

# Independent Verification

Conducted at Textiles Opico, S.A. de C.V.  
Commissioned by Fair Labor Association (FLA)

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## Background

In May 2013, the Fair Labor Association (FLA) requested the Comisión de Verificación de Códigos de Conducta (COVERCO) to perform an independent investigation in the factory “Textiles Opico S.A. de C.V.” (TEXOPS), with respect to allegations of freedom of association violations raised by the Sindicato de Trabajadoras, Trabajadores, Sastres, Costureras y Similares (SITRASACOSI). The allegations included dismissal of a union leader and four union members during the period April 22-26, 2013<sup>1</sup>.

Factory management and the FLA designed a remediation plan to address the findings in the COVERCO report. The recommendations included an independent verification to evaluate the performance or the level of progress of the remediation plan.

The independent verification was carried out during January 16-17, 2014, at the factory TEXOPS, through interviews with key stakeholders and document review.

## Methodology

### 1. Interviews

Number of interviews	Interviewees	Date of interview
1	President, Chief Human Resources and Corporate Social Responsibility Advisor of TEXOPS.	January 16
1	3 union leaders of SITRASACOSI branch at TEXOPS.	January 16
1	General Secretary of SITRASACOSI.	January 22
1	3 representatives of the Communications Committee of TEXOPS alleged to have been part of the anti-union and discriminatory activities at the time that there was knowledge of the constitution of a trade union in the factory.	January 16
1	3 representatives of the new Communications Committee of the factory.	January 17
13	Factory workers (randomly chosen)	January 17
1	Ombudsperson	January 21
<b>Total interviews: 19</b>		

<sup>1</sup>The results of the audit conducted by COVERCO on 15-17 May 17, 2013, are available on the FLA website at: <http://www.fairlabor.org/report/texops>

## 2. Document Review

Management provided the following documents for review:

1. Copy of the statement that mentions the creation of a union in TEXOPS and respect of the right to freedom of association of factory workers.
2. Payrolls of salaries, bonuses and vacation, new contracts, copies of pay stubs, etc. regarding the reinstatement of the dismissed workers identified in the remediation plan, and evidence of the payment of wages and benefits to workers who were dismissed.
3. Internal policies and procedures, particularly those dealing with non-discrimination, freedom of association and industrial relations.
4. Copy of disciplinary procedures and termination policies and procedures.
5. Orientation program for new employees.
6. Annual Training Program for workers and assessment results.
7. Material used for training process (power point presentations, attendance lists, pictures).
8. Documents relating to the functions of the Communications Committee.
9. Copy of Ministry of Labor and Social Prevision report confirming payments to workers with accredited time.
10. Description and information about the “Garrobo Project.”
11. Requests to the MTPS and other competent authorities on whether the “Garrobo Project” conforms with Salvadoran laws.

The Ombudsperson – appointed to follow up on various issues within TEXOPS --provided the following documents:

1. Roadmap of activities proposed by the Ombudsperson.
2. Rules for the Roundtable formed in TEXOPS.
3. Minutes of meetings of the Roundtable at TEXOPS held on the following dates in 2013: July 23 and 30, August 22, September 3 and 17, October 22, November 12, and December 10,. The Ombudsperson also made available the minutes of the most recent meeting, held on January 21, 2014.
4. Procedures for nondiscrimination, open door policy, policy on freedom of association, termination of contracts, disciplinary system and mailbox suggestion in TEXOPS.
5. Proposed modification of the factory’s policy of freedom of association, contract terminations, and disciplinary system.

6. Procedure of Communications Committee of TEXOPS; and
7. Proposal for a training program about labor rights in the factory.

## Independent verification results

The following table summarizes the recommendations made by COVERCO and by the FLA incorporated in the remediation plan designed to improve the findings of the special investigation conducted in May 2013 at TEXOPS; the table also presents the compliance or level of advancement for each of the mentioned recommendations as assessed by the independent verifier.

