

## Verification of FLA Action Plan for Russell Corporation 19 June 2009

In May of 2009 the Fair Labor Association (FLA) contracted Tara Holeman (“the contractor”) to conduct an independent verification of the remediation plan arising from the Jerzees de Honduras (JDH) case. The specific mandate was to review the status of actions requested by the FLA in the January 28<sup>th</sup> and February 12<sup>th</sup> recommendations to Russell Corporation. The FLA recommendations can be found on the organization’s web site at [www.fairlabor.org/news\\_releases\\_a1.html](http://www.fairlabor.org/news_releases_a1.html).

### Methodology

The contractor engaged an expert from the region, Dulceamor Navarrete de Quan, (El Salvador) to assist with factory visits and on-site interviews. The research took place June 1-5 and Ms. Navarrete was present June 2-4. The researchers visited five of the seven facilities being operated by Fruit of the Loom, the owner of Russell. The five plants are: Jerzees Buena Vista (industrial zone Villanueva), El Progreso and Tela (industrial zone El Porvenir in El Progreso), Confecciones Dos Caminos (industrial zone Búfalo), and DeSoto (industrial park Choloma 2).

The interviews in Honduras included a total of 42 workers and 12 supervisors across the five plants, the plant manager and human resource manager at each site, the human resource director for Honduras, staff at the company’s Displaced Employee Assistance office, the Regional Director of the Ministry of Labor in San Pedro Sula and three additional Ministry staff.<sup>1</sup> The JDH union informed the FLA on May 29<sup>th</sup> that it would not participate in any verification activity.

Due to limitations on the amount of time for the research, all worker interviews were conducted on site at the factories. The term “worker” is used to refer to machine operators, sewers, quality inspectors, trainers, warehouse workers or any person who is not part of the factory management structure.<sup>2</sup> The term “supervisor” refers to the immediate manager to whom workers report. Individual interviews were conducted for a period of 15 to 20 minutes (there were no small group interviews). Generally speaking, on-site interviews limit the quality of information provided since all interviewees are known to management. The researchers are aware that the location places a limit on what workers might report. Nevertheless, it

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<sup>1</sup> Ministry of Labor staff: Lucía Rosales (Regional Director), Waleska Martinez, Susana Murillo and Alma Lisette (inspectors).

<sup>2</sup> It is difficult to know whether to classify trainers as supervisors or not. They are able to give direction to workers, which is a supervisory function. However, since they are not in the formal chain of command listed in the “open doors” policy, they are being counted as “workers” for purpose of comments about training effectiveness.

was possible to test for understanding and make some conclusions about the level of understanding within the workforce at the five factories.

Some of the data presented herein is quantitative in nature to illustrate the types of programs conducted and amount of effort expended. This report is designed as an “activities update” because it is responding to action plans. However, most readers will have a greater interest in measuring impacts, such as whether there are employment opportunities for laid-off JDH workers and whether workers at other plants feel free to exercise their right to freedom of association. To the extent these questions can be addressed here, they are discussed. The overall goal of improving the environment for freedom of association will take longer to achieve than a couple rounds of training and updating a few policies. The actions taken within the past four months are the start of a much longer and broader process, one whose results will be more significant over a longer period of time. Where appropriate, the researchers have made suggestions on how aspects of the remediation could be structured in the future to address the situation on the ground more effectively.

The FLA presented remediation in two phases, one while the factory was still open in January and a second set in February. The report below reverses the order and starts with the Board recommendations in the February 12<sup>th</sup> resolution because some of them have longer timelines and are more relevant going forward. They are lettered A-I to correspond to a matrix action plan that the company and FLA have used to track actions. FLA staff recommendations, numbered 1 to 10, will be reviewed following the Board recommendations.

### **Remediation Plan Elements – February Action Items**

A. Initiate meetings in the coming weeks with key stakeholders, including the CGT, worker representatives from the JDH factory, and the WRC.

Although some dialogue took place in February, there were no meetings since then between Russell/Fruit of the Loom and CGT, the SITRAJERZEESH union or WRC. Written communications between the CGT and the company at the end of May confirmed that the two sides have agreed to negotiate and have begun to identify their negotiating teams. The union has suggested two representatives to serve as future meeting coordinators: Jeff Hermanson and Rob Waysys. The next meeting will be set up by the union coordinators.

