



**Final Report:
THIRD PARTY COMPLAINT
PETRALEX, HONDURAS**

On March 31, 2015, the FITH (Federación Independiente de Trabajadores de Honduras) filed a Third Party Complaint with the Fair Labor Association (FLA) on its behalf and that of its affiliated union Sindicato de Trabajadores de la Empresa PETRALEX S. DE R.L. (SITRAPETRALEX). The complaint alleged that the factory PETRALEX S DE R.L. (henceforth PETRALEX), located in Villanueva, Honduras, had systematically violated workers' freedom of association. In particular, the complaint alleged that in early March 2015, PETRALEX management had dismissed without cause all the members of the Union Board of SITRAPETRALEX, as well as dismissed or forced the resignation of several other union members or relatives of union members; the complaint also alleged that PETRALEX had similarly dismissed three members of an earlier Union Board in November 2014.

The FLA accepted the complaint for review on April 1, 2015, and so informed the FLA-affiliated companies sourcing from PETRALEX (in alphabetical order): Box Seat Clothing, Dallas Cowboys Merchandising Ltd., Gear for Sports (under license from Under Armour), Outerstuff (under license from adidas Group), and VF Corporation. The affiliated companies agreed to waive their own assessment of the allegations pursuant to Step 2 of the Third Party Complaint process and to move the case to Step 3.¹

FLA Assessment

FLA investigators traveled to Villanueva and San Pedro Sula, Honduras, between April 8 and 11, 2015, and carried out an assessment of the allegations embodied in the Third Party Complaint at PETRALEX. As part of the assessment, FLA investigators conducted interviews with management and workers at the factory and also met with stakeholders with views on the case, including current and former officials of the Secretariat of Labor and Social Security (STSS), FITH and Confederación Unitaria de Trabajadores de Honduras (CUTH) leaders, SITRAPETRALEX Union Board members and workers affiliated with the union who had been dismissed, and a representative of the Asociación Hondurena de Maquiladores (AHM) and of the Central General de Trabajadores (CGT). The

¹ The FLA Third Party Complaint process is set out in Section XI of the FLA Charter, <http://www.fairlabor.org/our-work/mission-charter>. In summary form, the steps of the process are: (1) Step One: Receiving the Complaint — The complaint must contain reliable, specific, and verifiable evidence or information that the alleged non-compliance has occurred in the applicable supply chain of an FLA-affiliated company. (2) Step Two: Internal Assessment of the Complaint by the Participating Company or Licensee — The Participating Company or College or University Licensee will have up to 45 days to investigate the alleged non-compliance internally, or may waive this step and go directly to Step Three. (3) Step Three: Assessing of the Complaint by FLA — The FLA will determine whether to proceed with further assessment and may engage a third-party expert to do so. (4) Step Four: Remediation — If the assessor finds a significant likelihood that the alleged non-compliance occurred, then the Participating Company or University Licensee will work with the FLA to develop an appropriate remediation plan.

documentation reviewed by investigators included internal factory files, personnel records, official documents issued by STSS and other government entities, and public communications issued by FITH and SITRAPETRALEX.

After a thorough examination, the investigators concluded that the factory used unjustified claims of “personnel readjustment” or workforce “restructuring” to dismiss workers associated with the union.² They also found that factory management used offers of extra severance pay as a way to coerce workers the company wanted to dismiss to sign voluntary resignations instead. Ultimately, the investigators concluded, the systematic use of these tactics over time served as a means for management to disguise anti-union animus. The investigators concluded that PETRALEX has committed serious violations of the freedom of association of workers, in contravention of Honduran labor law and the FLA Workplace Code of Conduct that required immediate remediation.

Remediation Plan

The report by the FLA investigators recommended that the brands sourcing from PETRALEX work with the factory to put in place a sustainable remediation plan to address the findings. Based on these recommendations, the FLA and the Worker Rights Consortium (WRC) developed jointly the following remediation plan, which was agreed on May 6:

1. Factory management to reinstate all 9 union leaders terminated between November 2014 and March 2015.
2. Factory management to reinstate all 10 union-affiliates or relatives of union leaders terminated between Nov 2014 and March 2015. Factory management to collaboratively work with the FITH and SITRAPETRALEX representatives in order to get in touch with all these workers.
3. Factory management to compensate all 19 terminated workers with lost wages, regardless of whether they accept reinstatement or not. Lost wages should be calculated based on each worker’s average earnings over the past six months, prior to the termination date.
4. Factory management to refrain from conducting new terminations and other retaliatory acts based on union activity/affiliation or family bond with union members. In case of future terminations based on restructuring or personnel readjustment, management to review the specific cases with the union before reaching a final decision.

² The full report is available at <http://www.fairlabor.org/report/freedom-association-violations-petralex-honduras>.