Actions	Responsible	Due date	Compliance/level of progress
<p>TEXOPS has verbally and in writing informed the Communications Committee (CC), so that they in turn can inform their corresponding departments, that since March 2013 a union has been formed and that TEXOPS respects workers' freedom of association. This statement has been posted throughout the entire factory.</p>	<p>Company President; Human Resources Manager</p>	<p>June 4, 2013 (Completed)</p>	<p><b>Status:</b> completed</p> <p>Management issued a written memorandum dated May 31, in which it is mentioned that (1) TEXOPS respects the right of employees to freedom of association; and (2) a union branch exists at the factory since March 2013. The verifier observed the posted memorandum inside the factory during the tour of the facility on January 16, 2014.</p> <p>Through interviews with management and SITRASACOSI branch leaders, it was learned that TEXOPS management announced verbally to supervisors and to the Communications Committee (on August 23 and September 30, respectively) the formation of a union branch at TEXOPS and that the right of workers to freedom of association should be respected.</p> <p>The SITRASACOSI branch leaders mentioned that the Communications Committee gave the information to employees approximately in October 2013.</p>

<p>TEXOPS will reinstate the 4 workers identified in the COVERCO report and compensate for the salaries and economic benefits they did not receive up until the date of reinstatement. Re-hiring date no later than June 18, 2103.</p>	<p>Company President; Human Resources Manager</p>	<p>June 18, 2013</p>	<p><b>Status:</b> completed</p> <p>The factory was able to reinstate 3 of the workers that were dismissed. The reinstatements were conducted on the following dates: April 29, June 18 and July 3, 2013. The reinstatement, made on July 3, 2013, was agreed between TEXOPS and SITRASACOSI branch leaders in a mediation session that was held at the Ministry of Labor. Through documentary evidence, the payment of wages and other economic benefits and respect for seniority for the 3 workers reinstated was verified. In this regard, the union branch expressed agreement with the payments and for the respect for the seniority of its members.</p> <p>The fourth worker included in the report could not be reinstated because she reportedly left the country for the United States for an indefinite period of time. This information was obtained from interviews with management, SITRASACOSI branch union members and the Ombudsperson. Through documentary evidence it was corroborated that the worker received payment of severance, annual bonuses and holidays. In addition, the investigator viewed a letter in which the dismissed employee authorized her sister to withdraw the pending payment of 58 hours worked.</p>
<p>TEXOPS will review and ensure that internal policies and procedures are updated and are in alignment with the FLA's Workplace Code of Conduct and Compliance Benchmarks, particularly policies and procedures related to non-discrimination, including Freedom of</p>	<p>Human Resources manager</p>	<p>July 31, 2013</p>	<p><b>Status:</b> In process.</p> <p>TEXOPS asked for support to its management team in the review of internal policies and procedures. In December 2013, the Ombudsperson and SITRASACOSI delivered to management proposals to improve the procedures, which are being reviewed by factory management.</p> <p>Through a review of documents, the verifier confirmed that:</p>

<p>Association and Industrial Relations.</p>			<ol style="list-style-type: none"> <li>1. <b>Nondiscrimination policy and procedure:</b> They are aligned with the FLA's Workplace Code of Conduct and Compliance Benchmarks, national law and ILO Convention 111. However, because of the events that occurred, it is suggested to explicitly and clearly incorporate into the policy and procedure the prohibition of discrimination based on union membership.</li> <li>2. <b>Freedom of Association policy and procedure:</b> They are aligned with the FLA's Workplace Code of Conduct and Compliance Benchmarks, national law, and ILO Conventions 87 and 98. It would be important to incorporate explicitly the guarantees or the commitment of TEXOPS to avoid any type of discrimination or reprisals that may affect workers affiliated with a labor organization (FOA.5.1).</li> <li>3. <b>Industrial Relations policy:</b> it is aligned with the FLA's Workplace Code of Conduct and Compliance Benchmarks. It would be important to incorporate a mechanism that allows workers to report harassment and complaints in a confidential manner (ER.25.3).</li> </ol>
<p>As part of the current orientation program, internal policies and procedures are explained to all new workers, including Non-Discrimination and Freedom of Association policies. The way in which the Non-Discrimination and Freedom of Association procedures are addressed will be reviewed for any potential improvement and will be included in the orientation program.</p>	<p>Human Resources Manager</p>	<p>August 31, 2013</p>	<p><b>Status:</b> In process.</p> <p>The Orientation Handbook, updated through June 2013, was reviewed. This Handbook is provided to new staff and contains the TEXOPS Code of Conduct, which includes policies and procedures regarding issues such prohibition of discrimination and the right to freedom of association.</p> <p>Two-thirds of workers with less than 6 months in the factory who were interviewed stated that during the orientation program, policies of nondiscrimination and freedom of association were explained to them.</p> <p>Regarding nondiscrimination and freedom of association procedures, the factory Ombudsperson has given her proposals for amendments to management. Currently, management is reviewing these</p>



