations undertaken in accordance with rules of good faith. It is unlawful to abuse the rights of workers"), similarly notified Sitragildan about the reasons for accepting the negotiation of a collective agreement on working conditions with Sitragil even if the Labor Code of the Dominican Republic does not contain a procedure for doing so.

\textsuperscript{12} According to information contained in Act No.466/2009 dated December 17, 2009, sent by the General Secretary of Sitragil to Gildan DORTEX, page 3.
\textsuperscript{13} Act No.674/2009, dated December 2, 2009, sent by the General Secretary of Sitragildan to Gildan DORTEX, page 2.
\textsuperscript{15} Act No.466/2009, dated December 17, 2009, sent by Sitragil to Gildan DORTEX, pages 15 and 16.
\textsuperscript{17} Act 28/2010, dated January 29, 2010, sent by Sitragil’s General Secretary to Gildan DORTEX, pages 4 to 19.
\textsuperscript{18}Act No.96/2010, dated February 2, 2010, sent by Gildan DORTEX to Sitagli, pages 3 and 5.
And considering that on February 19, 2010, when Gildan DORTEX was summoned by Sitragildan before the Office of Mediation and Arbitration of the Ministry of Labor of the Dominican Republic with regard to violations of labor laws and at that venue Gildan DORTEX was informed by Sitragildan/Fedotrazonas’ attorney, that Sitragildan possessed the established majority of affiliates and that they would be inviting the company to start negotiations of a collective agreement19, since at the same time the company was already negotiating a collective agreement with Sitragil, it would had been prudent for Gildan DORTEX inform Sitragildan about the process.

Regarding the irregularities found and verified by the FLD team on the affiliation cards and the signatures of members, we can assess the legal implications that could arise from the fact that workers whose names appear in those cards confirm that the signatures that appear with their names were not made by them. In this sense, workers can sue Sitragil for forged signatures and for damages caused by this action, as established by the Penal and the Civil Code of the Dominican Republic, a situation that could have been avoided if a verification of the majority affiliations had been done in conformity with normal practice: in conflictive situations seek the intervention of a neutral entity, which could be the Ministry of Labor.

7.3 On the negotiation of the Collective Agreement on Working Conditions we could verify the following:

As is foreseen by the Labor Code of the Dominican Republic, a labor union can only enter into collective agreements on working conditions if it is the authorized representative of the workers whose professional interests are affected by the collective agreement. The negotiation of a collective agreement can only be carried out by the representatives of workers of a company as long as the union has as members the absolute majority of those workers. (See Articles 107 and following, Labor Code of the Dominican Republic)

From which we can infer that collective bargaining requires an absolute majority of the workers of an enterprise. With regard to who should verify the absolute majority of members of a union, our Labor Code leaves it to the will of the parties to request or not the intervention of the Ministry of Labor for this purpose, depending on the environment in which the negotiations are developing.

Sitragil, as a trade union in compliance with provisions of our Labor Code with respect to collective bargaining on working conditions, submitted to the company, among other things, the following documents:

a. Affiliation cards and the list of workers affiliated with the union showing that the 50% plus one requirement was met.
b. Minutes of extraordinary general assembly of delegates.
c. Notification of the members of the negotiating committee.
d. List of conditions for collective bargaining.
e. Request to initiate negotiations.
f. Minutes of assembly approving the collective agreement.

With respect to the extraordinary General Assembly to amend the statutes of Sitragil, referenced in the list above, which purportedly amended the requirements of the General Assembly so that, due to the large number of members, the General Assembly may be constituted by the delegates, FLD has not established whether they complied with the provisions of Article 351 and following of the Labor Code and with Article 84 of Regulation 258-93. The latter provides that "amendments to bylaws that are introduced after the registration of the union, must be communicated to the Secretariat of State for Labor (currently Ministry of Labor) within five days following the modifications, attaching two authentic copies of the amendments and the minutes of the Assembly where they were approved."

Regarding the opinions of workers purportedly affiliated with Sitrágil as well as those purportedly affiliated with Sitrágildan to the effect of lack of knowledge Assemblies held by Sitrágil, we can infer that this is because these Assemblies were held prior to Sitrágil obtaining the majority of 50% plus one, where as recorded in the minutes, the quorum for holding the Assemblies was no fewer than 18 members. Therefore, the list of participants at Assemblies convened by Sitrágil from its formation up to the Assembly approving and signing the collective bargaining for which we have documentation do not exceed in any instance attendance higher than 50 members.