5. Factory management, in consultation with union, to establish, in writing, a schedule of weekly dialogue meetings with the SITRAPETRALEX union. Priority issues to be discussed are (a) grievance procedures, including the right of union representatives to represent workers during the disciplinary process; (b) agreed rules on access by representatives of the union and the affiliated federation to the workplace to meet with workers during breaks and other non-work times; and (c) development of training materials on freedom of association and collective bargaining. Factory management and SITRAPETRALEX union leaders should consider an agreed upon temporary Ombudsperson position for the first three months, and serve as a mediator between the parties.
6. Factory management to issue, with the union, a joint letter in Spanish, to all workers, expressing respect for their associational rights and acknowledging the establishment of the SITRAPETRALEX union. Letter to be communicated to workers through different channels (e.g., bulletin boards, flyers, loud speaker announcements) and read to workers by supervisors. Text of letter to be cleared with FLA and WRC prior to issuance; FLA and WRC monitors to be notified and given access in order to observe these proceedings.
7. Factory management, in conjunction with union, to implement a continuous training program about freedom of association and collective bargaining, that includes the participation of all workers (including guards), supervisors, and middle and senior management. Training to be conducted by an independent external expert acceptable to management, the union, the FLA and the WRC, with union involvement in generating and presenting the content.
8. Factory management to revise current policy on freedom of association and collective bargaining to ensure it meets standards in the FLA's Workplace Code of Conduct and Benchmarks.
9. Factory management in conjunction with union, to develop a confidential grievance procedure available for workers to report issues related to freedom of association. Factory management to train all workers in the newly grievance procedure, to empower them in the use of said mechanism.
10. Management to assign a senior staff member to be responsible for industrial relations within the factory, including freedom of association. Said position to represent factory management and serve as point of communications with the union.
11. Factory management to ensure that Labor Inspectors and any other relevant labor authorities have free access, at all times, to the facilities.
12. Factory management to comply with all STSS resolutions not already addressed in other action items in this remediation plan.

FLA-affiliated companies sourcing from PETRALEX informed the factory about the remediation plan and communicated to PETRALEX management the importance of implementing such plan.

Agreement between Factory and Union

While the Third Party Complaint was in progress, PETRALEX management and SITRAPETRALEX, FITH and CUTH representatives, began a series of meetings seeking to resolve the full range of differences between the parties, including the dismissals and forced resignations. The aforementioned remediation plan jointly developed by FLA and WRC informed their negotiations.

On May 21, 2015, PETRALEX and the unions (SITRAPETRALEX, FITH and CUTH) signed an unprecedented agreement in San Pedro Sula, witnessed by representatives of the STSS and the AHM, which inter alia, incorporated the following:

1. Recognition of Union and Union Board Members

PETRALEX acknowledged SITRAPETRALEX as a legal entity authorized by the STSS and five named workers as members of SITRAPETRALEX's Governing Board.

2. Reinstatement of Union Board Dismissed in March 2015

PETRALEX agreed to the reinstatement, effective May 25, 2015, of 5 Governing Board members dismissed in March 2015. These workers would be reassigned to the functions they performed prior to the dismissal and would be paid a bonus to compensate for salaries not earned.

3. Reinstatement of Other Dismissed Workers

PETRALEX agreed to rehire, effective May 25, 2015, an additional 10 workers dismissed between November 2014 and March 2015. The workers would be reassigned to their former duties and would receive a flat rate bonus.

4. Commitments Going Forward

PETRALEX committed not to take any reprisals against Union Board or any union member because of union membership or participation in lawful union activity. The two sides also agreed to resolve any conflicts that may arise between the parties through consultation and dialogue and to meet every 15 days to discuss and implement the rest of the action items foreseen in the FLA-WRC remediation plan discussed above.

An element of the FLA-WRC remediation plan not covered by the agreement between PETRALEX and the unions related to full back pay for the 10 workers dismissed between November 2014 and March 2015 who were not the 5 Union Governing Board members. As a result of additional discussions between the FLA-affiliated companies sourcing from PETRALEX and factory management, on June 22, 2015, PETRALEX management agreed to additional payments to these workers to make them whole for the pay they lost during their dismissal. It was anticipated that these payments would be made by mid-July 2015.

Conclusion and Next Steps

The Third Party Complaint filed with the FLA on March 31, 2015, set into motion a process that ultimately resulted in remediation of freedom of association violations, the reinstatement of workers dismissed in retaliation for their efforts to exercise their rights, and the start of a regular dialogue between PETRALEX management and unions. These are unprecedented developments at the factory. The unwavering commitment by FLA-affiliated companies sourcing from PETRALEX to see that workers at the factory are able to exercise their associational rights has been critical in the progress that has been made so far toward remediating long-standing issues at the factory.

The FLA considers this Third Party Complaint closed. Going forward, the FLA calls on its affiliated companies sourcing from PETRALEX to monitor the ongoing remediation at the factory -- guided mostly through the implementation of the agreement between management and the unions -- continuing to work with PETRALEX management and supporting the remediation process. The FLA will maintain its communications with SITRAPETRALEX and FITH to keep abreast of developments and recommends an independent verification visit to the factory in late 2015 or early 2016 with a public report to confirm that the intended remediation has materialized. Finally, the FLA calls on the companies sourcing from Petrallex to communicate via letter to the highest levels of the Honduran government and to the Honduran Manufacturers Association the importance they attribute to the protection of the right of workers to organize and bargain collectively.