			proposals. There is not a deadline set to complete this activity.
<p>TEXOPS annually conducts training on policies and procedures for all its employees, including Non-discrimination and buyers' code of conduct.</p> <p>TEXOPS will implement an evaluation component to assess the knowledge acquired by workers through this training. Documentation of the training materials and evaluations will be maintained for later review.</p>	Human Resources Manager	July 31, 2013 (and ongoing)	<p><b>Status:</b> in process</p> <p>The Ombudsperson developed a training program, which is being reviewed by TEXOPS. The proposed program focuses on 4 main subjects: nondiscrimination, freedom of association, harassment and sexual harassment. Training materials for each of these subjects includes the description of the legal mechanism for the protection of the rights. Although the proposal has not been formally approved, TEXOPS management, leaders of the SITRASACOSI branch and the workers interviewed from the Communications Committee – from the former and current Communications Committee -- confirmed the delivery of special training sessions by the Ombudsperson within the factory. The target of the training sessions was factory managers. The sessions specially focused on nondiscrimination, freedom of association and harassment.</p> <p>Training on nondiscrimination and freedom of association was held on September 30, 2013 and was aimed at members of the Communications Committee of TEXOPS; it involved 21 persons, including the Human Resources Manager.</p> <p>Training on workplace harassment was held on December 11, 2013 and was aimed at managers and factory supervisors; 46 workers participated in this activity.</p> <p>The trainings did not include evaluations that could measure the level of knowledge acquired from the participants. However, SITRASACOSI branch union members and workers of the Communications Committee acknowledged positively the training, expressing that "now we understand the legality of the formation of the unions," and "before, we faced many stigmas and</p>

			prejudices by the factory staff".
<p>TEXOPS will review the Communications Committee functions and procedures and clarify its operating role so as to not interfere or cross over into the duties of a duly elected union/worker representative body.</p>	<p>Human Resources Manager</p>	<p>July17, 2013</p>	<p><b>Status:</b> in process</p> <p>At a meeting on September 30, 2013, TEXOPS verbally clarified to the Communications Committee (CC), with the help of the Ombudsperson, the scope of their functions. In addition, CC members participated in training on the exercise of freedom of association and nondiscrimination, as mentioned above.</p> <p>However, the TEXOPS Human Resources Manager reported that a full review of the functions of the CC has not been performed. When setting out the functions of the CC, the prohibition of any intervention that affects the exercise of freedom of association of SITRASACOSI branch union should be explicitly mentioned.</p>
<p>The Ministry of Labor of El Salvador (MTPS) is conducting its own investigation regarding confirmation of payments for time made-up. TEXOPS will follow MTPS's recommendations. The factory is independently reviewing these calculations through its accounting department.</p>	<p>Human Resources Manager</p>	<p>June 30, 2013</p>	<p><b>Status:</b> completed</p> <p>The MTPS did not make any recommendation on this respect. Nevertheless, in its special inspection of August 23, 2013, the overtime payments made to workers were verified. Workers who were interviewed in this special inspection from the Ministry confirmed the payments.</p> <p>The branch of the SITRASACOSI union expressed in the interview that there some disagreements regarding payments to workers by TEXOPS, but did not provide any specific cases to verify this information.</p>

<p>TEXOPS will inform SITRASACOSI and other stakeholders about the scope and social impact of the “Garrobo Project.”</p>	<p>Company President; Human Resources manager</p>	<p>July 31, 2013</p>	<p><b>Status:</b> completed</p> <p>On July 30, 2013, according to the minute of the Roundtable held at TEXOPS, the SITRASACOSI branch union was informed of the following points about the “Garrobo Project”:</p> <ol style="list-style-type: none"> <li>1. The project is affiliated with two NGOs and also is related to some initiatives like the governmental project "Ciudad Mujer”.</li> <li>2. The purpose of the project is to support young women with low incomes and opportunities and prepare them for the future by providing them with knowledge.</li> <li>3. Young participants are supported with a grant to cover costs of food and transportation.</li> </ol> <p>SITRASACOSI branch union representatives indicated support for the social objective of the project, but suggested that it be given the formality required by law to ensure greater protection of young women who are participating.</p> <p>100% of the interviewees perceive the “Garrobo Project” as a good initiative to provide support to young women in social risk situations.</p>
<p>Invite TEXOPS to consult with MTPS, and other government agencies with jurisdiction, regarding the “Garrobo Project,” to ensure that it complies with national law.</p>	<p>TEXOPS</p>	<p>Not established</p>	<p><b>Status:</b> completed</p> <p>TEXOPS has initiated the necessary procedures before the MTPS and the National Council for Childhood and Adolescence (CONNA) asking for advice to enable them to legalize the “learning contract” for the young women participating in the “Garrobo Project,” consistent with the Labor Code and the Law on Protection of Children and Adolescents (LEPINA), and ensure the access to education of the participants. .</p>