There has been some written correspondence with the WRC, however the main course of communications between the company and WRC has taken the form of contentious public statements by both sides to the university community. Russell representatives have met with a variety of business associations in Honduras, the Ministry of Labor and FUNDAHRSE, an association of companies that promotes social responsibility.

B. Publicly acknowledge and effectively communicate to the workers that management mistakes led to a failure to adhere to the FLA standards on freedom of association at the JDH factory.

The FLA Board noted in its February resolution that the list of management mistakes in the Goldin report included allegations of intimidation of union members and leaders, gathering signatures against the union during work hours, job assignments that were discriminatory, unfair severance pay/benefits and discrimination in the extension of job placement services after the factory closure.

The requirement here can be read as having two parts: (1) public acknowledgement and (2) effective communication to workers in Honduras. With respect to public acknowledgement, the Russell Social Responsibility web site includes three documents that address past problems with freedom of association. The “Russell Corporate Responsibility Report on Continuous Improvement Process” (2/16/09) acknowledges that problems occurred in 2008. Two other documents, “An Important Message to Our Customers” and “The Other Side of the Story,” refer to freedom of association problems in 2007. Since the FLA Board recommendations were issued as a result of the closure of JDH, the FLA is requesting specific acknowledgement of mistakes made during 2008. This request is being inconsistently applied in corporate communications.

With respect to the second point of communication to workers, the company has been giving presentations to small groups of workers in each plant in Honduras where they do refer to mistakes in 2008. The presentations have reached 95% - 100% of employees at three of the factories, 90% of employees at a fourth factory and 71% of employees at the fifth plant. The remaining presentations were scheduled for completion by June 10<sup>th</sup>. The presentations are given jointly by the plant manager and human resource manager and take place in groups of approximately 15 workers. The plant manager reads a statement to the effect that the JDH factory closed due to economic conditions which caused a fall in demand for products. The statement says that Russell did not effectively manage the anti-union sentiment in the plant, which could have created a threat to workers’ rights to “free association.” The company recognizes this and is taking action so that such conditions do not occur in the future.<sup>3</sup>

This statement is posted in Spanish in the areas of the factories where other employment policies are posted, such as entrance areas and cafeterias.

The researchers observed the delivery of this information to one group of approximately 15 workers at the Buena Vista plant. The plant manager and human resources manager (who both joined the factory two months ago) gave the

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<sup>3</sup> Note: the statement uses “libre asociación” which reads “free association.” The term for “freedom of association” in Spanish is “libertad de asociación.”

presentation in a similar fashion to previous small-group meetings. When asked, the workers had not heard of the JDH factory. When the plant manager read the above-mentioned statement, it did not seem to make much of an impression. It was unclear why the manager would read the statement to this group. The statement about anti-union attitude did not have any explanation as to which actions were incorrect and how they might be corrected.

One attendee was chosen to explain the statement in his own words and he said that there were management errors in the attitude towards the union. A few minutes later, another person in the group asked, "what is a union?" This raises the question of whether workers understand the word for union (*sindicato*), and whether they understand the concept of what a union actually is. Given the nature of this question, it is possible that the statements by the company, on both JDH and on freedom of association, may be too abstract or have words that are too formal for some workers to understand.

The plant manager was unsure how to answer the question and asked the country human resources director, who was in attendance, to explain. The explanation was that Honduran law allows for four types of associations in the workplace, one of which is a union and the other types are collective pacts, professional associations, and work leagues (no further details provided).

The presentation lasted a total of 25 minutes. Five minutes were spent on discussion of the freedom of association statements. Twenty minutes were spent explaining the "Puertas Abiertas" or "Open Doors" policy for making complaints as well as listing the various benefits like life insurance and loans offered by the factory to the workers.

The comprehension of the JDH case was much lower at Buena Vista than at the other four factories. As described above, the inclusion of other information about factory benefits and complaint channels appeared to dilute the important messages about JDH and freedom of association. Participants focused more attention on issues affecting their daily lives such as how to get passes to use the ATM in the cafeteria and learning how long a written warning would be on their record before expiring.

Because action items B and C are closely related, please see further comments about the effectiveness of employee training in section C.

C. Issue a public statement affirming the company's commitment to ensuring that the rights of all their employees to join or form a union of their choice and to bargain collectively without employer interference are respected in all Russell and Fruit of the Loom factories, both wholly owned and subcontracted facilities.

