



## Summary Report:

### INDEPENDENT INVESTIGATION AND REMEDIATION PLAN AT TECNOTEX FACTORY IN NICARAGUA

In mid-March 2013, FLA-affiliated company Gear for Sports, Inc (GFSI) contacted the FLA regarding reports of violence and violation of freedom of association rights at the factory Tecnotex,<sup>1</sup> located in Zona Franca Zenika, S.A., Tipitapa, Nicaragua. The product sourced by GFSI at Tecnotex is for the collegiate market under a licensing agreement from Under Armour. GFSI requested that the FLA arrange for an independent investigation into the allegations and make recommendations for remediation.

#### Independent Investigation

On March 20, 2013, the FLA engaged FLA-accredited independent monitor Comisión para la Verificación de Códigos de Conducta (COVERCO) to evaluate the freedom of association environment at Tecnotex and in particular investigate the following allegations:

1. The termination of workers for engaging in union activities.
2. Intimidation of workers with the intention of getting them to renounce their union affiliation.
3. An incident which occurred on March 4, 2013, involving alleged physical altercations and violence against union leaders and their supporters instigated and/or financed by factory management.

COVERCO conducted fieldwork for its investigation between April 14 and 19, 2013. In the first phase of the investigation, COVERCO held interviews with key external stakeholders, including former Tecnotex workers, members of the Board of Directors of the Carlos Fonseca Amador Union, union leaders from various organizations in Nicaragua, human rights institutions, and Nicaragua's Vice Ministry of Labor. The second phase of the investigation, which was conducted by an FLA staff member, included documents review and interviews with Tecnotex employees, including the General Manager, Human Resources Manager, Social Compliance personnel, workers and union leaders.

#### Findings<sup>2</sup>

COVERCO noted that since 2008, Nicaragua has had in place a "Tripartite Agreement for Labor Stability and Productivity in Free Trade Zones." One of the key elements of the agreement is a pledge by the parties (the union confederations, the private sector operating in the free trade zones and the government, represented by the Free Trade Zone Corporation and the Ministry of Labor) to "respect each and every one of the agreements, conventions, policies, rules and other instruments regarding the right to freedom of negotiation and contracting reached between workers and employers in order to create the necessary regulations to establish real and concrete working conditions with the objective of

---

<sup>1</sup> Tecnotex is owned and operated by multinational corporation SAE-A and is also known as SAE-A Tecnotex.

<sup>2</sup> The COVERCO report is available in English and Spanish at [www.fairlabor.org/report/tecnotex-nicaragua](http://www.fairlabor.org/report/tecnotex-nicaragua).

performing work under efficient conditions.” A political agreement underlying the Tripartite Agreement calls for federations or confederations to work together with regard to the creation of unions in factories where unions already exist in order to consolidate union presence and avoid the presence of multiple unions belonging to the same federation or confederation within a factory. COVERCO notes that at the time of the assessment, there were already two unions affiliated with different federations at Tecnotex prior to the organization of the Carlos Fonseca Amador union; the two existing unions had negotiated a collective bargaining agreement with management.

COVERCO also made the following findings:

1. On October 19, 2012, 23 Tecnotex workers organized the Carlos Fonseca Amador Union; on October 24, they presented an application for registration before the Registry of Union Associations of the Ministry of Labor. Management was notified in writing of such action on October 25, 2012. The founders of the union had the right of *fuero sindical* protection.
2. According to Nicaraguan law, the Registry of Union Associations has 10 days to issue registration or request further information from the organization seeking recognition. The Ministry of Labor did not act within the 10-day period, as it was not until January 21, 2013 that the Ministry of Labor denied registration on the grounds that eight of the 23 founders of the union were not Tecnotex employees. The union appealed the decision on February 5, 2013.
3. On January 5, 2013, an Assembly with 27 workers was held to restructure the Carlos Fonseca Amador Union and on January 7, the Registry of Associations was presented with a new request for recognition. There is no evidence that the Ministry of Labor took a position on this new request. Subsequently, the union indicated that it would file a writ of *amparo* seeking relief from the decisions of the Ministry of Labor regarding recognition.
4. In January 2013, five founding members of the Carlos Fonseca Amador Union were dismissed by management despite the fact that they had *fuero sindical* protection. Testimony of key external actors confirmed that management had been aware of the existence of the union since October 25, 2012.
5. An incident of violence occurred on March 4 outside of the Senika Free Trade Zone involving a group of individuals engaged in a protest, including workers from Tecnotex and a sister factory, EINS. COVERCO concluded that the altercations occurred during working hours; that the workers from Tecnotex and EINS left their jobs to join the confrontation; and that the passive attitude taken by management to allow the exit of workers from the factories contributed to the regrettable events of March 4.

