

Fair Labor Association

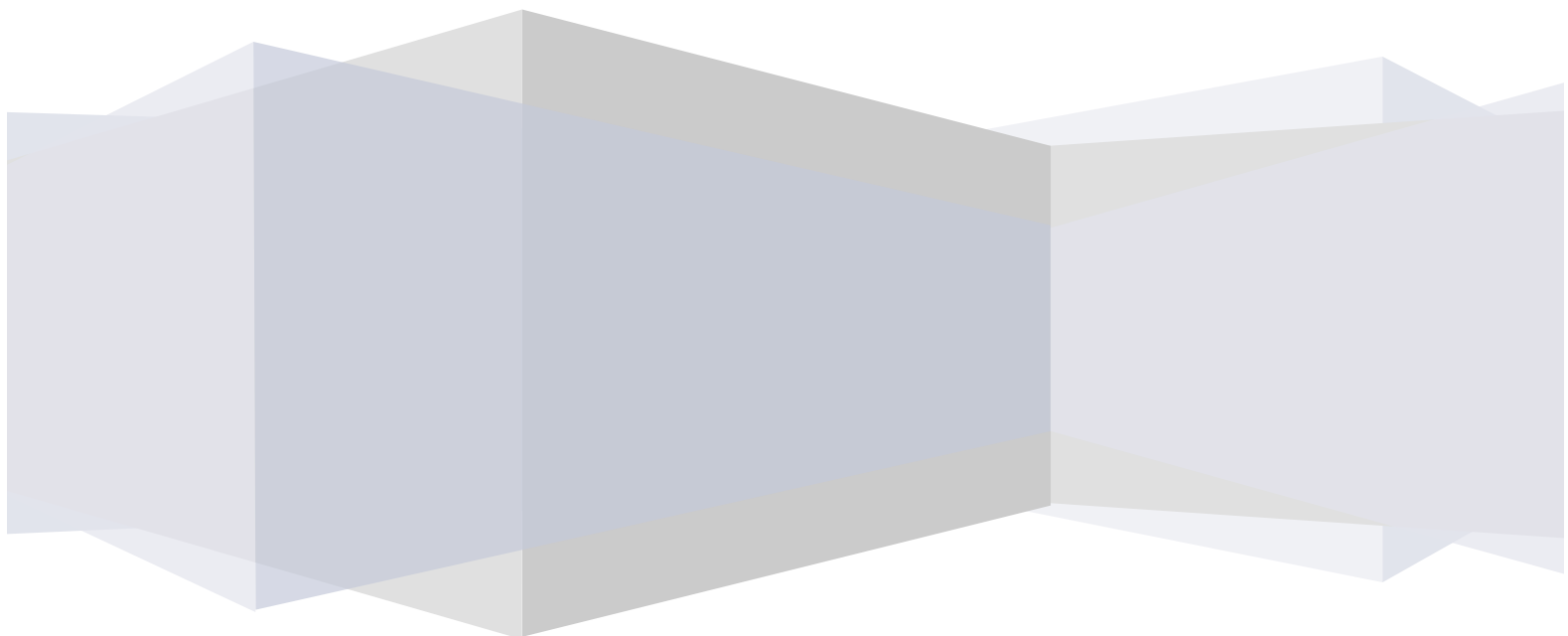
Independent Verification

Style Avenue S.A. de C.V., El Salvador

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CONTENT

I. Background.....	3
II. Description of Methodology	4
2.1 Interview Development.....	4
2.2 Document Review	5
III. Results of Independent Verification	7
Conclusions	19

I. BACKGROUND

In 2011, two brands affiliated with the Fair Labor Association (FLA), Outerstuff and College Kids, commissioned an investigation of working conditions at the apparel factory Style Avenue S.A. de C.V. The investigation, carried out by the Independent Monitoring Group of El Salvador (GMIES), resulted in a series of findings related to violations of the right to freedom of association and verbal and sexual abuse, among others. One of the consequences of GMIES' report was the development of a remediation plan formulated by factory management Outerstuff and College Kids with the objective of correcting and overcoming the identified violations at Style Avenue. Subsequently, in 2012, the FLA commissioned the Center for Reflection, Education and Action (CREA) to verify the implementation of the remediation plan, which concluded that the majority of the corrective actions had been implemented – or were in the process of being implemented -- noting significant progress with regard to the right to freedom of association, as spaces for dialogue between Style Avenue and the union were formed to address labor issues.

