



FUNDACION LABORAL DOMINICANA, INC.

Independent Verification at JoeAnne Dominicana
Santiago, Dominican Republic

February 19-20, 2014

1. Background

On March 20, 2013, the Federación Dominicana de Trabajadores de Zonas Francas, Industrias Diversas y de Servicios, FEDOTRAZONAS, filed a Third Party Complaint with the Fair Labor Association (FLA). The complaint alleged violations of the right of Freedom of Association of workers at the factory JoeAnne Dominicana, located in the Industrial Export Free Trade Zone in Santiago de los Caballeros, Dominican Republic. According to the complaint, workers met in January 2013 outside of the factory with the purpose of creating an organizing committee to form a workers union. The complaint further alleged that once factory management learned about the creation of the organizing committee, the workers involved in the creation of the committee were fired.

On March 22, 2013, the FLA accepted the complaint for review at Step 2 of the FLA Third Party Complaint procedure. The FLA, working closely with the brands that are buyers from JoeAnne Dominicana -- FLA-affiliated companies Franklin Sports and Fruit of de Loom, and Dick's Sporting Goods (an adidas-Group licensee) – contracted an independent external expert to assess the labor rights situation at the factory and make recommendations to address them.

Thus, the Comisión de Verificación de Códigos de Conducta, COVERCO, conducted an independent field investigation over the period between April 9 and 12, 2013, and issued a report that has been made public.¹

In June 2013, the FLA published a report with the results of COVERCO's investigation, titled Summary Report: Third Party Complaint, JoeAnne Dominicana, Dominican Republic² recommending an action plan to JoeAnne Dominicana developed by the affiliated brands and the FLA, which was accepted by the factory.

Eight months after the issuance of the remediation plan, the FLA and the affiliated brands involved in this process, with the concurrence of JoeAnne Dominicana, have requested the current independent verification of the implementation of the remediation plan. The verification team of the Fundación Laboral Dominicana (FLD) visited the factory JoeAnne Dominicana on February 19-20, 2014 to verify compliance with the recommendations in the remediation plan recommended for the factory JoeAnne Dominicana, supplier of FLA-affiliated brands Franklin Sports and Fruit of the Loom and Dick's Sporting Goods (a licensee of adidas-Group).

2. Methodology

The methodology used in this verification process consists of: (1) review of documents to substantiate achievements in the remediation plan; (2) direct interviews with representatives of the parties involved in the process (management-organizing committee/union federation); y (3) random interviews with workers and mid-level managers of the enterprise and other interested parties.

¹ COVERCO's report is at <http://www.fairlabor.org/reports/joannedominicana>

² FLA's summary report is at <http://www.fairlabor.org/reports/joannedominicana>

Documents provided by the factory and reviewed by FLD include:

1. Current factory payroll and payroll at the time of the reinstatement of the workers dismissed in January 2013.
2. Documentation substantiating reinstatement and payment of back wages to workers who were dismissed.
3. Documentation regarding training for all workers on human relations.
4. Documentation on training of mid-level managers and supervisors on conflict management and resolution.
5. Documentation on other training related to the remediation plan.
6. Non-discrimination policies at JoeAnne Dominicana.
7. Induction procedures.
8. Policies and practices to address fluctuations in employment, including criteria and tools to exercise the right to terminate employment contracts.
9. Procedures for reporting worker grievances in a confidential manner.
10. With regard to the Mediator: Documentation regarding the mediation process and documents regarding training.

On February 19, the verification team interviewed company representatives: the CEO and President of JoeAnne Dominicana, the General Manager, the Human Resources Manager and the Legal Advisor. On the following day, the team conducted random interviews with 14 workers and 4 mid-level managers, the Mediator, the Secretary General and the regional representative of the labor federation FEDOTRAZONAS and members of the union's organizing committee.

3. Verification of Compliance with the Action Plan

Below is a table with the remediation plan, achievements to date and ongoing actions, and the status of the remediation process.