The collective agreement is the culmination of a process, which begins even before submitting the list of demands and continues the day that the collective agreement is signed. This process involves several stages, including activities prior to the presentation of the list of demands for the negotiation, the ones that follow after the presentation of the demands, and the bargaining per se, which includes drafting the contract, and finally its implementation and administration.

In this sense, we can gather that all the formalities required by law for the negotiation and validity of the collective agreement were fulfilled, since the parties reached an agreement on all points that were discussed and subsequently the agreement was approved by the most representative organizations of the company and of the union at the time of the events. It should be added that the agreement was discussed and approved in a record time of 15 days, which is at odds with the normal practice in our country.

We could conclude that the process for the formation of the union and the negotiation of the collective agreement and its signature were carried out in accordance with Dominican labor laws. However, bearing in mind that the representation of workers to negotiate a collective agreement by a workers’ union depends on whether workers have or have not agreed to affiliate with a union, then it is worth examining whether such authorization was really granted by those who most benefit or are harmed by such actions, namely the workers. This is based on the principle that nullification of an act that allows another one to be considered valid results in the nullification of subsequent acts. This is relevant since irregularities found and verified in the affiliation cards of workers affiliated with Sitrágil are facts that question the transparency of the process and therefore its validity.

8. About the consultation with the Department of Mediation and Arbitration of the Ministry of Labor of the Dominican Republic.

During this process, we conducted a visit to the National Mediation and Arbitration Directorate of the Ministry of Labor. At this meeting we were informed that the country was experiencing relatively frequently cases of this nature and were informed that the Ministry of Labor can not give official positions since the mediation and arbitration process must be requested by one or the parties in order for the Ministry to intervene.

They described their experiences concerning similar cases, arguing that resolving them have required a lot of time and effort. For example, the case involving Group M in Santiago where litigation lasted more than 8 years, a more recent case in Industria San Miguel del Caribe, Kola Real in Santiago Rodríguez, Dominican Republic, are all similar in that confrontation of two unions within the factory and positions on behalf of the company that the officials called “rigid”, did not help to solve the problem successfully^20.

The Ministry representatives admit that there are sectors of trade union movement, particularly the trade union federations, that get involved in this type of conflicts because of historical differences among their leadership, but also involved are the companies who hire law firms that instead of advising them to comply with the law, advise them to use processes that can be categorized as legal, but have other ends. The explain that there are professionals who are dedicated to guide companies, especially foreign-invested companies, to evade compliance with rules and laws instead of supporting them in complying with rules and laws.

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^20 Records with respect to these cases can be found in their respective jurisdictions of the Labor Court of the Dominican Republic.
In conclusion through this consultation we were able to gauge the complexity of Gildan DORTEX process and the need to seek viable, creative and consensual solutions.

9. Final Considerations and Recommendations

The FLD team wishes to frame its views regarding Gildan Dorxtex and the conflict generated by the negotiation and signing of a Collective Agreement on Labor Conditions with Sitragil within several considerations set out earlier in this report:

- Taking into account the number of jobs that Gildan DORTEX generates and the need of the country for stable employment opportunities.
- Taking into account the high level of manufacturing technology that Gildan DORTEX has introduced in the Dominican market.
- Taking into account that during the process of worker affiliation to Sitragil and verification of absolute majority for the purpose of negotiating a collective agreement on labor conditions we identified and verified significant irregularities pointed out in the current report.

FLD makes the recommendations below in the spirit of offering avenues that would permit clarifying and resolving the conflict while respecting fundamental human and labor rights as well as preserving the prestige earned by the company Gildan DORTEX in the international market and recognition by certifying organizations.