Following the logic of monitoring the implementation of the remediation plan, the brands Outerstuff and College Kids have requested that the FLA commissions a new independent verification process to analyze the status of implementation of the remediation plan at Style Avenue, especially with regard to the following points:

1. Training of 100% of the workforce on freedom of association;
2. Ensure awareness of workers about freedom of association;
3. Ensure that working hours are within the legal limit and that workers use the electronic system to record their working hours;
4. Guarantee that the workers are not subject to any form of harassment or abuse;
5. Continue monitoring the ambient temperature at the factory;
6. Make sure that workers effectively enjoy holidays; and
7. Guarantee timely payment into the social security and pensions systems by the factory.

Additionally, the terms of reference for the independent verification requested the examination of the following:

1. Confirm the existence and application of procedures based on the factory's new policies, consistent with the FLA's Compliance Benchmarks;

2. Confirm the existence of grievance or complaint procedures and their proper implementation, with emphasis on high-risk cases (such as sexual harassment and abuse);
3. Investigate possible situations of violence and gender discrimination based on sexual orientation of individuals;
4. Confirm the existence of effective and holistic policies and procedures in regard of freedom of association, the prohibition of anti-union discrimination and equal treatment of various unions that exist in the factory; and
5. Proper selection and training of trainers, ensuring that they have the appropriate technical knowledge, such as on labor rights.

II. DESCRIPTION OF METHODOLOGY

The independent verification process was conducted in two phases. A first phase, which was conducted outside of the factory, which consisted of a series of interviews with trade union organizations present at Style Avenue; and a second phase that included a visit to Style Avenue for document review, interviews with management, interviews with workers and with other unions, and visual inspection of the facilities of the factory.

2.1 Interviews		
No of interviews	Persons interviewed	Date of interview
1 (Group)	5 persons: Communications Secretary and Secretary of Organization of Worker's Union at Style Avenue (SITESSA); Secretary General, Conflicts Secretary and Finance Secretary of the Union of Workers of the Maquila, Sales, Services and Related Industries of El Salvador (SITRAIMES); and General Secretary of the Federation of Independent Association and Trade Unions of El Salvador (FEASIES).	Saturday 14-02-2015
1 (Group)	4 persons: General Secretary and Secretary of Organization and Statistics of the Workers' Union of the Apparel Industry of El Salvador (STIVES); General Secretary of the Seccional of General Union of Seamstresses (SGC); and Secretary General of the SGC.	Sunday 15-02-2015

1	Organizing Secretary of the Union Federation of El Salvador (FESS).	Tuesday 17-02-2015
1 (Group)	3 persons: Legal Representative, Human Resources Manager, and Head of Human Resources at Style Avenue.	Monday 23-02-2015
1	Secretary of Culture and Education of the Union of Sewing and Maquila Industries (SINDICOM).	Tuesday 24-02-2015
1 (Group)	3 persons: General Secretary, Secretary of Conflicts; and Secretary of Education and Culture of the Workers' Union of Cotton, Synthetics, Finishings, Textiles and Like Industries (STITAS), affiliated with the National Federation of Salvadoran Workers (FENESTRAS).	Tuesday 24-02-2015
12	Style Avenue workers, interviewed during the visit to the factory, in a private area, without interference from management.	Tuesday 24-02-2015
1	General Chief of the Inspection Department of the Ministry of Labor and Social Welfare of El Salvador (MTPS).	Monday 02-03-2015

Total interviews: 19

2.2 Document Review

In the verification process, Style Avenue management provided the following documentation:

1. Complete roster of factory personnel.
2. Labor Policies at Style Avenue SA de C.V.
3. List of persons with disabilities and pregnant and lactating women working at the factory.
4. Copy of the job application form for Style Avenue.
5. Copy of the program of benefits and rights for pregnant women at Style Avenue developed in 2015.

