EXECUTIVE REPORT
Independent Investigation
for the Fair Labor Association
Guatemala, July 24, 2007

BACKGROUND
Based on the complaint filed by the trade unions SITRACIMA and SITRACHOI before the Commission for Verification of Corporate Codes of Conduct (COVERCO) and other national and international stakeholders and before the Fair Labor Association (FLA) under its Third Party Complaint procedure, about the possible shutdown of the factory Cimatextiles, S. A. ("Cimatextiles"), the FLA commissioned COVERCO to perform an independent investigation of the factory, which manufactures products for a number of companies, including Liz Claiborne, Inc. (LCI), an FLA-affiliated company, and other companies not affiliated with the FLA. The investigation began on May 21, 2007 and was expected to last 10 days. However, due to a number of extenuating circumstances described in this report, it was necessary to extend the investigation until June 28, 2007.

FINDINGS
Taking into consideration the urgency of the situation, COVERCO used a focused and direct approach to guide its fieldwork activities. It gathered evidentiary information to support its work. COVERCO identified the key stakeholders and designed a questionnaire for management personnel, workers, and supervisors, and conducted follow-up interviews outside the plant. COVERCO also cross-referenced information by means of third party interviews.

The key themes identified by COVERCO during the process of the investigation were the following:

1. Production and Quality
2. Closure
3. Negotiations between the Company and the Trade Unions
4. Violence
5. Opposition Groups
6. Special Case – Gun

CONCLUSIONS
COVERCO points out that at the beginning of its work, the company was open to requests and facilitated access to carry out interviews and review documents. In the final phase, after June 12, 2007, the company did not provide information on the compensation payments. Proof of this is that even the request by the Ministry of Labor, through the General Labor Inspectorate, was addressed with a partial delivery of the required documentation on June 21,
2007. The company stated that COVERCO could have access to those documents after the General Labor Inspectorate carried out its review.

Consistent with the organization of this Final Report, COVERCO presents the Conclusions following the same structure used for the Findings.

1. Production and Quality
It is evident that the company did not utilize the adequate channels specified in the collective bargaining agreement to resolve production and quality problems.

✓ COVERCO confirmed that the company maintains its production quota.
✓ If production problems existed, the company should have utilized the procedures set out in the collective bargaining agreement, article 18, regarding Joint Meeting and article 42 on production goals.
✓ Interviews with workers and the Personnel Chief indicate that Korean employees, specifically Mr. Kevin Kim, Chief of Cutting, were responsible for production and quality problems. COVERCO did not interview him because he no longer works for the company.

2. Closure
The national legislation authorizes two modalities that need to be substantiated:

✓ A **partial collective suspension** is authorized only when there is “lack of raw material to carry out work, provided that it is attributable to the employer, according to a determination by the court”, article 70, clause c) of the Labor Code; and,
✓ A **total collective suspension** is authorized only when there is “lack of raw material to carry out work, which cannot be attributed to the employer” article 71, clause c) of the Labor Code.

In the case of the company, if there was in fact a justified lack of raw material at Cimatextiles and, if the company had used the correct procedure, the current collective conflict could have been prevented. COVERCO’s analysis is that the procedures utilized should have relied on the Collective Bargaining Agreement.

✓ Call a Joint Meeting to discuss the production problem of the factory, according to article 18, Joint Meeting. It will be the invariable norm between the companies and the trade unions to resolve every controversy that arises through the Joint Meeting … a) It will meet regularly the last Friday of each month, except in urgent cases when it will meet at the time of the request to meet by either party; … d) Agreements of the Joint Meeting will be effective immediately after the signing of the official document, a copy of which will be sent to the General Labor Inspectorate;
✓ At that meeting the argument that had to be considered regarded **article 56. LABOR STABILITY, part a:** “In no case will massive dismissals of workers of the company be undertaken. It is understood that massive dismissal means when more than 10 workers are dismissed in the same calendar month”; and,
Article 42 Production Goals. The companies will explain weekly to the trade unions matters related to production goals.

Meanwhile, in the case of the General Labor Inspectorate, it should not have received the request for authorization of a “total collective suspension” from Cimatexiles, because the company already had been summoned to court and the company had not exhausted internal procedures.

It is quite clear that the Trade Union was legally constituted. However, the factory did not respect the following aspects of trade union rights: 1) Trade Unions legitimacy and legality to negotiate and establish a collective bargaining agreement and 2) The June 5, 2007 Agreement infringes on the rights established in the collective bargaining agreement according to Article 5 re: Trade Unions Acknowledgment. "The company acknowledges the Trade Unions as legitimate representatives of the workers in their economical, social, and cultural rights and interests and they are compelled to address with their representatives individual or collective issues which may occur in the workplace…” Taking into consideration these areas, COVERCO’s opinion is that there has been a violation of freedom of association and collective bargaining rights.

3. Negotiations
During negotiations between the company and trade unions, an agreement was reached for temporary closure, payment of compensations and commitments to rehire at Cimatexiles once operations resumed in September 2007. However, no procedures or systems were put in place to guarantee the fulfillment of these agreements. The result has been the partial fulfillment of agreements; among them, the calculation of economic benefits.

COVERCO believes that it remains the company's exclusive discretion to determine if there is production to justify reactivating operations in September 2007. The agreement did not establish a verification system to prove new orders and their corresponding distribution. In accord with this norm, it could be interpreted that there is no obligation to legally reactivate Cimatexiles.

It is important to note that the agreements did not foresee continuity of employment. For that reason, there is no full guarantee of hiring of workers. Although the agreements were guaranteed by Cimatexiles and SITRACIMA, endorsed by the Labor General Inspectorate, and have external observers to verify their fulfillment, they are NOT an effective guarantee for the reactivation of operations.

4. Violence
An atmosphere of distress came upon workers, some of whom fainted or fell ill, when news of factory closures led to disturbances at the factory. The only reported incident of violence was regarding a Choishin worker who, while attempting to enter the facility, was pushed by a Korean manager. COVERCO investigate the allegation and the incident was confirmed through worker interviews. The worker that was pushed, however, refused to be interviewed,
probably because the workers continues to work at Choishin and fears possible retaliation from management.

5. Parallel groups directly or indirectly organized by the factory
COVERCO witnessed actions of an opposition group organized by Willard Sanchez, Cimatextiles' Personnel Chief, against the activities carried out by the trade union SITRACIMA in the days prior to June 5, 2007. COVERCO has evidentiary photo of meetings of this group with the Personnel Chief. Given the evidence of interference by the Personnel Chief, through the creation of a parallel group, the representative of the General Labor Inspectorate verbally warned him about this practice.

COVERCO considers that this group could be used to blame the union if the factory does not reopen in September 2007. If the factory does reopen, it will be an organized group within the company parallel to the trade union.

6. Special Case
COVERCO investigated allegations that a Cimatextiles manager carried a gun inside the plant to intimidate workers. COVERCO did not find objective evidence to support this allegation.

RECOMMENDATIONS
In the interim until September 2007
✓ Provide follow-up and verify fulfillment of the correct payment of benefits.
✓ Ensure the resolution of specific (workers on maternity leave, breastfeeding, Social Security medical suspensions).
✓ Provide follow-up and verification of the collective bargaining negotiation process.
✓ Create a commission to oversee the process of negotiation of new production contracts for the factory.

During the operations' start-up
✓ Verify the fulfillment of the preferential hiring agreement of workers registered in the Cimatextiles' list.
✓ Deliver a joint training program on the fulfillment of labor rights.
✓ Verify that the right to freedom of association is being respected and allowed to be exercised.