Russell and Fruit of the Loom have a code of conduct requirement that reads "The Company recognizes and respects the rights of employees to freedom of association and collective bargaining." There is a more detailed version of this policy which is

being read at the small group presentations listed above. The detailed policy is also posted in entrance and eating areas near other employment policies. The detailed policy states that Fruit of the Loom respects the right of workers to form or affiliate with any organization of their preference, including unions. The company respects the right of employees to negotiate collective contracts and will not interfere in any legal exercise of this right. The company agrees to implement and adhere to any agreement negotiated with the workers. Employees will not be subject to discrimination, retaliation, disciplinary or punitive action as a result of exercising their right to free association and collective bargaining. Any supervisor or manager that violates these rights will be subject to disciplinary action according to company policy. It is the company's commitment that each should have the freedom to decide whether to join or not join a union.

The researchers found that comprehension of the policy varied among the interviewees. To give an example of the range of variation: at Buena Vista factory, 8 of 13 workers did not recognize the phrase "freedom of association" although a majority could describe the "open doors" policy. In contrast, the other four factories had much higher rates of recognition; only 3 workers of 39 who had received training failed to recall "freedom of association." There was a difference in training methodology between Buena Vista and DeSoto, the plant with the best communication process in the group. In Buena Vista, the trainers read the text of the company letter and policy without further explanation. In DeSoto, the notes left on a white board from a training used completely different words to explain the concepts, demonstrating that they had focused attention on the meaning behind the formal language.

Another interesting variation is that all the supervisors had a superior grasp on the policies when compared to the workers. Supervisors all seemed to understand that they are under a mandate to not interfere in any conversation about unions or give opinions in any way about the matter. Workers did not seem to have the same level of clarity about the policy, which suggests that supervisors may have had a more intensive course or discussion of the topic.

On the whole, worker awareness about policies is a common challenge in the social compliance field. In spite of the effort to promote awareness of Codes of Conduct, it takes a long time to see any result. Abstract principles and policies may be ignored if it is difficult to link them to daily work experiences. For example, the principle of "non harassment," another common Code provision, is abstract. It is enforceable only after it has been described in terms of specific behaviors that are forbidden in the workplace. In a similar fashion, the idea of "freedom of association" has to be turned into concrete examples that directly relate to work experience.

The two statements which are being used in the presentations are identical in all factories (one statement is about the JDH case and one statement concerns the freedom of association policy). The trainers themselves are different and the methodology has slight differences in terms of how discussions are conducted and

whether the session focuses exclusively on updating participants about new policies or reviewing existing policies and benefits. The amount of time per group was reported as 15 to 30 minutes and the researchers observed a session that lasted 25 minutes; since some groups ask more questions than others, this may affect understanding.

The lack of understanding of freedom of association contrasts distinctly against the solid understanding of “puertas abiertas,” or “open doors” policy. Every interviewee knew the exact chain of command for reporting concerns or problems: supervisor first, followed by production manager, human resources, plant manager, then country manager and finally hotline to a US-based third party. The “open doors” policy has been communicated multiple times over the course of many years. In some factories it is being included in the current presentations about freedom of association. It is a positive indicator that suggests that repeat training combined with work experience can increase understanding.

### **Additional action by Russell/Fruit of the Loom**

As a result of discussions with the FLA and university clients, the company decided to contract a third party, a local attorney, to deliver a training module on freedom of association. The FOA training is planned to launch in July (dates to be determined). The draft version of the curriculum lists four types of associations permitted under Honduran law. It does not give any particular weight to unions, nor does it (yet) include an explanation of what a union is or why it might be formed.

According to the FLA’s training materials, as well as the language of recommendation C, the FLA Code provision on FOA refers specifically to the right of workers to join unions. The concept of FOA is not meant to protect other types of associations such as religious groups, collective pacts, professional organizations or other types of groups. Therefore, third party training should feature the subject of the FLA’s Code of Conduct.

The third party training is currently envisioned as a one-hour course. The researchers question whether one hour will be sufficient time to explain FOA in a way that workers can understand. The comprehension of the short presentations that they recently received was limited. Workers had trouble recalling information which they had heard anywhere from one week to three weeks ago. It is possible that the formal language and abstract concepts were not relevant or useful to them, which is why they had a hard time explaining what they learned. This suggests that FOA training ought to consider the level of education and understanding which workers presently have. The training should also capitalize on methodologies for teaching adult learners so that the information is effectively retained.