<p>Develop and implement disciplinary procedures that respect the right to due process of workers, especially in cases of dismissals. Workers should be properly informed of the procedures.</p>	<p>TEXOPS</p>	<p>Not established</p>	<p><b>Status:</b> In process</p> <p>The proposals to improve policies and procedures made by the Ombudsman and SITRASACOSI addressed the following points regarding disciplinary procedures and procedures for the termination of contracts:</p> <ol style="list-style-type: none"> <li>1. They are in alignment with the guarantees of due process established in Article 11 of the Constitution of the Republic of El Salvador and with the FLA's Workplace Code of Conduct and Compliance Benchmarks.</li> <li>2. The offenses that have been described are consistent with the rules established in the Labor Codes.</li> <li>3. It is proposed to incorporate as a serious misconduct "discriminatory acts or behavior that harm the physical or moral integrity of the members of a trade union, or which may affect the free exercise of his or her rights."</li> <li>4. Include the duty of TEXOPS to regularly train management, supervisors and other staff on the procedures (ER.27.2).</li> <li>5. Include an appeal process for the worker who faces termination of contract.</li> <li>6. Provide the opportunity for union members to appoint a union representative to assist them in their process.</li> </ol> <p>Both proposals are being reviewed by TEXOPS Management. According to management, the pending activities and processes will implemented in the second half of 2014.</p>
<p>Consider establishing a temporary Ombudsperson position to help mediate between workers/management, assess</p>	<p>TEXOPS</p>	<p>Not established</p>	<p><b>Status:</b> completed</p> <p>In July 2013, an Ombudsperson began to work at TEXOPS. Through interviews and documental</p>

<p>the industrial relations climate in the factory and recommend appropriate training based on needs.</p> <p>The ombudsperson should provide FLA-affiliated companies with monthly updates of the implementation of the remediation plan and advise of any relevant disagreement or communication issues in a timely manner.</p>			<p>review, it has been corroborated the attendance and presence of the Ombudsperson at the factory and participation -- with the branch of SITRASACOSI -- in the Roundtable meetings. The Ombudsperson has also advised on the solution of specific cases and provided support for training in topics as nondiscrimination, freedom of association and harassment aimed at improving the industrial relations climate.</p> <p>It was verified that the Ombudsperson has submitted three "progress reports" that address the implementation of actions to comply with the goals that had been proposed in the remediation plan. It should be noted that the factory has not implemented an assessment of the climate of industrial relations at TEXOPS.</p> <p>The ombudsperson proposed to TEXOPS a training program on labor rights that seeks to raise awareness and strengthen the skills of workers and supervisors, but its implementation has not yet been formally defined.</p>
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## Conclusions

1. Through various interviews and document review it has been verified that there have been significant advances in the actions set out in the remediation plan to overcome the problems identified in the COVERCO report. Among the remedial actions that have been completed are reinstatement of the dismissed workers, payment of the overtime pay owed to those workers who repaid hours after the transition from PARTEX to TEXOPS, the recognition of SITRASACOSI branch union, and the request for advice from the relevant authorities to ensure that “Garrobo Project” is consistent with Salvadoran law.
2. The verification process observed cooperative efforts between the SITRASACOSI branch union and TEXOPS management regarding obtaining the relevant legal permits for the conformity of the “Garrobo Project” with the guarantees recognized in the Labor Code and the Law on Protection of Children and Adolescents (LEPINA).
3. In July 2013, TEXOPS appointed an Ombudsperson, who has facilitated communication and coordinated the implementation of activities between the branch of SITRASACOSI and TEXOPS management. Although the Ombudsperson was initially engaged only for 3 months, her engagement was extended for an additional 3 months based on the perceived benefits of her work by the SITRASACOSI branch union.
4. TEXOPS management and the SITRASACOSI branch union have stated that through the Roundtable managed by the Ombudsperson they have been able to contribute to a better environment in labor relations in the factory.
5. Progress has been made in the process of reviewing factory policies and procedures of to conform with FLA standards of performance but to date all changes that need to be made have not been incorporated. Management has indicated that additional changes will be completed in the second half of 2014.
6. The Ombudsperson has developed a training plan proposal. According to the interviews, the trainings on issues related with nondiscrimination, freedom of association and harassment, show

positive results in the sense that prejudices have been reduced about the existence of a union at TEXOPS.