6. Records of time stamps for 13 male and female workers indicating the time they began and ended work.
7. Design of bonus payment system for achievement of goals.
8. Copies of communication exchanges between Style Avenue and its suppliers in the context of the suspension of work that occurred at the factory from January 28th to February 9th, 2015, due to lack of raw material.
9. Record of the meetings of the discussions between unions and Style Avenue management, for 2013 and 2014.
10. Reports of the proceedings of cases of sexual harassment formally brought forth at the factory.
11. Copy of the lawsuit initiated against one of the union leaders at Style Avenue in September 2014.
12. Copy of a study on ambient temperature at the factory conducted by the Ministry of Labor and Social Welfare (MTPS) in 2012.
13. List of attendees at training workshops on sexual harassment, workplace harassment and verbal abuse.
14. List of attendees at training workshops on freedom of association.
15. Copy of policies and procedures regarding the suggestion and complaints box at Style Avenue.

Meanwhile, the unions provided the following documents:

1. Legal opinion requested from the MTPS on the payment of the first three days of disability; and
2. Copy of the MTPS visit report in the context of the recent suspension of work at Style Avenue.

III. RESULTS OF INDEPENDENT VERIFICATION

Below is a table that systematizes corrective actions included in the remediation plan that required verification:

CORRECTIVE ACTIONS	SUMMARY OF IDENTIFIED PROGRESS IN THE VERIFICATION OF THE YEAR 2012	CURRENT STATUS
Train 100% of the workforce on freedom of association.	It was found that the trainings had started but they covered 40% of the workforce at Style Avenue. In addition, a policy of freedom of association was created, but it was unknown by 78% of the workforce. The existence of supervisors' behavior considered anti-union was noted.	<p><u>Incomplete action</u></p> <p>A total of 330 persons were trained on freedom of association (300 in 2012 and 30 in 2013), which constitute 81.88% of the workforce. In 2014, Style Avenue management did not organize training on these topics. It is important to note that in the interviews conducted, 33.33% of interviewees rejected unions, considering that they create problems in the factory.</p>
Ensure awareness of workers on freedom of association.		
Implement working hours within the legal limit and ensure that workers use the electronic time recording system.	<p>The factory has a labor policy that contains the required information. However, there are still cases of working hours that exceed the legal limit.</p> <p>The time recording system has been reviewed. Nevertheless, 18% of workers say that</p>	<p><u>Completed action</u></p> <p>100% of the women and men interviewed said they have a work schedule that does not exceed 44 hours per week, the limit established by the Constitution of El Salvador (Art. 38 Ord. 6) and the Labor Code</p>

CORRECTIVE ACTIONS	SUMMARY OF IDENTIFIED PROGRESS IN THE VERIFICATION OF THE YEAR 2012	CURRENT STATUS
	<p>sometimes they get paid only their salary, without overtime.</p>	<p>(Art. 161 Inc. 2 and 3). They also stated that they always use the entry and exit recording system at the beginning and end of each workday.</p> <p>In interviews carried out with the unions, it was reported that overtime is voluntary and temporary, but sometimes the workers sign up overtime for fear of losing their jobs. However, this situation could not be corroborated with the other interviews because those workers said that overtime is voluntary.</p> <p>Additionally, a sample of 13 entry/exit records were examined that showed the observance of the legal limits of the working day; in addition, the records of lactating women were observed, confirming the reduction of their working time by an hour, consistent with Art. 35 of the Law on Promotion, Protection and Support of Breastfeeding. However, the</p>