**D. Offer first hire opportunities to all JDH workers at all Fruit of the Loom factories in the San Pedro Sula area, regardless of their union activities.**

The company opened two offices for Displaced Employee Assistance (DEA). DEA offices were set up for placement of JDH workers as well as those laid off from Productos San José when it closed. The DEA office in Choloma opened at the end of March and was publicized to JDH workers through a combination of phone calls, a newspaper article and public address announcements in neighborhoods around Choloma.

Every Fruit of the Loom plant in Honduras has undergone layoffs during the past few months. Six of seven plants laid off between 10% to 25% of their workforce. The remaining plant laid off 3%. Each plant is rehiring its own employees as first preference, and then those from other Fruit of the Loom plants. There is not an explicit policy to prioritize JDH workers over other Fruit of the Loom workers. To date, six JDH workers have been hired at the two plants in Choloma. Tela and El Progreso have each hired Fruit of the Loom workers who were not from their original workforce. Tela hired 61 workers from El Progreso and Productos San José (San José was shut down). El Progreso hired 19 workers from Productos San José. It should be noted that Tela and El Progreso are across the street from each other and therefore it is somewhat easier to access employees from the same area (they are one hour or more from Choloma and a recent bridge collapse from an earthquake has created longer transit times).

### **Additional action by Russell/Fruit of the Loom**

JDH laid off 1,402 employees. In a recent survey, 166 former JDH workers report that they are currently employed in new positions, distributed as follows:

- 6 at Fruit of the Loom factories
- 121 in other maquiladoras
- 39 employed in other types of companies or self-employed

Of the 166 JDH workers who have been reemployed, their former positions were: 1 was administrative staff, 5 were supervisors, 6 were mechanics, 8 were quality inspectors, 16 were trainers and 115 were sewers. The other 21 persons included a carpenter and mixture of helper/assistant positions.

The DEA office offers a variety of trainings that are open to both JDH and ex-San José workers. Recent courses and JDH participation rates include:

- Introduction to interviews (45 min): attended by 51 former JDH employees
- Interviews in-depth (2 hours): 24 attended from JDH
- Starting a Business (1 week): 7 from JDH completed the week
- Bakery course (1 week): 5 from JDH completed the week

In the first two months of DEA operation, 820 people have used the DEA office for obtaining their education benefit (a legal entitlement) and/or attending training workshops (357 participants from the two factories that were closed). A total of 354 have used DEA's resume service or employment services.

The above numbers (and names of workers) were provided by the DEA office and were not confirmed by the researchers.<sup>4</sup> The Ministry of Labor reports that they do not have a method of confirming where laid-off workers have been placed.<sup>5</sup>

Two issues about the functioning of the DEA office are:

1. The office does not have data on whether it has assisted any union members. Therefore, it is difficult to assess whether union members benefit equally from job placement services. It is possible that union members would self-select and choose not to seek assistance from the company's office, particularly if they felt negatively towards the factory or former management.
2. The office does not have a way of notifying *all* qualified candidates about job openings in other factories. For example, if they receive notice about openings for sewers, they call the top few persons in their list of experienced sewers.<sup>6</sup> However, since the list contains a few hundred persons, those who are at the bottom will be the last persons served. The DEA office does not yet have a plan for how to notify all candidates equally.

E. Provide appropriate financial compensation, beyond legal entitlements to the extent appropriate, to all JDH workers, including financial support for job retraining programs, with the amount of compensation to be determined in discussion with the CGT, workers representatives and others.

Financial compensation is an outstanding issue for the company to discuss with CGT and SITRAJERZEESH in possible future meetings.

Additional support for workers comes from the DEA office in Choloma. The Choloma office has a full-time nurse and shares a doctor with the San Pedro Sula office for offering basic medical consultation and some medicines. The nurse in the Choloma office keeps a log of visits recording approximately 8 to 15 visits per day, Monday to Friday.

The placement services of the DEA offices were extended in a courteous letter to the business community on April 23<sup>rd</sup>. Seventeen companies who participated in a

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<sup>4</sup> Future verification should include time to interview a random sample of JDH workers from the DEA database.

<sup>5</sup> Fruit of the Loom also consulted with Social Security but employment data will not be released by the agency.