Verification of compliance with the recommended action plan

Recommended Action Plan	Responsible Party	Verification	Status
<p>1. Take steps to ensure that there will be no discrimination against workers in future efforts to form a union.</p>	<p>CEO and President of the company; General Manager; Human Resources Manager</p>	<p>There is documentary evidence with respect to the adoption of anti-discrimination measures by JoeAnne Dominicana. Workers receive a document containing the factory's policies and procedures regarding non-discrimination and freedom of association; workers affix their signature in one of the pages to show that the document has been received. This receipt is collected by the factory and filed. Management has arranged for talks by experts and the posting of documents has been verified. Testimony from 100% of workers, mid-level managers, the organizing committee of the union and representatives of FEDOTRAZONAS has confirmed that documents containing the factory's policies and procedures has been provided to them and that the CEO and President of JoeAnne Dominicana, together with a representative of one of the brands, convened all workers and reaffirmed the commitment of the factory with respect to freedom of association and non-discrimination; in addition, the CEO and President assured the verifiers that company management has direct orders not to interfere in the workers' decision whether to join or not to join a union.</p> <p>Two representatives of FEDOTRAZONAS and one member of the organizing committee of the union indicated that the company's efforts have been minimal, and discriminatory and anti-union practices continue within JoeAnne Dominicana. The verification team was not able to corroborate this situation during the verification.</p> <p>Based on document review and interviews with the parties, we conclude that factory employees are familiar with the company's policies regarding non-discrimination and freedom of association.</p>	<p>Completed</p>
<p>2. Include in its orientation program policies and procedures regarding the prohibition of acts of anti-union discrimination and the recognition of employees' freedom of association.</p>	<p>General Manager and Human Resources Manager</p>	<p>In an interview, factory management indicated that orientation materials and the induction process for new employees has been modified; while guidance provided to employees tended to be quite general, the guidance is now more pointed, emphasizing non-discrimination and freedom of association. This guidance is offered verbally within the factory at the time of drawing up the employment contract; in addition, workers at this time are also presented with the document containing policies and procedures mentioned above. There is no written documentation – or such documentation was not offered to the verifiers – incorporating the modification to the induction process, only testimony from management and workers, 100% of whom assured the verification team that they were provided with copies of the company's policies and procedures at the time they signed the employment contract.</p> <p>The new and improved practices regarding the induction process should be documented so that they can be used systematically in the factory.</p> <p>Neither the organizing committee nor the union federation offered any views with respect to this issue.</p>	<p>Completed</p>
<p>3. Implement training programs to ensure that these policies are known at JoeAnne Dominicana.</p>	<p>General Manager and Human Resources Manager</p>	<p>The company provided documentation showing that a program of training of all personnel with respect to freedom of association and non-discrimination has been completed. The documentation presented shows eight hours of training on the topics of freedom of association, non-discrimination and harassment delivered by the Instituto de Formación Técnico Profesional, INFOTEP,³ involving top managers, mid-level managers and supervisors at JoeAnne Dominicana, during the time period March to August 2013 (see Annex, Table 1).</p> <p>With respect to training of workers, there is documentation in the form of lists of workers who attended training sessions held at the factory on the topics of Freedom of Association and Non-discrimination delivered on October 7, 2013 and attended by 27 participants. There is also documentation (undated) showing that 296 workers (87% of current number of workers at the factory) participated in a training session on these same topics.</p> <p>All workers interviewed indicated that they had participated in training sessions regarding freedom of association delivered by company staff; 85% of those interviewed</p>	<p>Completed</p>

³ INFOTEP is the entity that manages the National Training System for Productive Employment; its main function is to train the workforce of the productive sector of the economy, provide advice to companies, and regulate professional training at the national level.

