MEXICO
2015 Factory Assessment Cycle

COUNTRY CONTEXT

Of all the factories submitted by company affiliates to the FLA for potential assessment visits, 77 (1.6 percent) were located in Mexico, a country home to nearly 127 million people. The signing of the North American Free Trade Agreement (NAFTA), which prompted a dramatic increase in trade and cross-border investment between the US and Mexico, was expected to boost Mexico’s growth and development. However, Mexico has experienced a drop in GDP per capita over the last 20 years, a rising unemployment rate, and a virtually stagnant poverty level. In the years following NAFTA’s passage, production expanded in Mexico’s duty-free maquiladoras; however, since the turn of the century, wage stagnation and international competition have curtailed their productivity. The economic recession of 2008 negatively impacted Mexico’s economy, given its dependence on exports to the US. In 2012, the government passed the “Pacto de Mexico,” a series of comprehensive structural reforms aimed at improving economic productivity and reducing inequality. However, the government’s inconsistent enforcement of labor laws leaves workers facing poor working conditions, compulsory overtime, and restricted freedom of association.

TOP FINDINGS IN 2015

Unions and worker representation
Factory workers in Mexico face a unique barrier to their right to freedom of association and collective bargaining through the widespread use by employers of illegitimate collective bargaining agreements (CBAs), commonly known as “protection contracts.” Designed to protect employers from having to negotiate with legitimate unions representing workers’ interests, a protection contract is signed between an employer and an employer-dominated “ghost union,” a sham union that does not truly represent workers’ interests. IndustriALL reports that nearly 90 percent of all CBAs signed in Mexico are protection contracts, and in 2015, FLA assessors found this type of CBA in five of the six factories they visited. Assessors cited several indicators of the existence of protection contracts in these factories: employers interfered in worker

Recurrent use of temporary workers
Assessors found that in four of the six factories, employers hired all workers under temporary contracts for multiple short-term periods. As a result, these temporary workers have limited or no opportunities to become permanent employees. This excessive use of short-term contracts violates both Mexican labor law and the FLA Workplace Code of Conduct, both of which allow temporary contracts only under certain conditions. The FLA Code, for example, permits hiring of temporary workers to cover for workers on maternity leave, to add professional expertise lacking in the permanent workforce, and to meet production targets when unexpected volumes may necessitate a larger labor force. The four factories in Mexico employing temporary workers did not meet the conditions outlined in the FLA Code.

Workers’ understanding of compensation
Assessors also reported that five of the six factories violated the FLA benchmark on workers’ awareness and understanding of compensation. The benchmark requires employers to make every reasonable effort to ensure that workers understand the components of their compensation to help safeguard against other compensation-related noncompliances. Employers must provide training to workers on the wage structure used in the factory, and inform them about the fringe benefits and bonuses to which they are entitled.

REMEDICATION
As part of the assessment process, companies craft action plans to address findings of noncompliance and work with factories to implement them. For example, one factory immediately ceased the issuance of temporary employment agreements, replacing them with permanent employment contracts. To address freedom of association violations, another factory agreed to remove from its collective bargaining agreement a clause requiring workers to join the union—a direct violation of a 2001 ruling of the Mexican Supreme Court. Removal of this clause protects workers from unlawful termination. Another factory with many health and safety violations serviced and replaced all necessary fire extinguishers, hired an accredited firm to conduct first-aid training, and assigned the assistant Health and Safety manager to conduct daily walkthroughs to ensure that restroom facilities are in proper working order. Find the latest progress on all remediation activity in the “Workplace Monitoring Reports” section of the FLA website.

NOTABLE FEATURE
Specific factory initiatives recognized by FLA assessors for excellence
The one factory visited in Mexico in 2015 where assessors did not find a “protection contract” in place—or any other freedom of association violation—was also the only factory where assessors reported exemplary benefits to workers that are not required under national law. This factory awarded a weekly punctuality bonus to workers who arrived to work on time throughout the entire work week, and also subsidized food for their workers, paying 50 percent of whatever workers spent for their meals while at work.