CORRECTIVE ACTIONS	SUMMARY OF IDENTIFIED PROGRESS IN THE VERIFICATION OF THE YEAR 2012	CURRENT STATUS
		factory does not have a lactation room, as required by the law that regulates this matter.
Ensure that workers are not subject to any form of harassment.	<p>A policy that prohibits abuse and harassment has been issued, but there are still cases of verbal abuse.</p> <p>A suggestion box mechanism was created, but there is no special mechanism for investigation and prosecution of cases of sexual harassment and abuse.</p> <p>Training was provided to 10% of the workforce and it was recommended to include the topic of the use of the suggestion box among topics for training.</p>	<p><u>Incomplete action</u></p> <p>Training on sexual harassment, verbal harassment and workplace harassment were carried out in the months of February and March 2014, but covered only 22.82% of the workforce.</p> <p>The factory still does not have a special and confidential mechanism for the investigation and prosecution of cases of sexual harassment and verbal abuse. It should be mentioned that the Internal Working Regulations of the factory, recently approved by the MTPS, includes a chapter on Petitions, Complaints and Settlement of Disputes (Arts. 85-87), but it does not contain the special provisions required by the Remediation Plan, the Compliance Benchmarks of the FLA and the Comprehensive Special Law for a</p>

CORRECTIVE ACTIONS	SUMMARY OF IDENTIFIED PROGRESS IN THE VERIFICATION OF THE YEAR 2012	CURRENT STATUS
		<p>Life Free of Violence for Women (Art. 57).</p> <p>Management provided documents that showed the factory's activities in two such cases. However, not having an established procedure may give rise to discretionary actions when investigating cases of this nature. It should be mentioned that the Human Resources Manager said that the Law already determines which judicial and administrative bodies have jurisdiction in cases of sexual harassment and it is by these bodies that they should be examined; nevertheless, it was pointed out that the employers must also abide by the General Law of Risk Prevention in Workplaces, which recognizes that sexual harassment as a psychosocial risk and therefore employers are responsible for ensuring work environments free of such hazards.</p> <p>In interviews with non-unionized</p>

CORRECTIVE ACTIONS	SUMMARY OF IDENTIFIED PROGRESS IN THE VERIFICATION OF THE YEAR 2012	CURRENT STATUS
		<p>workers, 25% of the interviewees mentioned the existence of cases of sexual harassment, including one woman that reported having been victimized by a male coworker. Initially, she chose not to bring attention to this behavior because of fear; however, as the situation worsened she informed the Human Resources Department, but the perpetrator was not punished.</p> <p>100% of the unions mentioned the existence of cases of sexual harassment at Style Avenue and that management does not adequately address them when they are reported.</p> <p>One of the unions reported a case of sexual harassment against one of its leaders perpetrated by the Production Manager, who made comments about her body and once tried to kiss her; when the worker refused his advances, the situation turned into workplace</p>

CORRECTIVE ACTIONS	SUMMARY OF IDENTIFIED PROGRESS IN THE VERIFICATION OF THE YEAR 2012	CURRENT STATUS
		<p>harassment. In this regard, an inspection by the MTPS was requested, which determined that the conduct described did not constitute sexual harassment. It was not possible to obtain documentation to corroborate the reported event. As to verbal abuse, 100% of the unions mentioned its existence and that perpetrators spans from management (specifically mentioning the Production Manager, Human Resources Manager and the General Supervisor) to even peers. On this point, non-unionized personnel interviewed did not report cases of verbal harassment carried out by management.</p>
<p>Monitor the ambient temperature.</p>	<p>An extra fan was enabled, but high temperatures were still reported.</p>	<p><i>Incomplete action</i> 100% of the workers and trade unions mentioned the existence of excessive heat in the factory, especially after lunch. In this regard, the visit included taking</p>

