



THE AMERICAS GROUP

2019 IN REVIEW

Photo by [Fran Hogan](#) on Unsplash

May 21, 2020

TO: Americas Group (AG)

FROM: AG Coordinating Committee¹

When the Coordinating Committee met in DC at the end of February to discuss a first draft of this report, it included a detailed listing from both the Mexico and Central America Committees of priorities and plans for 2020. Within two weeks, our worlds and sector had dramatically changed with the global onslaught of COVID-19. As a result, most of those plans are on hold.

We believe the Americas Group can be a useful forum for more collectively navigating the current crisis and are currently looking at options to propose to you. For now, we share with you a narrative and financial summary of work done in 2019. Thanks to all for your important contributions to this work.

THE MEXICO COMMITTEE

The Mexico Committee's work continued to focus on promoting freedom of association and the right to bargain collectively and addressing common wage violations in Mexico's garment sector. The Committee includes 13 brands and manufacturers,² the FLA, IndustriALL Mexico and MSN. In addition, we regularly engaged with several independent labour rights experts in Mexico, particularly on the implications of the country's labour justice reform process. The Committee has for the last decade met in person in Mexico City for two-days of discussion (and debate), as well as multi-stakeholder forums. The work is coordinated by a Steering Team which includes Nike, adidas, New Balance, Fanatics and MSN.

FREEDOM OF ASSOCIATION AND LABOUR JUSTICE REFORM

Following the adoption of new labour legislation in May, the Mexico Committee updated its employer guidance tool on freedom of association and organized a series of educational meetings and trainings with various stakeholders – factories, labour advocates and senior government representatives.

Resources on Employer Obligations under the Labour Law Reform

In November, the Mexico Committee published a package of new and updated educational resources on the obligations of employers and the rights of workers under the reformed labour law, which included:

- An updated **Employer Guidance on Freedom of Association in Mexico**, including reference to obligations of employers under relevant Articles of the reformed Federal Labour Law,
- A **Protocol for the Authentication of Collective Bargaining Agreements: Union and Employer Obligations**, and
- A backgrounder on relevant **Mexican Laws and International Conventions on Human Rights at Work**.
- A fourth resource for companies was added to this package in May 2020, responding to ***Frequently Asked Questions on the Labour Reform***.

These resources are available [here](#).

Dialogue, debate and training

On May 15, following the passage of the labour law reform, the Mexico Committee hosted a roundtable for apparel brands and manufacturers on the implications of the reform for employers and workers. Resource people included Mexican labour lawyer Arturo Alcalde, Inez Gonzalez of the Friedrich Ebert Foundation-Mexico, and Rodrigo Olvera Briseño and Kim Nolan of MSN. Participants included representatives of 11 international brands and manufacturers, IndustriALL, the FLA and MSN.

On November 13, the Mexico Committee hosted a forum for suppliers on the *Implications of the Labour Reform*. Participants in the forum included representatives of 16 brands and 42 senior management from 22 supplier factories, IndustriALL Mexico, the FLA and MSN. The keynote speakers were Mexico's Secretary of Labour and Social Welfare, Luisa Maria Alcalde Lujan, and Federal Attorney General for the Defense of Labour (PROFEDET), Carolina Ortiz. During small group discussion sessions, participants flagged outstanding questions, concerns and challenges they anticipated in implementing the proposed actions outlined in the Employer Guidance tool. In preparation for the forum, MSN hosted two two-hour educational webinars for Mexico Committee participants.

Following the November forum, the Committee spent a half-day evaluating the year's work and developing its 2020 workplan to continue to promote implementation of genuine labour justice reform, and with it, greater respect for freedom of association in collaboration with various stakeholders: suppliers, labour rights experts, and government representatives. While monitoring developments in Mexico continues, plans for various activities have been put on hold for the moment due to the Coronavirus pandemic.

Common Wage Violations and How to Address Them

The Wage Working Group (WG)³ worked diligently over the year to oversee the preparation of guidance on seven common wages violations in Mexico's garment sector: opaque payslips; irregularities regarding bonuses and piece rates; false reporting of social security contributions; improper use and payment for time off; improper use and payment of overtime; failure to pay annual bonuses on time and correctly; and failure to pay full severance. The resulting draft briefing paper, which includes a short legal analysis of each issue and recommendations for corrective action, was presented to the Mexico Committee at its November meeting. All participants were tasked with carrying out an internal review in their companies, and providing comments and flagging areas of concern for follow-up discussions by January 30. Despite cancellation of the Committee's April 2020 in-person meeting, the Committee did manage to hold a two-hour conference call to discuss two of the more contentious issues. Further "remote" follow-up is planned as the Committee seeks consensus on the recommendations. Meanwhile various companies have prioritized one or more of the violations for action over the next months, on which they will be reporting into the Committee for sharing challenges and positive action.

