

SUPERTEX (EL SALVADOR)

SUMMARY REPORT

August 23, 2022

On June 15, 2022, Fair Labor Association initiated a Third Party Complaint (TPC) investigation at the Supertex El Salvador, Chalchuapa, factory. This followed submission by the union federation *Federación de Asociaciones y Sindicatos Independientes de El Salvador (FEASIES)* of a complaint on June 6.

By the time of the initiation of the TPC, FLA Participating Companies adidas, Under Armour, and Patagonia, for which Supertex is a supplier, had also received a communication from FEASIES concerning the same allegations filed with FLA.

FEASIES alleged that the Supertex factory on June 2, 2022 had illegally terminated two leaders from the union *Sindicato de Trabajadoras y Trabajadores de la Industria del Trabajo Textil (SITTEX)*, as well as one former leader and one newly elected member of the board from the union *Sindicato de Trabajadoras y Trabajadores de Industria Maquiladora, de Comercialización, Servicios y Afines de El Salvador (SITRAIMES)*. The complaint alleged that these four workers all were entitled to the special legal protection known as “*fuero sindical*” at the time of their dismissal.

Following consultations with the three Participating Companies, FLA commissioned independent investigator Francisco Chicas to investigate the allegations set out by FEASIES. In addition to the specific termination issues reported by the complainant, FLA and its Participating Companies agreed to extend the scope of the investigation and assess Supertex’s general policies and procedures governing terminations, freedom of association, non-discrimination, performance reviews, disciplinary systems, and grievance mechanisms. The complete scope of the investigation is summarized in the first section (“Background”) of the investigator’s final report.

Between June 19 and June 22, the investigator conducted his investigation; this included an onsite visit to the factory that encompassed a number of interviews with current factory workers and management, and he also conducted offsite interviews with the four union leaders who were terminated on June 2, as well as with the complainants.

The investigator's final report concludes that the terminations of the four union leaders from SITTEX and SITRAIMES were not legal under national labor regulations, as all of them were entitled to *fuero sindical* protection at the time of their dismissals and they could not be terminated without a previous judicial authorization.

On June 27, Supertex factory management, through the mediation of the Salvadoran Ministry of Labor and Social Welfare, agreed to reinstate the four union leaders, who were reinstated on July 1 with full back payments. This remedial action addressed the core allegations of the complaint prior to completion of the investigator's final report and provided a clear indication of the factory's support for the legal process covering the workers' freedom of association rights.

At the same time, moving forward it will be important for factory management to continue to work closely with the Participating Companies to promote and ensure more broadly the free exercise of workers' organizational rights.

Moreover, the investigator also identified other elements of non-compliance with FLA's Code and Compliance Benchmarks. As reflected in his final report, the factory failed to calculate and pay termination payouts to workers following the criteria established by FLA for cases where a factory adopts the practice of making advance payments (in this case on an annual basis) to workers of their severance payouts without ending the employment relationship.

The report also notes that the factory should strengthen its disciplinary and grievance systems and should further review current practices governing termination, freedom of association, and non-discrimination to ensure they are aligned with FLA's standards.

The report's conclusions are based upon the investigator's expert analysis of the applicable legal framework, in particular with respect to freedom of association, under Salvadoran law and the relevant provisions of FLA's Code and Compliance Benchmarks. The recommendations that follow then map out a series of specific actions that the investigator calls upon the factory to undertake in consultation with the Participating Companies.

The June 27 action of factory management to reinstate the four union leaders and respect their *fuero sindical* protection provides a strong foundation for further opportunities to maintain and strengthen a system of healthy industrial relations with the FEASIES federation and SITTEX and SITRAIMES unions. To that broader end, FLA looks forward to working with Participating Companies adidas, Under Armour, and Patagonia as they engage with Supertex to develop a clear process for fully implementing the report's recommendations.

Finally, FLA thanks investigator Francisco Chicas for his careful and thorough work on this investigation and for the caliber of his final report – qualities that consistently have characterized his work as an independent investigator commissioned by FLA over the past several years.

After completing his investigation and report here, Mr. Chicas assumed a new staff position with FLA based in Brazil. While we will miss the opportunity to work with him as an independent consultant on TPC investigations and other matters, FLA welcomes him as a trusted and expert colleague.