



October 17, 2019

To: Fair Labor Association (FLA) Board of Directors

Dear friends,

We are writing to urge the Fair Labor Association (FLA) to take immediate action to develop and share with all stakeholders a corrective action plan and timeline for Gildan Activewear to address the findings and recommendations of the FLA investigation into the closure of the Star factory in El Progreso, Honduras.<sup>1</sup> We assume that this case is a priority concern of the FLA Board given that Gildan's social compliance program and status as an FLA Participating Company was reaccredited one week prior to the company's June 26 announcement that it was closing the Star factory. The factory closed on July 26. We understand the FLA had no knowledge of the impending closure.

Given the investigative findings outlined in the public report and the fact that Gildan failed to share its plans to close the factory prior to the reaccreditation vote, we would propose that failure to agree to or comply with a comprehensive corrective action plan should be the basis for the Board reconsidering Gildan's reaccreditation as an FLA participating company.

#### **FLA Report Findings**

The FLA investigation found that Gildan failed to comply with Honduran legal requirements and FLA benchmarks regarding closures, including:

- Failing to provide sufficient notice to workers and their union on the company's plans to close the factory or to enter into dialogue with the union on possible alternatives to closure;
- Failing to inform and seek authorization from the Ministry of Labour and Social Security (STSS) for the closure or liquidation of the factory prior to beginning to implement the closure;
- Failing to provide workers who accepted the company's offer of employment at other Gildan factories in Honduras with a copy of their signed severance payment receipts and new employment contracts;
- Failing to provide the workers, the union or the FLA inspectors with the required documentation to verify whether workers were receiving the proper severance pay and other benefits to which they were legally entitled;

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<sup>1</sup> Independent Investigation, Final Report, Gildan Star, S.A. July 29 – Aug 2, 2019, prepared by Ena Nunez O'Brien and Katya Castillo, posted September 18, 2019. <https://www.fairlabor.org/report/gildan-star>

- Failing to consider the special needs and rights of workers with health conditions, pregnant workers or workers on maternity leave or breastfeeding;
- Failing to provide adequate transportation for workers relocated to other Gildan factories, taking into account the additional time and costs workers will incur in travel between their homes and workplaces on a daily basis;
- Failing to resolve a 2018 case of miscalculation of an advance for severance payments made in April 2018 (calculated by the Ministry of Labour at L.18,000,000 or US\$726,686).

### **Anti-union animus and the Closure**

The report falls just short of concluding anti-union animus was a significant factor in Gildan’s decision to close Star. The investigators, however, do conclude that “[t]he dismissal of members of the SITRASTAR Board, the dissolution of the Union, and the unilateral termination of the Star CBA, resulting from the closure of operations at Star decided by Gildan, constitute a serious and irreparable violation of the right to freedom of association and collective bargaining...”

The report details the company’s violation of the FLA’s FOA benchmark 8.2 – that **“it is the obligation of the employer to provide evidence to show the validity of the reasons for the closure ...”**, which Gildan failed to do, and benchmark 19.1 concerning the employer’s obligation to honour in good faith the terms of the CBA they have signed, **“the unilateral breach of which would carry serious liabilities.”**

Since Gildan’s acquisition of Anvil in 2012, and with it the STAR factory, the SITRASTAR executive has regularly sent statements to Gildan brand clients, the FLA, WRC and labour rights allies accusing the company of reorganizing production with the intention to close the factory in order to get rid of the union and their collective agreement. The allegation that Gildan was moving production for major brand clients to other facilities has been confirmed by the company’s actions.

### **Negotiations between Gildan and the union?**

As noted in the FLA report, Gildan and the union did have a number of meetings following the original abrupt closure announcement, including meetings to discuss compensation and other outstanding issues. However, to our knowledge there have been no formal negotiation meetings over the past two months. Based on a review of the last proposals circulated by both the company (Aug 2) and union (Aug 26), there continues to be a wide gulf (well over US\$1M) between the two parties on key issues.

As noted in the FLA report, throughout the “negotiation process”, the company proceeded with its closure plans, pressuring individual workers to accept severance, thereby undermining the union’s role and bargaining position. And, the company insisted on holding these negotiation meetings in San Pedro Sula, rather than El Progreso, making it next to impossible for the union executive members to both take part in negotiation meetings and provide support and advice to their members back in El Progreso. It seems clear that Gildan was not negotiating in good faith with the union for a just resolution to the outstanding issues.


### Summing Up

The FLA report includes a number of recommendations for immediate action, including the following:

- additional compensation for dismissed workers, union executive members, and workers with special conditions;
- provision of signed severance payment receipts to all workers and employment contracts to those rehired in other Gildan factories;
- respect for accumulated seniority, suitable positions for workers with special conditions, and improved transportation services for rehired workers;
- a public announcement offering to rehire workers who received severance on July 26 and 27;
- posting of a statement on the company's commitment to respect freedom of association; and
- improvements in policies and procedures regarding closures and improved record keeping regarding employment history and severance and benefits owing.

We strongly urge the FLA to take decisive action and require that Gildan adopt a time bound corrective action plan consistent with the FLA report recommendations. If Gildan fails to agree to or comply with a FLA corrective action plan, the FLA should reinstate a special review of Gildan's June 23 reaccreditation as a FLA Participating Company. Any corrective action plan agreed to between Gildan and the FLA, as well as related decisions of the FLA Board, should be made public.

Sincerely,



Lynda Yanz, Executive Director

Cc:

Scott Nova and Tara Mathur, Worker Rights Consortium  
Claudia Sandoval and Benito Masi, Gildan Activewear  
Americas Group Coordinating Committee  
Eric Biel and Jessica Vasquez, FLA  
SITRASTAR Executive  
Independent Monitoring Team of Honduras (EMIH)