<sup>6</sup> The contractor observed a list that was ordered by date of registration at DEA. The company headquarters reports that the list is in order by seniority of service at JDH. In light of this potentially conflicting information, the precise order of notification needs additional verification.



meeting sponsored by FUNDAHRSE received letters explaining that nearly 5,000 workers from Fruit of the Loom plants were seeking employment. Details and an invitation to contact the DEA were included.

Financial support for the operation of DEA and offering training services is budgeted to cost USD \$76,000 for six months (end March to end September). Some additional costs will include transportation reimbursements that are made to persons attending training classes. Copies of transportation reimbursements and signed attendance lists demonstrate participation in courses.

F. Speak out publicly against any blacklisting of JDH workers based on their union membership or activities. Effectively communicate the company's opposition to these practices to other factory managers in the area.

The company expressed a strong opinion about the fact that it would not participate in blacklisting. Moreover, it does not know of any such practice being used by industrial park management. The company does not have a list of union members. It recommends all former JDH workers for employment in other companies.

Written records of solicitations for job applicants at the DEA office do not show any bias or requests for non-union applicants. The researchers did not have a method of verifying the verbal communication that Fruit of Loom managers and DEA offices have had with other companies and employers.

G. Discipline supervisors, managers and confidential employees who have made threats, or engaged in other forms of harassment or discrimination of workers based on their union membership or activities.

Fruit of the Loom in Central America adjusted its Standard Operating Procedure for Disciplinary Action on February 24<sup>th</sup>. Section 4 on termination includes a new point D that states (approximately):

Cases of violation of the privilege of freedom of association of any associate properly proven will be punished with a written warning the first time and with termination of employment the second time, allowing for the option of dismissal the first time depending on the gravity of the case and the availability of sufficient objective information.

The researchers noted that the above SOP did not include any definitions of which actions might be considered violations, nor did it include a procedure explaining how allegations would be collected and investigated. Providing greater definition to this policy would be an important aspect of informing supervisors about specific expectations for their behavior.

The company's Non Harassment and Non Discrimination policy (number 1400) was amended May 8, 2009, to include threats related to freedom of association as a

reason for initiating a harassment investigation. Such cases can be reported to factory management or to the Country Director for Human Resources and will be investigated with an effort to maintain privacy and confidentiality. This particular policy, with a direct channel and telephone number to a senior manager, does not seem to be widely known as no workers or supervisors reported it in interviews. The researchers did not learn about the policy through postings at a factory; it was discovered during a meeting as part of a review of general policies.

In contrast to the lack of specification within the SOP for discipline, the DeSoto plant has developed a detailed FOA procedure owing to requirements for its WRAP certification. It followed WRAP requirements in the creation of a factory policy that includes the following elements:

- Defines violations as retaliations through suspensions, dismissals, or any penalty in pay for employees.
- Lists a process for implementation and monitoring that includes biweekly roundtables, weekly coffees, legal contract procedures and semiannual training for all managers.
- States freedom of movement is permitted during breaks as long as there is no interference with safety or others' work.
- Any employee who experiences or witnesses discrimination of this type should report the situation to the immediate supervisor or human resources department.
- The company will investigate incidents and apply corrective actions up to and including termination of the contract if a violation is found. Investigations will record all the facts and will be managed confidentially with the smallest number of persons possible.
- No retaliation is permitted against any person who reports an incident of violation of freedom of association.
- Policy is to be communicated through postings in the plant and as part of new employee orientation. A meeting of managers and department heads will include a written commitment as evidence of communication of this policy.
- All supervisors should review this policy with their employees, including those that transfer into the department from elsewhere. They will periodically review the policy in department meetings.

The definition of "violation" in the DeSoto policy could be brought into compliance with FLA requirements by including collective bargaining and defining additional types of harassment (such as those detailed in policy 1400). Nevertheless, the researchers found that the supervisors in DeSoto were very clear about what the FOA policy meant for them in terms of non-interference with workers' efforts and conversations.

Supervisors in DeSoto and El Progreso seem to have the clearest understanding about limits to their actions and consequences for any interference. Supervisors in

every factory know the basic rule about not interfering in workers' organizations. However, supervisors in DeSoto and El Progreso factories seem more aware about the possible penalties that apply to violations and they expressed a commitment to giving the necessary space to workers. It is an interesting corollary that interviews in these two plants reported the highest level of satisfaction among workers with respect to obtaining resolutions to their problems. These two plants are a good source of positive lessons for training and communication systems elsewhere.