THE CENTRAL AMERICA COMMITTEE

The Central America (CA) Committee met three times, in February, June and October in Washington D.C. The Committee includes 21 brands and manufacturers,⁴ the FLA, and MSN. Mid-year, the International Labor Rights Forum (ILRF) joined the Committee to support our work addressing sexual harassment and gender-based violence at the workplace. The work is coordinated by a Coordinating Committee which includes Dallas Cowboys, adidas, the FLA and MSN, working closely with in-country key contacts – Puma in El Salvador and Gildan and Tegra in Honduras.

The CA Committee's programmatic focus was on advancing the priorities set out with our El Salvador labour rights partner, the Concertación por Empleo Digno para las Mujeres (CEDM), a coalition of trade union and women's organizations. This year's Americas Group-CEDM annual dialogue session, which took place September 18 & 19, marked our fifth year of collaboration.

Most of our work together focused on ongoing efforts to promote quality childcare for working parents. Our second priority was building sustainable programs to address the chronic problem of sexual harassment at work. (More detail below.) We also advanced and reached consensus on employers' obligation to pay workers for the first three days of medical leave,⁵ an issue CEDM had raised with us in 2017 as a critical problem for workers. Three other issues on the dialogue table were annual payment of severance,⁶ how to more effectively promote employer-union dialogue at the factory level in El Salvador,⁷ and the implications for Central America of the trend to "robotization" (Industry 4.1) in the garment sector.

Unfortunately, the rather explosive political situation in Honduras over the year, made it impossible to advance on plans for collaborative work there. We were able to maintain some engagement with our labour partners in Honduras, the network of unions representing workers in the maquila sector, the RSM-H, and the labour rights NGO, the Equipo de Monitoreo Independiente de Honduras (EMIH), but concrete plans we had for collaborative work on childcare and occupational health and safety had to be set aside.

Promoting Affordable and Sustainable Childcare for Maquila Workers

Between 2016 and 2019, the Central America Committee implemented a special initiative promoting childcare for workers in the garment sector, in partnership with CEDM in El Salvador and the union network (RSM-H) and EMIH in Honduras.⁸ Although the project, including funding, officially ended on June 30, the Committee agreed that we would continue work on this issue together with AG companies that are prioritizing it, as well as our coalition partners, particularly CEDM.

In El Salvador, our work with CEDM focused on reviewing the new (May 2018) childcare legislation and preparing factories for implementation. In April, CEDM and the AG published a legal assessment of the legislation defining the obligations of employers,⁹ and in June, we jointly hosted a multi-stakeholder roundtable, which was attended by representatives of AG companies, 22 factories, civil society organizations, and government. Our efforts in the latter part of the year focused on discussing proposals for implementing legislation that was due mid-2020, although given COVID-19, the timing and content of the implementing legislation is likely to be dramatically changed.

Unfortunately, a multi-stakeholder roundtable planned to take place in San Pedro Sula, Honduras immediately following our June El Salvador forum was cancelled at the last minute because of political protests and road blockages in the country.¹⁰

The October Committee meeting in DC included an evaluation of the three-year project based on an overview presentation from MSN highlighting what we'd done and accomplished, challenges faced and opportunities for future work.¹¹

On the positive side, all agreed that the initiative was extremely effective in raising the profile of the need for employer-supported childcare in the garment maquila sector in Honduras and El Salvador. In El Salvador, the project brought together labour and women's rights organizations with garment manufacturers and international brands to exchange views on the possibilities and challenges facing both workers and employers in relation to childcare. This was groundbreaking, given the lack of dialogue between these two stakeholders prior to the project.

In both countries, the factories and industry associations that participated in the various dialogue and multi-stakeholder sessions demonstrated their interest in learning more about what steps they need to take (legal, administrative, financial, and operational) to more adequately address the need for quality and affordable childcare for their workers. Through the sharing of regional and international experiences and expertise, we were able to both define and begin to suggest solutions to some of the major obstacles to workers in accessing affordable, quality childcare, and to contribute to the development of pilot projects to test different options for employer-supported childcare.

In terms of challenges, MSN's assessment was that the continued resistance on the part of many companies to accepting their legal obligations impeded progress toward achieving the goal to expand the availability of childcare for workers in the garment sector over the three years of the project. While Honduras and El Salvador have both ratified various international conventions and have incorporated these commitments into their constitutions, the translation of them into national laws with corresponding childcare regulations has been slow. Unfortunately, non-compliance with childcare legislation in the region and internationally is still the norm.

The Committee agreed that the learnings, challenges and conclusions from this project would be an important reference in defining the AG's ongoing efforts. We also agreed to set aside the financial resources that had been assigned for this work in Honduras and to reschedule the Honduras forum for mid-2020. However, due to the pandemic, those plans are also now on hold.

Addressing Sexual Harassment (ASH)

The ASH Working Group established in October 2018 worked diligently throughout the year gathering resource materials, monitoring related global and regional initiatives and developing options for a two-year initiative to be implemented with CEDM in El Salvador, but which would also inform work in other countries. The draft workplan, which was presented to the Committee at our October 2019 meeting, focused on three components: Capacity/Awareness Building within the Factory Auditing Approach, Auditor Capacity Building, and Remediation Resources. At each of our DC meetings, participating companies, including Hanesbrands, Fruit of the Loom, Tegra Global and Gap, shared information on initiatives and pilots they were implementing.