		<p>stated that, in addition to the training provided by the factory, they had also participated in sessions on the same topic delivered by the Mediator who is supporting the factory in this process.</p> <p>Leaders of the union federation FEDOTRAZONAS stated to the verification team that although they are satisfied with the training delivered by the Mediator, they believe that it should be more systematic and for a longer time period.</p>	
4. Implement human resources training concerning conflict resolution techniques for managers, middle managers and supervisors.	General Manager and Human Resources Manager	There is documentation showing that managers, middle managers and supervisors at JoeAnne Dominicana have been trained on conflict resolution techniques; about 37 received four hours of training delivered by INFOTEP (see Annex, Table 1).	Completed
5. Develop a policy describing the procedures for evaluating which employees should be terminated as a result of fluctuations in workload at JoeAnne Dominicana.	General Manager and Human Resources Manager	<p>In interviews with the verification team, management made a number of statements regarding policies and procedures to assess staff and criteria for dismissal of workers in instances of employment fluctuations at the factory. There are policies, procedures and criteria to address these issues; dismissal of workers is handled verbally and documentation regarding such policies, procedures and criteria either do not exist or were not provided to the investigation team. Management further explained that dismissals occur when contracts end, coinciding with shut down of entire modules because of the lack of demand. The process that is followed is as follows: management convenes workers in one or more modules and explains to them the reasons for the reduction in employment; workers receive any payments and benefits due them and they are informed that they will receive priority for rehiring should there be increased in orders from customers. This process was corroborated by all interviewees.</p> <p>According to the factory, there are criteria that are used to select workers who will be affected by the dismissals; the criteria include time of service, efficiency and productivity of the worker, and his or her record in meeting production goals.</p> <p>Workers who were interviewed about the criteria indicated that the topic was not very clear to them.</p> <p>Members of the organizing committee of the union and of FEDOTRAZONAS confirm that the factory uses the described process to carry out the reductions in employment but they point out that workers who show interest in joining the union are identified for dismissals. Two of the workers interviewed stated that they had heard a rumor to this effect although they had no proof that this was the case. No specific instances of such practice were brought to the attention of the verification team; similarly, no worker testimony or documentary evidence was presented to substantiate the rumors.</p> <p>The process described orally by factory management as norm or policy was not presented in writing to the verification team; testimony of the parties suggests that in conducting the reductions in employment, some guidelines are used as norms.</p>	Requires documenting criteria for the dismissal of workers in personnel reduction processes
6. Offer a comparable position and pay lost wages to the six dismissed workers identified in the COVERCO report.	Human Resources Manager	There is documentary evidence of the reinstatement of all of the workers identified in the COVERCO report. In addition, there is documentation showing that back wages were paid to the reinstated workers for the period when there were not employed. The personnel files of each of the workers confirm that the agreements reached with the workers were executed and meet national legal standards. The personnel files also include documents signed by the workers acknowledging receipt of a document setting out the policies and procedures of the factory. The reinstatement of the workers took place between June 10 and 12; as shown in Annex Table 2, these workers are no longer participating in the organizing committee of the union and only one is an active worker.	Completed

		<p>The verification team raised this issue with the representatives of the union Federation. The representatives responded that they are not concerned about this situation, as these workers had been separated from the activities of the factory for a considerable period of time and were no longer interested in participating in the creation of the union. Management representatives opined that the workers no longer wanted to work at the factory for different reasons and those that accepted the reinstatement worked for a short period of time, exiting the factory either through resignation or an agreement with management.</p> <p>The union federation stated that the company fulfilled the commitments regarding reinstatement and return to their previous post of workers identified in the COVERCO report and payment of back wages to these workers for the time when they were outside of the factory.</p> <p>At present, the factory has a restructured union organizing committee, composed of six workers whose names were notified to the company on January 6, 2014, consistent with the requirements of domestic labor law.</p>	
<p>7. 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>General Manager and Human Resources Manager</p>	<p>Recommendation No. 5 above sets out the process used by the factory to exercise the right of dismissal of workers. All persons interviewed are familiar with the process. With respect to individual dismissals, interviewees confirm that the process is carried out verbally: the workers is called into the Office of Human Resources and is informed of the decision of the factory to end his/her contract and of the date when they should come to the factory to collect payment for their benefits within the time period set out by the law. The factory does have the right to dismiss workers, but according to Dominican law, it must inform workers about this decision in writing.</p>	<p>The factory should communicate the dismissal to workers in accord with Dominican law.</p>
<p>8. Develop and implement a grievance system that would ensure confidentiality. Workers should be properly informed of the system.</p>	<p>General Manager and Human Resources Manager</p>	<p>According to interviews with management, there exists in the factory an open door policy whereby workers and all employees can freely express their grievances. There is also a grievance committee, composed of four persons who are identified within the factory. Management also points out that there is a suggestion box.</p> <p>One hundred percent of all interviewees – workers, mid-level managers, supervisors, including representatives of the organizing committee – confirmed the ease of access to managers, including the General Manager and the Human Resources Manager. They also recognized the existence of the committee and stated that they use it to bring up their grievances, although they also use supervisors for the same purpose. They agree that when their grievances are not resolved through the above means, they visit the Human Resources Manager to express the grievance and resolve them within the factory.</p> <p>Workers do not have the same understanding of the open door policy as management, although the verification team confirmed that it is used in practice. There was no testimony that contradicted or qualified the system of expressing grievances directly to managers. Although workers expressed that they were comfortable with the practice of bringing grievances directly to managers and there is a culture at the factory that supports this approach, there is no documentation – or no documentation was presented to the verification team – that sets out the process described by the interviewees that could be considered to be a grievance procedure that protects the confidentiality of complainants.</p> <p>While 100% of workers interviewed expressed that they were comfortable with existing grievance mechanism, 14% stated that they felt that it was important to have an alternative system that respected confidentiality to cover those workers who are fearful about using the current procedures.</p> <p>It is necessary for the company to reinstate and promote the suggestion box as a mechanism to record grievances confidentially, to address the concerns of a minority of workers who feel that the absence of grievances is related to the fear of workers to be identified as lodging complaints.</p>	<p>The factory should reinstate the suggestion box as a mechanism to report grievances in a confidential manner.</p>