CORRECTIVE ACTIONS	SUMMARY OF IDENTIFIED PROGRESS IN THE VERIFICATION OF THE YEAR 2012	CURRENT STATUS
		<p>temperature samples between 1:00 and 2:00 pm at different points of the plant. They revealed that the heat intensity ranged between 31 and 32.8 degrees Celsius.</p> <p>In this regard, Style Avenue stated that it will implement a risk prevention program; as part of this program, a study of ambient temperature will be carried out in order to allow the factory to take the necessary measures to comply with the provisions of the law. It is very important to carry out these actions given the very high temperatures that were recorded.</p>
<p>Ensure the workers' effective enjoyment of vacations; and</p>	<p>A policy on the enjoyment and vacation pay was developed and actions for such actions were implemented, including the effective enjoyment of vacations by supervisors.</p>	<p><u>Completed action</u></p> <p>A sample of the 2014 holiday payroll was taken and it was verified that the correct calculations and payment in accordance to the law took place. 100% of the workers and trade unions mentioned that vacations</p>

CORRECTIVE ACTIONS	SUMMARY OF IDENTIFIED PROGRESS IN THE VERIFICATION OF THE YEAR 2012	CURRENT STATUS
		<p>are provided each year and a half, depending on production load at the factory. However, vacations are granted consistent with the legal limits referred to in Art. 182 of the Labor Code.</p>
<p>Guarantee the timely payment of social security and pensions by the factory.</p>	<p>There are still delays on the payment of social security and pension contributions. Apparently, an agreement with the managers of the pension funds has been negotiated (but this could not be verified).</p>	<p><i>Incomplete action</i></p> <p>100% of the workers and trade unions expressed their dissatisfaction with the late payment by management of the pension funds, even though every month workers' contributions are discounted from their salaries. A review of payment documents to AFP showed that throughout most of 2014, payments were made irregularly, with a two- to three-month delay.</p> <p>With respect to social insurance payments, interviewees mentioned that in 2014, some workers who could not go to the clinics of the social security (ISSS) due to non-payment of contributions by the employers. This was corroborated in an</p>

CORRECTIVE ACTIONS	SUMMARY OF IDENTIFIED PROGRESS IN THE VERIFICATION OF THE YEAR 2012	CURRENT STATUS
		examination of ISSS contribution payment documents, as an irregular payment in March was identified. Management mentioned that this happened due to a systems change at the ISSS which prevented them to pay timely, but the payment was made as soon as possible.

Additionally, the terms of reference for the independent verification commissioned the review of the following aspects:

1. The existence and implementation of procedures based on the factory's new policies, according to FLA's Compliance Benchmarks.

83.33% of the interviewees do not know the labor policies of Style Avenue and therefore they cannot know whether they are being met according to the commitments made by the factory. Furthermore, 100% of the unions mentioned that despite the existence of policies, these are not applied in full.

Lack of policies and procedures required by the FLA Compliance Benchmarks regarding forced labor, child labor, health, safety and environment and lack of procedures required with respect to industrial relations.

2. Possible situations of violence and gender discrimination based on sexual orientation.

In interviews conducted with one of the unions, violence and discrimination on account of sexual orientation detrimental to the General Secretary of SITTESA was mentioned. It was stated that the victim was attacked by the Human Resources Manager (who was accused

before the Office of Attorney General's Office and had a restraining order placed against him) and on behalf of another union.

During the visual inspection of the factory carried out as part of this exercise, this investigator found writings in the bathrooms containing hateful statements involving women and union leaders that identified and disseminated -- with contempt -- the sexual orientation of the mentioned union leader.

3. To confirm the existence of policies and effective and comprehensive procedures with regard to freedom of association, the prohibition of anti-union discrimination and equal treatment between various unions in the factory.

Within the policies, there is one related to freedom of association but it lacks a procedure to ensure effective compliance.

In 100% of the interviews with union members, they mentioned that they feel discriminated against by some supervisors who treat them badly when they know they belong to a union, as well as by the Human Resources Manager who was identified as a person that treats them with apathy once their status as union members is revealed.

It is noteworthy to mention that 100% of the unions also have the perception that the factory has preferential behaviors towards other union organizations.

4. To investigate the proper selection of the staff for conducting training, ensuring that they have the necessary technical knowledge on topics such as labor rights.

With respect to trainings conducted on sexual harassment, labor harassment and verbal abuse during 2014, it was corroborated that they were conducted by a (female) lawyer with specialization on such topics and by the Human Resources Manager at Style Avenue. The interviewed unions feel that the Human Resources Manager has knowledge regarding labor rights, but does not have the experience and sensitivity necessary to teach courses on topics such as sexual harassment and labor harassment.

