

WHAT ARE MEXICAN SUPPLIERS BEING ASKED TO DO TO ENSURE RESPECT FOR FREEDOM OF ASSOCIATION AND THE RIGHT TO BARGAIN COLLECTIVELY?

These policies and actions are based on those outlined in “Guidance for Apparel Brands: Policies and Actions to Ensure Respect for Freedom of Association in Mexico,” Mexico Committee of the Americas Group, January 2016.

Adopt an FOA Policy: Adopt a policy expressing your commitment to the right of all workers employed by your company to freedom of association and collective bargaining, and effectively communicate that policy to all workers, including new employees.

Refrain from Signing a Protection Contract: Where there is currently no union in the factory, refrain from signing a “protection contract” (a simulated collective bargaining agreement signed without the knowledge and/or consent of the workers) with an unrepresentative union or lawyer.

Transparency about the Union: Where there is a union, inform all workers, including new employees at the time of their hiring, of the name of the union, the federation to which it is affiliated, and the representatives of the union and how to contact them.

Ensure Workers Receive CBA: Where there is a signed collective bargaining agreement (CBA), ensure that all workers, including new employees at the time of their hiring, receive a copy of that agreement, as well as the date of its signing and any revisions made to the agreement.

Eliminate the Exclusion Clause: Where there is an illegal “exclusion clause” in the collective bargaining agreement (requiring the dismissal of workers expelled from or who voluntarily resign from the union), ensure that the clause is eliminated from the agreement at the earliest opportunity.

Transparency about other Agreements: Inform the workers of any other agreements between the employer and the union on the terms and conditions of their employment.

Prior Notice of Negotiations: Whenever possible, give workers prior notice of negotiations of the first CBA, revisions to the CBA, or any other agreement between the union and employer on the terms and conditions of their employment.

No Discrimination: Do not dismiss, blacklist or otherwise penalize or discriminate against any worker in hirings, promotions, demotions or transfers for his/her present or past union activities or for ceasing to be a member of the union holding title to the CBA and/or for attempting to form or join another worker organization.

Remain Neutral: Where there is more than one union or union in formation in the workplace, remain neutral and refrain from doing anything that would place one organization at an advantage or disadvantage in relation to the other(s), including in recuentos between two or more unions for title to the CBA, and do nothing to delay, influence or prejudice the results of such recuentos.

No Interference: Do not interfere in the internal affairs of any union, for instance through bribes, inducements or other means to encourage workers to renounce their union affiliation, or use of financial or other means to place a union under the control of your company.

Mixed Commissions: In addition to the policies and actions outlined in the Mexico Committee’s Guidance document, suppliers should also ensure that all legally mandated mixed (worker/management) commissions are properly constituted and functioning effectively.

SUPPLIER FOA POLICY: KEY ELEMENTS AND MODEL POLICY

This list of key elements of a Supplier Freedom of Association (FOA) Policy is meant to provide guidance to Mexican suppliers of international apparel brands on what should be included in their own FOA policies. Some suppliers may prefer to adopt the Model Supplier FOA Policy below or use it as a reference, rather than developing their own policy.

A Supplier FOA Policy should include:

- A commitment to the principle of freedom of association and the right to bargain collectively, as expressed in international instruments and Mexican labour law.
- A clearly expressed commitment to the right of all workers employed by the company to join or form a union or other worker organization of their free choice.
- A commitment to transparency so that all workers employed by the company have sufficient information to understand and exercise their rights.
- A commitment to refrain from and not tolerate any acts of discrimination, intimidation, reprisal or threats of reprisal against workers for exercising their associational and collective bargaining rights.
- A commitment to respect the right of worker representatives to freely carry out their legitimate union functions.
- A commitment to remain neutral and to refrain from any acts that favour one union over another in cases where there is more than one union or union in formation in the factory.

Model Supplier FOA Policy

[Name of Supplier] supports the right of workers, under internationally recognized core labour standards and Mexico's Federal Labour Law, to freedom of association and collective bargaining. We respect the right of all workers employed by our company without distinction to join or form a union or other worker organization of their free choice and to bargain collectively, and we will ensure that they are provided sufficient information to understand and freely exercise their associational and collective bargaining rights. [Name of company] does not practice or tolerate threats, intimidation, reprisals or discrimination of any kind against workers or worker representatives because of their past or present union membership, sympathies or activities. We respect the right of union representatives to freely conduct their legitimate union activities. If there is more than one union established or in the process of formation in one of our workplaces, our company and management personnel will remain neutral and will not promote or favour one union over another.