



Westtex Apparel (El Salvador) Summary report – May 2023

On March 16, 2023, the Fair Labor Association initiated a Third Party Complaint against Westtex Apparel S.A de C.V., located in Zona Franca San Bartolo, Ilopango, El Salvador, after the union federation, *Federación de Asociaciones o Sindicatos Independientes de El Salvador* (“FEASIES” or the “Complainant”), filed a formal complaint with FLA.

FLA Participating Companies, Next Level Apparel and ‘47 Brand, were sourcing from Westtex Apparel at the time the Third Party Complaint was submitted to FLA.

FEASIES alleged a number of labor violations, that if corroborated by the investigation, would result in violations of local labor regulations and FLA’s Workplace Code of Conduct and Compliance Benchmarks. The allegations related primarily to Freedom of Association, Termination and Retrenchment, Compensation, Non-Discrimination, and Employment Relationship. In particular, the complainant alleged the following:

- a) Westtex Apparel failed to comply with FLA’s Workplace Code of Conduct and Compliance Benchmarks during the implementation of a mass layoff conducted in early January 2023, when more than one hundred workers were terminated.
- b) The Factory illegally terminated three union officials from the union *Sindicato de Trabajadoras y Trabajadores de la Industria del Trabajo Textil* (SITTEX) in early January 2023. These workers were entitled to *fuero sindical* protection at the time of their dismissal.
- c) The lack of a constructive labor-management system resulted in the Factory’s opposition to establish a regular space for dialogue with the union officials of the union branches at the Factory: the SITTEX union, union *Sindicato de Trabajadoras y Trabajadores de Industria Maquiladora, de Comercialización, Servicios y Afines de El Salvador* (SITRAIMES), and union *Sindicato de Trabajadores de la Industria del Vestir de El Salvador* (STIVES). The three unions are trade unions (*sindicatos de industria*) affiliated with FEASIES.
- d) Since April 2022, there are gaps and inconsistencies in the Factory’s implementation of workers’ pay for the first three days of medical leave.
- e) The Factory’s management, supervisors, and workers engaged in discriminatory practices against workers of the LGBTIQ+ community based on their gender identity and sexual orientation.

Both FLA Participating Companies agreed to move to Step 3 of the Third Party Complaint process and waived the opportunity to conduct their own internal investigation. With this decision, FLA engaged the independent investigator, Margarita Estrada, to lead the investigation of the allegations filed by FEASIES.

The independent investigator conducted an on-site visit to the Factory between March 27 and March 30, 2023. The investigation process included the cross-checking of evidence collected through worker interviews, management interviews, worker representative interviews,

document review, and onsite observations. Interviews were carried out onsite, offsite, and via phone calls. A total of 50 worker interviews were conducted, 19 union officials were interviewed, and finally, key Management Staff also provided information to the investigator.

The investigator identified the union activity of six trade unions:

- SITTEX (FEASIES) - *Sindicato de Trabajadoras y Trabajadores de Industria Maquiladora*
- SITRAIMES (FEASIES) - *Sindicato de Trabajadoras y Trabajadores de Industria Maquiladora, de Comercialización, Servicios y Afines de El Salvador*
- STIVES (FEASIES) - *Sindicato de Trabajadores de la Industria del Vestir de El Salvador*
- SGC - *Sindicato General de Costureras*
- SINDICOM - *Sindicato de la Industria de la Costura y la Maquila*
- SITITEX - *Sindicato de Trabajadores y Trabajadoras de la Industria Textil de El Salvador*

The investigator's final report concluded that the three union officials from SITTEX terminated in January 2023 were entitled to *fuero sindical* protection at the time of their dismissal and should not have been considered for termination without first complying with the legal regulations of the labor authority. The termination of these union officials violated Art. 248 of El Salvador's Labor Code and FLA's Workplace Code of Conduct and Compliance Benchmarks governing Freedom of Association.

Prior to finalizing the investigation report, and after the intervention of the Ministry of Labor, the Factory reinstated two of the SITTEX union officials terminated in January 2023 -- one was reinstated on March 29 and the second on April 1, 2023. However, these two workers have not received retroactive payment since the date the Factory terminated their employment contracts up to the date of their restatement, as recommended by the labor authority.

During the collection of evidence, two additional cases of alleged illegal union official terminations were brought to the attention of the investigator. These workers were terminated in 2021 while being covered by the *fuero sindical* protection. They both decided to sue the factory through the labor courts, and in both cases, the judges issued resolutions in favor of the workers ordering their reinstatement (in October and December 2022 respectively). The Factory appealed both judicial resolutions, and the final decision from the appeal courts was still pending at the time the Third Party Complaint investigation took place. Regarding these pending cases, the investigator also concluded that the two union officials were entitled *fuero sindical* protection at the time of their dismissal and suggested this has been a "form of antiunion discriminatory practice" by the Factory.

The investigator also verified the Factory's compliance with legal regulations and FLA's Workplace Code of Conduct and Compliance Benchmarks concerning Terminations and Retrenchment. She established that despite the fact the Factory has policies and procedures in place, during the implementation of the January 2023 mass layoff, the factory failed to observe FLA's standards and guidance regarding responsible retrenchment. In particular, the investigator found that the Factory did not consult with worker representatives prior taking the decision to implement the retrenchment; it did not develop and communicate the retrenchment plan with the workforce; and the Factory did not establish accessible and reliable grievance mechanisms for workers to submit their concerns related to the retrenchment process and the calculation of their severance payouts.

Regarding Industrial Relations, the investigator corroborated that the factory failed to set up a structure for constructive dialogue and dispute resolution with the trade unions at the factory. She identified the Factory has engaged with only three of the six trade unions in the past, the other three unions are not recognized by Factory management.

Through this complaint, FLA had the unique opportunity to investigate allegations concerning sexual orientation and/or gender identity discrimination. The investigator corroborated discriminatory practices affecting workers on the LGBTIQ+ community in the Factory. These workers are subjected to verbal derogatory terms about their physical appearance and demeanor. The Factory has not implemented rules and procedures to stop and prevent this behavior from management, supervisors, and co-workers.

The allegations regarding the inconsistencies and irregularities in the implementation of the payment of the three first days of medical leave to workers were also corroborated.

Finally, via this independent third-party investigation, instances of verbal abuse were identified and that the conditions of the lactation area do not meet privacy and sanitary requirements.

The investigator report includes a comprehensive list of recommendation for the Factory on how: a) to improve its management system; b) to align its policies and procedures governing retrenchment, grievance mechanisms, workers' performance reviews, freedom of association and collective bargaining with FLA's Workplace Code of Conduct and Compliance Benchmarks; c) to strengthen the training system for management staff, supervisors, and workers on key workplace standards and; c) how to ensure compliance with local and FLA's Workplace Code of Conduct and Compliance Benchmarks with respect of the confirmed allegations of labor violations reported by FEASIES.

FLA encourages Next Level Apparel and '47 Brand to work jointly with the factory in the remediation of the findings and in the implementation of the remedial actions recommended by the investigator.