Other Findings:

1. Resignation of the General Secretary of SITESSA and its consequences

According to investigations, the General Secretary of SITESSA was the victim of discrimination based on sexual orientation in the factory and was the subject of a lawsuit that sought to validate her dismissal from Style Avenue. In this regard, SITESSA leaders consider that their General Secretary resigned in this context, precisely because she felt pressured by all the legal actions undertaken against her and for all the messages of hatred and contempt that she received. In this sense, in the visual inspection made in the women's lavatory of the factory, I found several messages directed to her asking her to leave the factory because in Style Avenue "nobody wants her inside anymore."

SITESSA leaders and 25% of non-unionized people interviewed felt that the factory sought ways to make the General Secretary of SITESSA resign because she was "uncomfortable" precisely because she was the only one capable and brave enough to defend their labor rights with arguments based in the law; and to some extent, they stated that since her resignation there are feelings of demoralization and vulnerability.

The management of the factory gave me a copy of the lawsuit, in which the grounds that they based their decision to initiate proceedings for a dismissal were: for assaulting and threatening employer representatives and female coworkers, for instigating her female coworkers to disobey instructions while negotiating the fulfillment of their demands; and for failing to comply with the Internal Regulations of Style Avenue.

It is noteworthy that one of the unions present in Style Avenue reported having serious problems with the General Secretary of SITESSA because they claimed that she was arrogant and kept threatening them. Also, one nonunion female worker interviewed reported having been threatened by the General Secretary of SITESSA who on several occasions told her that she could have her removed from the factory.

SITESSA was affected with the process of dismissal because she was a trade unionist and not because of the behaviors attributed to her.

2. Pregnant women doing heavy physical work

During the inspection at the plant, there were two pregnant women -- from 6 to 8 months -- working on lines 2 and 6, performing the duties of production line assistants, which require considerable physical effort precisely because it requires standing throughout the

whole workday, lifting heavy loads of fabric. These situations violate Art. 110 of the Labor Code and Art. 72 of the Internal Regulations.

3. **Signs of bad working environment generated by conflicts between unions**

100% of non-unionized workers interviewed believe that a conflict between unions affect the working environment and discourages them to believe in their union work, as they perceive that the unions spend more time arguing one another than defending and ensuring the respect for their labor rights.

At the final meeting, when this point was addressed, all the unions present expressed that the Human Resources Manager has performed actions that cause conflicts between unions.

4. **Suspension of Work**

According to the factory's management, due to the lack of raw materials this year, there were 362 workers cessations (equivalent to 89.82% of the workforce) as follows:

- 265 people suspended for 8 working days (from January 28th to February 6th);
- 54 people suspended for 5 working days (from the 2nd to 6th February); and
- 43 workers suspended for 2 business days (05th and 06th February).

The factory provided a series of communications that showed that this situation was caused by a failure in the supply chain which prevented the delivery of the art designs for the parts that are manufactured in Style Avenue; and because of this, the factory sought alternative measures to affect the fewest number of male and female workers, for example, by having staff take their vacations in this period.

Meanwhile, the unions asked for an inspection from the Ministry of Labor and Social Welfare (MTPS) to determine whether there really was lack of raw materials and for the institution to rule regarding the proper way to respond to the workers affected, with the salary payments according to the law. In addition, conciliation in the MTPS was sought but ended without agreements on wage payments, since the factory wants to pay only the salary of the first three days of the suspension and the unions demanded payment of 100% of the salary for the days not worked. This week I struck up a conversation with the

General Director of Inspection of MTPS who assured me that the final resolution of the inspection regarding the proper way to make payment will be in a few days.

The unions faithfully believe that the suspension was arbitrary and reflected preferences favoring certain groups of workers, as the administrative staff, cutting, packing and all supervisors were allowed to continue working without any problem.