The historic ILO Convention & Recommendation passed in June 2019 was an important reference for our work over the year. In fact, on the same day as that Convention was passed, our Committee was meeting in DC where Elena Arengo from ILRF presented an overview of the draft convention to the Committee and provided background on the key issues of debate between employers and labour. The discussion continued in San Salvador at our annual dialogue session, during which CEDM and the AG hosted a round-table for factory management to introduce the contents of the Convention and to consult them on their priorities and concerns and where they would find collaboration on addressing sexual harassment most useful. Over 30 factories attended the forum and made clear that they are struggling with the issue and would welcome collaboration.

In October, the Committee agreed that ASH would continue to be a priority going forward, focusing on internal education for the full Committee and a pilot program in El Salvador. All seemed on track when we met in DC on February 28, with mid-May as the date set for a San Salvador project planning session with CEDM, representatives from the Working Group and in-country experts. When the Working Group met by phone in April, we agreed that while tackling sexual harassment remained a priority for all, current plans needed to be put on hold due to the pandemic. The Working Group, however, recommended to the AG Coordinating Committee that any COVID-related work the AG undertook should include a GBV lens. COVID-related issues can and have exacerbated GBV issues both in the home and the workplace.

MONEY MATTERS

AG total direct revenue in 2019 was \$130,362 an increase of \$22,862 over 2018. Our end-of-year operating expenses came in at \$118,128, which left us with a surplus of \$12,234 to roll into 2020. Part of the surplus includes revenue saved following cancelation of the planned Honduras childcare forum in June.

Thanks very much to Americas Group participants who contributed financially last year – adidas; American Eagle Outfitters; Dallas Cowboys Merchandising; Dicks Sporting Goods; Fanatics; Fruit of the Loom; Gap Inc.; Gildan Activewear; Hanesbrands Inc.; Levi's; New Balance; Nike; Outerstuff; Patagonia; Puma; PVH Corporation; SanMar; Tegra Global; Under Armour; Vetta Brands; VF Corporation; and the Fair Labor Association, through its re-direct allocation.

In addition to revenue from participating companies, the Mexico Committee's work on the constitutional labour justice reform process was supported financially through a second grant to MSN from the Labour Program of Employment and Social Development Canada. The new funding started at the end of February 2019 and will run through February 2021. The Central America Committee's work on childcare was supported through a grant to MSN from the Disney International Labour Standards Supply Chain Investment Program. That three-year project ended June 30, 2019.

ENDNOTES

- ¹ The Americas Group Coordinating Committee includes: Remy Arguello and Julian Vargas, adidas; Audrey Ogawa Johnson, Dallas Cowboys Merchandising; Nancy Contreras, Gap Inc.; Holdy Hernandez, Levi's; Rolando Grillo, New Balance; Cláudio Kehrwald, Nike; and Lynda Yanz, Maquila Solidarity Network.
- ² Adidas, C&A, Fanatics, Fruit of the Loom, Gap, Levi's, New Balance, Nike, Patagonia, Puma, PVH, VF Corporation. Colosseum Athletics joined the committee in November.
- ³ The Working Group includes representatives from C&A, New Balance, Puma, VF Corporation, FLA and MSN.
- ⁴ Adidas, American Eagle Outfitters, Dallas Cowboys Merchandising, Dick's Sporting Goods, Fanatics, Fruit of the Loom, Gap, Gildan Activewear, Hanesbrands, Levi's, Mountain Equipment Co-op, New Balance, Nike, OuterStuff, Patagonia, Puma, PVH, SanMar, Tegra, Under Armour, VF Corporation, and Vetta Brands.
- ⁵ In 2018, CEDM brought forward to the Americas Group the persistent non-compliance complaint of companies not paying the first three days of medical leave coverage (before social security coverage kicks in), which causes workers financial hardship. While it took some time, including engagement with a legal expert, by the end of 2019, 90% of factories covered by AG companies were complying with the law. (Previously factories had opted to pay the Ministry of Labour fine of US\$52 rather than comply.)
- ⁶ How to respond to illegal factory closures has been an issue on the CEDM-AG agenda for a number of years.
- ⁷ While there are unions present in many factories in El Salvador, there is currently no signed collective bargaining agreements covering workers in the maquila sector.
- ⁸ The project included a childcare needs assessment in El Salvador, legal analyses of employer obligations in both Honduras and El Salvador, case studies in Honduras on existing childcare centres, production and dissemination of studies and resource materials, various multi-stakeholder forums, etc.
- ⁹ <https://www.maquilasolidarity.org/en/legal-analysis-2018-salvadoran-workplace-childcare-law-april-2019>.
- ¹⁰ Various companies' head offices implemented security measures prohibiting travel to Honduras.
- ¹¹ PowerPoint childcare project overview available [here](#).