1. That the process of obtaining a majority of affiliations presented by Sitragil to the company be declared null, as there is sufficient evidence to confirm that a significant number of workers registered as affiliated with the union are not aware of how their names turned up on the list of affiliates and assert that the signatures that appear in the affiliation register used by Sitragil to obtain an absolute majority are not theirs. This action would preserve the fundamental right of workers to affiliate or not affiliate to a union and allow workers whose rights were violated through the use of their names for unauthorized purposes, made even graver by the falsification of signatures in public documents, to reclaim them. FLD makes this recommendation in recognition that the legally established procedure for dealing with the lack of validly of the agreement is through the Courts of the Dominican Republic. However, in an effort to find a speedy, harmonious and legal resolution, we are recommending that it be resolved through consensus among the parties, which is subsequently notified to the Ministry of Labor

2. That Gildan DORTEX maintain the gains and benefits obtained by the workers through the collective negotiations with Sitragil as they are benefits already granted (salary increases, bonuses related to marriage or death, Christmas bonus and other benefits about which workers have been already informed).

3. That Gildan DORTEX take a leadership role in a process of concertation among the parties involved in the conflict. Gildan Dortex should create a negotiation instance or table that also includes an institution that is recognized and has the approval of the parties in the conflict as mediator. This negotiation table would take up conditions under which the legally constituted unions, acting in good faith and in a transparent manner, would conduct their affiliation efforts to attract the majority of the workers in an ethical and legal manner, consistent with obligations and rights embodied in freedom of association. The commitment of the company to preserve the rights of Gildan DORTEX workers and to abide by the principle of neutrality vis-à-vis both legally-registered unions is essential. During this process, a procedure whereby workers whose affiliation has been found to suffer from irregularities are informed and given the means to affiliate or not to affiliate with the union of their choice, without interference from any of the parties, should be discussed and agreed.

4. That a period of three months be established for the aforementioned negotiations, during which time period the following issues associated with the conflict should be be clarified:
• Make transparent the affiliation register of the unions through a process of verification of registration records by the workers themselves, supported by a neutral organization or some other entity or entities agreed by the parties.
• Reach agreement on the additional benefits achieved by Sitragil for the union and for the workers of Gildan DORTEX embodied in the collective agreement Sitragil/Gildan DORTEX as they were not obtained in a situation where there was a true majority of affiliated workers.
• Agreement among the two unions, the federations and the company to respect the right of each to promote unionization according to domestic law without violating the right of workers to join or not join a union and the right of the company to insist that union activities be held during the time periods established by law and without interference with the factory’s normal operations.
• Agreement among the company, the unions and the relevant federations involved in the conflict to respect the 50% plus one threshold. Once one of the unions reaches this threshold through a good faith effort, a process of verification of majority would be carried out by one or more institutions that the parties deem to have credibility and moral solvency.
• Agreement among the unions and relevant federations involved in the conflict to refrain from using defamatory means to confront ideas and positions espoused by others, consistent with the understanding that both organizations are working on behalf of the collective welfare of workers of the company, an enterprise that provides workers with the opportunity to earn a living and jobs in a country with a high unemployment rate.

5. That Gildan DORTEX commit to train its workers, supervisors and managers on the right to associate and on conflict management and resolution, thereby contributing to the creation of an environment of labor peace and full exercise of the rights of the company as well as of workers, without adversely affecting the performance of the company’s operations.

6. That Gildan DORTEX start a campaign within the factory to promote respect for workers rights and compliance with labor obligations, thereby promoting a more favorable environment for improving the competitiveness of the factory and projecting a corporate image consistent with the values of Gildan DORTEX, which have been questioned since the conflict broke out and has adversely affected the image of the company and the business climate in the Dominican Republic.

7. That Gildan DORTEX play a leadership role in promoting a prompt and transparent resolution of the current conflict through democratic means such a dialogue and concertation, becoming a national and international example of achieving harmonious and viable solutions that benefit the company and its workers.

10. Conclusion

We conclude this report stating that it has been a challenge and a great responsibility for the Fundación Laboral Dominicana, Inc. to review this very complex process. We reiterate that the conclusions of this report are the result of objective and transparent analysis of the facts before us, for which we take full responsibility.

Similarly, the recommendations offered reflect the consensus of our team, based on technical, professional, ethical, impartial, and responsible analysis, unaffected by views or interpretations of others. The recommendations seek to promote harmonious resolution of the conflict consistent with the obligations of the parties and the inalienable rights of workers for the well being and prosperity of Gildan DORTEX.