5. Non-payment for three days off due to sickness and ISSS medical consultation deduction.

100% of the interviews with the unions and non-unionized workers showed that the factory will not pay for time off for medical disabilities that last three days. One of the unions requested a legal opinion from the MTPS regarding payment of such time off for illnesses, and the MTPS determined that payment for three days of illness rests with the employer. When asked about his situation, the HR Manager mentioned that the law does not say anything about it and that the opinion of MTPS is not binding. Therefore, as employers, they are not required to pay for the sickness time off as the Regulations for the Implementation of Social Security Regime determines that the worker is entitled to disability pay from the fourth day forward.

6. Dialogue tables

The Human Resources Manager mentioned that these spaces functioned to discuss specific problems with each of the unions. Thus, there was never a common dialogue between the factory and trade unions as a whole. The unions mentioned that they decided not to continue in the dialogue tables because these were used by the factory as a delay mechanism and not to address issues properly.

CONCLUSIONS

1. Although the factory has a special program for pregnant women that recognizes their rights and benefits, the program has implementation problems, as shown by pregnant workers carrying out physically exhausting work. In this respect, it is recommended that Style Avenue implement protective measures for pregnant women consistent with domestic law and FLA Compliance Benchmarks (ND.8.1).

2. There is sufficient evidence to establish that there are serious problems related to workers being able to exercise freedom of association, ranging from anti-union behavior by representatives of the factory (supervisors and HR Manager), to permanent conflicts caused by the union organizations themselves. This situation requires an intervention strategy to raise awareness on these issues, for example through the continuation of permanent training programs on freedom of association carried out by specialized trainers for both management and trade union organizations, as these issues affect staff and have an impact on the productivity of the factory because there is an inappropriate working environment.
3. The resignation of SITESSA's union leader has raised legitimate doubts and concerns that will affect the union's actions, because most leaders said that the resignation was due to pressure, and that this is a message that tells them that at any moment they could also lose their jobs.
4. Messages found in the women's lavatories demonstrate serious problems regarding discrimination based on sexual orientation, and for this reason it is imperative to launch programs of awareness raising and training involving management and personnel at all levels aimed at eradicating prejudices and violent expressions that exist today.
5. All of the unions mentioned that management has preference for "another union." From the point of view of this verifier, this is so because labor issues are discussed individually with each union organization, rather than establishing and consolidating a space for common dialogue, where a shared working agenda between management and all the unions can be defined.
6. It is necessary to reestablish and consolidate a dialogue table that will permit the discussion of labor problems between Style Avenue management and all of the unions as a group.
7. It is imperative to end the late contributions payments to the pension funds system for workers, as the problem persists despite a commitment assumed by management to correct this problem in earlier remediation plans.
8. The factory must adapt, without delay, its internal policies and procedures in accordance with the FLA Compliance Benchmarks. In particular, the procedures related to the special mechanisms to properly channel sexual harassment and verbal abuse cases. The factory should be aware that sexual harassment and abuse are considered psychosocial risks,

according to the General Law on Prevention of Risks in the Workplace, and that therefore, in its capacity as employer, it must guarantee compliance with this regulation and maintain a work environment free of sexual harassment and verbal abuse

9. Regarding the work suspension, brands need to review the procedures that determine the dynamics of their supply chains, as these types of failures cannot continue happening. They cause serious damage to the lives of workers and their families, as they only have their salary to meet their family and financial responsibilities.
10. The MTPS is one of the institutional mechanisms designed by the Salvadoran State to protect the rights of workers. Therefore, an employer should not consider MPTS resolutions as optional, but rather as a guide to protect fundamental human rights that have a social function.
11. The high temperatures at the factory require an urgent intervention strategy. To address the problem it will be necessary that the factory implement the project that it has developed regarding worker safety and health, by conducting an ambient temperature study that will identify measures to lower temperatures inside the factory.
12. Due to the fact that a series of commitments made by the factory are classified as ***incomplete***, it is necessary to design a new plan of action that incorporates concrete results, deadlines for compliance and clearly identifies those responsible for its execution.