<p>9. Consider establishing a temporary ombudsperson position to help mediate between workers and management, assess the industrial relations climate in the factory, and recommend appropriate training based on needs.</p>		<p>JoeAnne Dominicana management informed the verification team that it relied on the National Free Trade Zone Council of the Dominican Republic to engage a Mediator, a position filled by Dr. Rafael Albuquerque.</p> <p>Dr. Albuquerque has convened four meetings. Management stated that at these meetings, the parties have been able to express their views openly, the communication channels between the factory and FEDOTRAZONAS have improved, and management has provided access to the factory to federation leaders in order to seek solutions to outstanding differences. With respect to a training plan, which is one of the demands of the union federation, the Mediator has conducted three rounds of training at the factory on freedom of association. Management states that there is labor peace within the factory and the only conflict that exists is differences with FEDOTRAZONAS. Issues that arise daily at the factory between management and workers are always resolved.</p> <p>FEDOTRAZONAS representatives who were interviewed with regard to the intervention of the Mediator and the results of the mediation process expressed the view that, although several meetings have been held, the situation at the factory has not changed; they assert that anti-union practices by supervisors and middle managers at the factory continue and that these practices are authorized by top management. They attribute the fear of workers to join the union to these practices, although they did not provide any specific cases to buttress this position.</p> <p>They expressed that the mediation has been useful in maintaining communication between factory management, the organizing committee and FEDOTRAZONAS, as they do not believe that there is real communication between management and the organizing committee.</p> <p>The verification team did not have access to documents underlying the mediation process, and relied solely on interviews with the parties.</p> <p>In an interview with the verification team, the Mediator stated that important steps have been taken in closing the gap in the positions of the parties and the specific differences that existed when the mediation commenced have been resolved, although FEDOTRAZONAS has made new allegations. The Mediator stated that training has been carried out successfully.</p> <p>The Mediator confirmed that the company has an open door policy that works. He also highlighted the leadership of the General Manager and his close relations with workers. Another point highlighted by the Mediator is that many of the workers have been employed by the factory for a long period of time and feel strong attachment to the workplace. At earlier times, current managers were workers and labor-management relations tend to be among equals. There is very little sense of hierarchy within the factory. Another point highlighted by the mediator is the conservative culture of workers in Santiago, Dominican Republic, perhaps influenced by anti-union practices that were common in free trade zone industrial parks in the Dominican Republic and the myths that have existed regarding the rights of workers to form unions in free trade zones.</p>	<p>In process</p>
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4. CONCLUSION

The independent verification of the implementation of the remediation plan at JoeAnne Dominicana on which we report emerged from an assessment carried out by COVERCO in April 2013.

Using a methodology that comprises review of documents, direct interviews with representatives of the parties, and random interviews with workers, supervisors and middle management representatives at JoeAnne Dominicana, the Fundación Laboral Dominicana carried out a verification based on an objective analysis of information gathered on February 19-20, 2014.

