



June 3, 2011

**INTERIM REPORT:  
THIRD PARTY COMPLAINT REGARDING F&D, S.A. DE C.V.  
IN EL SALVADOR**

**COMPLAINT**

On February 28, 2011, the Fair Labor Association (FLA) received a Third Party Complaint (3PC) from representatives of Sindicato de la Industria Textil y Actividades Conexas y Similares (SITS), a legally recognized union at the factory F&D, S.A de C.V. (“F&D”), in San Salvador, El Salvador. The 3PC alleged a range of violations of labor standards and of the FLA Workplace Code of Conduct at the factory. In particular, the complaint alleged violations of the Workplace Code of Conduct and Compliance Benchmarks with respect to payment of Wages and Benefits, Overtime Compensation, and Freedom of Association. The complaint identified FLA-affiliated company Hanesbrands as actively sourcing from F&D.

In accordance with the FLA Third Party Complaint Procedure, FLA assessed the complaint, accepted it for review, and moved the case to Step 2 of the Procedure.<sup>1</sup> On March 11, Hanesbrands was notified about the acceptance of the 3PC.

**ASSESSMENT BY COMPANY**

Hanesbrands reported that – as part of their assessment of the complaint – both local and headquarters staff met with F&D management (including the Plant Manager, General Manager, Production Manager, Human Resources representatives, Labor Relations Manager and F&D’s outside counsel) and with representatives of the SITS union. Management officials from F&D traveled to Hanesbrands’ headquarters in Winston-Salem, North Carolina, for meetings regarding the 3PC and Hanesbrands’ officials from headquarters also traveled to El Salvador to participate in meetings with the management and union.

Hanesbrands indicated that several of the issues raised in the 3PC had already been brought to their attention by an FLA Independent External Monitoring (IEM) event at the factory conducted

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<sup>1</sup> Step 2: Informing the Company or Licensee. In this step, the Executive Director informs the company that a complaint has been filed and provides the company with the information supplied by the complainant. FLA also provides a preliminary indication as to which Workplace Standards are potentially non-compliant. The company then has up to 45 days either to request that the process go directly to Step 3 or to investigate the alleged noncompliance internally. More information about the Third Party Complaint process can be found in the FLA Charter available at: <http://www.fairlabor.org/fla/go.asp?u=/pub/mp&Page=FLACharter>.

by accredited monitor GMIES on December 3, 2010. Hanesbrands was already in the process of developing a remediation plan to address the noncompliances identified in the IEM.<sup>2</sup> Allegations raised in the 3PC provided additional impetus to their remediation efforts.

Allegations by the complainants that were also raised in the IEM and are subject to an ongoing remediation plan include:

- incorrect calculation of bonuses;
- obstacles to union employees earning production bonuses;
- discrimination and harassment of union members in the form of restrictions on movement and isolation of SITS union members within the factory;
- payments to SITS leadership to resign from the factory;
- incorrect calculation of social security contributions;
- incorrect calculation of fringe benefits (Christmas and vacation pay); and
- failure to grant vacations to workers.

Additional allegations not explicitly identified in the IEM include: 1) lack of payment of wages to workers during a work suspension period; 2) anti-union discrimination in the form of exclusion of union members from the factory loan benefits program; 3) refusal on the part of management to meet with all of the members of the Board of SITS when they want to raise issues with management; 4) lack of payment of overtime hours for new hires; and 5) nonpayment of wages to workers while they conducted legal union activities and charges against union members for use of medical leave.

With regard to the allegations involving issues not already identified in the IEM, Hanesbrands' report stated that:

- The issue of pay during suspension of work at the factory has been the subject of an investigation by the Ministry of Labor and a judgment from the Ministry is expected shortly. F&D management will comply with the judgment from the Ministry.
- The factory denied the allegation of anti-union discrimination in the factory loan benefit program and indicated that it has eliminated the loan program effective in 2011.
- There is no requirement under El Salvador's labor law for management to meet with all the union Board members; however, management is willing to meet with such a group during scheduled monthly meetings between management and the union.
- Hanesbrands and FLA's recent IEM found the factory compliant with payment of overtime.
- There is no requirement under El Salvador's labor law for management to remunerate for union activities, though this right is commonly provided to a union through a collective bargaining agreement. In addition, Hanesbrands did not identify anti-union discrimination when it came to medical leave.

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<sup>2</sup> Independent External Monitoring report available [here](#).

## **COMPLAINANTS' RESPONSE TO COMPANY'S ASSESSMENT RESULTS**

On May 5, 2011, the FLA convened a meeting with the complainants to inform them about the company's assessment and proposed remediation plan. SITS union leaders reported substantial improvements in the workplace environment since the initiation of the FLA 3PC Procedure. In particular, they commended Hanesbrands' prompt response to the complaint and indicated that they had seen immediate positive changes in the factory, including:

- Resolution to the issue of collective vacations
- Significant changes to medical leave
- Proactive measures taken by management to resolve workplace issues.

They indicated that similar progress was not evident with respect to payment of overtime hours for new hires.

With respect to freedom of association, the complainants indicated that while there had been a notable decrease in anti-union harassment, some residual discriminatory treatment of union members was still present. In particular, they identified the issue of obstacles to union employees earning production bonuses. Moreover, the complainants offered that more could be done to eliminate anti-union behavior by management – in particular through training and education of management and supervisors on freedom of association. They also suggested that abusive supervisors receive training and/or counseling. Finally, the complainants stated that F&D's decision to eliminate the loan benefit program for all workers – the complainants had alleged that union leaders were excluded from the loan benefit program – adversely affects all workers. They recommended that F&D reconsider this decision and continue the program, after the removal of discriminatory elements.

## **CONCLUSION AND NEXT STEPS**

The combination of the IEM conducted in December 2010, and the investigation carried out by Hanesbrands as part of this Third Party Complaint, has provided a rich picture of the labor compliance situation at F&D S.A de C.V. and identified a number of noncompliances with the FLA Workplace Code of Conduct. It is evident that some of the corrective action plan implemented by the factory to remedy the noncompliances has already begun to have positive effects, as confirmed to FLA staff by the SITS union in a meeting in San Salvador on May 5, 2011. However, continued attention to remediation is essential.

In addition to remediation efforts already underway, FLA recommended to Hanesbrands that it work with F&D management to:

- Provide freedom of association training to managers and supervisors in order to eliminate remnants of anti-union discrimination that may still be present at the factory.
- Carefully monitor against anti-union discriminatory practices, in particular around overtime opportunities and production goal setting.
- Take appropriate disciplinary measure against supervisors who demonstrate abusive and anti-union behavior toward workers.

- Retroactively make corrective payments to workers for the calculation error made in the 2010 Christmas and vacation payments.
- Retroactive pay contributions to Salvadorian Social Security Institute (ISSS) and Pensions Fund Carriers (AFP) for those workers affected.

FLA further recommends that Hanesbrands monitor very closely the corrective action plan being implemented at F&D. The FLA requests that Hanesbrands keep it updated of developments at F&D for the next six months, with the expectation that a final report on the 3PC will be issued at that time.