## **COVERCO’s Recommendations and Remediation Action Plan**

### ***Recommendations for Tecnotex***

1. Reinstatement of the workers associated with the process of union organization and the compensation for lost wages and economic benefits not received up to the moment of their reinstatement.

Corrective Action: Tecnotex will reinstate the five workers named in the COVERCO report and compensate them for lost wages and economic benefits not received up to the moment of their reinstatement. Any worker who chooses not to return to work will be offered compensation in the form of back pay, less any severance already paid.

2. Develop, in accordance with the FLA Code of Conduct and Compliance Benchmarks, policies and procedures – primarily those related to Employment Relationship, Freedom of Association and Collective Bargaining, and Industrial Relations.

Corrective Action: Tecnotex will review its existing policies and procedures to ensure consistency with the FLA Workplace Code of Conduct. Tecnotex agrees to clarify, strengthen and/or enhance its policies. Further, Tecnotex agrees to prominently display notices setting forth its policies on freedom of association. These notices will make clear that workers have the right to associate with the union of their choosing, that they have the right to be free from retaliation for exercising that right, and that they can and should report any violations of these policies to management without fear of reprisal. Tecnotex agrees to enforce its policies prohibiting retaliation against workers who choose to associate with a union.

3. Adequately include in its orientation program content related to its Code of Conduct and the FLA Code of Conduct, with emphasis on Freedom of Association.

Corrective Action: Tecnotex will develop an expanded orientation program for all new workers that informs workers about Tecnotex's policies and the FLA Workplace Code of Conduct. This orientation will include information on workers' right to freedom of association, including their right to associate with a union of their choosing. Tecnotex's orientation program will explain Tecnotex's grievance procedures to workers, and will make clear that workers are encouraged to utilize these procedures to address workplace concerns.

4. Implement a continuous training program and objective evaluation of the knowledge acquired through training with respect to policies and procedures prohibiting acts of discrimination, freedom of association, and the corporate Code of Conduct.

Corrective Action: Tecnotex will implement an internal training program consistent with the recommendations in the COVERCO report. During this training, Tecnotex's policies governing industrial relations and freedom of association will be explained and reinforced. The training will inform all attendees that violence will not be tolerated and that any workplace disputes should be resolved by dialogue, not violence. Tecnotex has agreed to retain an outside organization, Better Work Nicaragua, to conduct a management training program at Tecnotex that will be required for all supervisors and managers. The training program will be conducted in June 2013. The training will include industrial relations, appropriate conduct toward workers, and freedom of association, and will reinforce that workers are free to associate with any union of their choosing.

### ***Recommendations for FLA-Affiliated Brands Sourcing from Tecnotex***

- Communicate to all workers in writing or through other means, the commitment of the companies to guarantee the right to freedom of association and collective bargaining and their disposition to continue commercial relationships with Tecnotex.

Corrective Action: Gear for Sports, Inc. (GFSI) will contract with a third-party training organization to communicate to all workers their right to freedom of association and collective bargaining.

- In accord with FLA benchmark FOA.6, “Restoration of Workers Rights/Reinstatement,” request the reinstatement of dismissed workers that have or had the right to protection under *fuero sindical* and the payment of lost wages up to the date of their reinstatement.

Corrective Action: GFSI has requested – and Tecnotex has agreed to – reinstating the five workers at Tecnotex that were identified in the COVERCO report and compensating them for lost wages and economic benefits not received up to the moment of their reinstatement.

- Support with professional and technical assistance effective communication, human relations and conflict resolution, as well as bi- or tripartite processes for the resolution of future labor problems, strengthening in this manner the Tripartite Agreement for labor stability and productivity for free trade zones.

Corrective Action: GFSI will work with Tecnotex to identify qualified training organizations that can provide professional and technical assistance throughout the remediation process and to allow Tecnotex to deploy proven processes to encourage worker dialogue in order to mitigate future conflicts.

- Verify, as a result of the COVERCO report, the factory’s compliance and commitments regarding the remediation program for anti-union discrimination.

Corrective Action: GFSI will contract with a third-party monitoring organization to verify Tecnotex’s compliance and commitments regarding the remediation program for anti-union discrimination.

## **Conclusions and Next Steps**

The corrective action plans developed by GFSI and Tecnotex address each of the recommendations in the COVERCO report. The FLA recommends that GFSI monitor closely the implementation of the remediation plan and report back to the FLA within 90 days with an implementation update.