Generally speaking, we consider that JoeAnne Dominicana has fulfilled the remediation plan with respect to the most significant areas, although there are some areas in which remediation needs to be strengthened or completed.

There exists documentary evidence with respect to the adoption by JoeAnne Dominicana of non-discrimination policies, including the development of a document setting out norms and policies with respect to non-discrimination and freedom of association that is handed out to workers when they begin work at the factory, the inclusion of policies and procedures regarding non-discrimination and the recognition of the right of workers to freedom of association in the factory's induction process, and implementation of a training program addressing freedom of association and non-discrimination. Although JoeAnne Dominicana has implemented an education and personnel sensitization program that has created an environment of tolerance of freedom of association and non-discrimination with respect to union membership, there is still at the factory a climate of apathy toward participation in the union, which we attribute to the employment crisis in the sector and the fear of intolerance by other companies -- workers believe they will not be able to find employment at other factories because of their participation in a union and the strong belief on the part of workers that companies that have unions do not remain in business.

With respect to the training plan for workers, supervisors and mid-level managers, implemented by the factory, we consider that in terms of number of participants, the number of effective training hours and the methodology used, the plan has been useful but insufficient and it should be repeated and updated.

Based on a review of documents setting out norms, procedures and criteria for evaluating personnel, together with views expressed by interviewees, we consider that although significant progress has been made, the company needs to make transparent the criteria for determining workers to be dismissed as part of employment reductions.

We believe that the process of reinstatement of the workers dismissed in January 2013 that was carried out by the company fulfilled the agreements and recommendations embodied in the remediation plan.

It is our judgment that the Mediator fulfilled the role he was assigned in the remediation plan and that his continued presence at the factory is related to new allegations raised by the union federation

FEDOTRAZONAS outside of the framework of the remediation plan that is the subject of the current independent verification.

ANNEX

Table 1
List of training courses delivered at the factory, according to documentation provided by JoeAnne Dominicana

	DESCRIPTION OF THE TRAINING	AUDIENCE	Number of participants	DATE	Number of Hours	Trainer
1	Freedom of association, discrimination, abuse	Top managers, mid-level managers, supervisors	34	29 Jul to 1 Aug 2013	4	INFOTEP
2	Freedom of association, discrimination, abuse	Top managers, mid-level managers, supervisors	34	25 Mar 2013	4	INFOTEP
3	Conflict management and resolution	Top managers, mid-level managers, supervisors	37	19 Mar 2013	4	INFOTEP
4	Freedom of association, discrimination against individuals	Workers	296	Not available	Not available	Internal
5	Freedom of association, discrimination against individuals	Workers	27	7 Oct 2013	Not available	Internal

Compiled by FLD based on information provided by JoeAnne Dominicana, February 2014.

Table 2
Reinstatement of workers dismissed in January 2013 and current status

Worker	Date of Hiring	Date of Dismissal	Date of Reinstatement	Date of exit from organizing committee	Date of exit from the company	Form of company exit
Worker 1	2 Oct 2012	29 Jan 2013	12 Jun 2013	Not available	17 Jun 2013	Resignation
Worker 2	2 Oct 2013	28 Jan 2013	11 Jun 2013	16 Jan 2014	7 Feb 2014	Agreement
Worker 3	8 Jan 2013	30 Jan 2013	10 Jun 2013	10 Dec 2013	11 Dec 2013	Agreement
Worker 4	27 Nov 2012	31 Jan 2013	10 Jun 2013	10 Dec 2013	2 Feb 2014	Agreement
Worker 5	26 Nov 2012	29 Jan 2013	10 Jun 2013	Not available	12 Aug 2013	Resignation
Worker ⁴	16 Jan 2013	29 Jan 2013	10 Jun 2013	Not available	Active	

Compiled by FLD based on information provided by JoeAnne Dominicana, February 2014.

⁴This worker was not present at the factory because of health reasons. Management informed the verification team that the worker is frequently absent and the union federation informed the verification team that all reinstated workers were no longer part of the organizing committee. The verification team was unable to confirm this via either documentation or a direct interview with the worker in question.