**H. Include a standard for respect for freedom of association and collective bargaining in the performance standards for all supervisors and managers.**

Supervisor performance reviews, which are written in English on the first page for review by the US headquarters, include a new sentence that states "respects the freedom of association rights of our employees." The sentence has been included in those reviews conducted during April and May. There is no mention of collective bargaining.

The researchers question whether the performance review process is an effective method of enforcement of freedom of association. First, there is no list of permitted or forbidden actions as a reference point to the evaluator. A list of permitted and forbidden actions can be developed using the Non Harassment policy as a guide. Feedback from outside experts would be useful to tailoring that list specifically to the issue of freedom of association. Second, the only measure appears to be a negative one, such as a formal complaint being lodged. There does not seem to be a positive method of applying this principle, such as annually or periodically affirming the company's policy on freedom of association in employee/department meetings (one of the points in DeSoto's above-mentioned policy for WRAP certification). All other areas on the evaluation can be positively measured in terms of achieving specific goals within the workplace. It is challenging to define positive goals for freedom of association, which is why it is even more important to specify responsibilities having to do with communication, non-retaliation and fair treatment of employees.

The written evaluations for supervisors use Spanish on the second page in the free response area, thereby suggesting that some employees might not be able to read the English language on page one. The evaluator (manager) is asked to read and discuss the measurements on page one in Spanish. Only supervisors are evaluated with this mixed form of both English and Spanish. Workers such as sewers are evaluated using a form that is entirely in Spanish.

The researchers noted that one gap in the evaluation process is that it is entirely "top down," such that each person is evaluated by a person above them without any feedback from their own direct reports. This gap means that upper management lacks a true picture of how well supervisors are functioning in terms of managing and motivating their teams. Some of the work problems that were raised in interviews will not be identified via a strictly "top down" evaluation process.

I. In consultation with union representatives in Honduras and elsewhere, strengthen formal internal grievance procedures at factories throughout its global supply chain so that allegations of harassment, threats or discrimination for union membership of activities will be brought quickly to corporate management's attention, with the expectation that they will discipline supervisors, managers and workers who engage in such conduct.

The company is seeking to strengthen grievance procedures although it has not yet consulted the union in this regard. Union consultation may be possible in the future when meetings with SITRAJERZEESH reconvene.

In the meantime, the company has launched an FLA 3.0 project on grievance procedures at the Buena Vista factory. Regardless of the implementation plan for the FLA 3.0 project, the company might benefit from adopting a standard approach towards preparing supervisors to resolve problems at the front line or to report those items which they do not feel prepared to handle. According to the "open doors" policy, supervisors are always the first line of communication but that does not mean that every supervisor performs this duty with excellence. Ongoing support such as peer training, role-playing and techniques for motivation could improve skills at a critical contact point for workers.

It is unclear what the current practice is for elevating allegations to the level of corporate management or for guarding the confidentiality of persons being investigated for harassment, threats or discrimination. Current policies focus on factory-level actions. A standard operating procedure for communication with headquarters may need to be elaborated or documented in conjunction with the FLA 3.0 grievance procedure program.

Fruit of the Loom has a policy of Non Harassment and Non Discrimination (see item G above) that now includes freedom of association. There is no step listed for communication to corporate management. Presumably the information on such cases flows into headquarters on an ad hoc basis and perhaps that should be increased to a mandatory reporting requirement.

### **Remediation Plan Elements – January Action Items**

While the JDH plant was still operating, the FLA prepared a list of remediation action items that included steps intended for implementation in advance of the plant closure. At that time, the exact date of the closure was not known. For example, the list included a request for giving employees time off to look for work. However, the January remediation plan was issued the day before the plant went into final shutdown. Therefore, some of these recommendations are discussed below as "looking ahead" even though they may have been written explicitly for JDH as an

operating factory. There is some overlap with the Board recommendations from February. These are items of particular importance for the remediation program.

1. Issue a public statement, to be released to the Honduran media, stating that the closure of the JDH facility responded to economic considerations and was not caused by, or the result of, unionization at the plant or negotiation of a collective bargaining agreement.

The company proposed to run radio announcements in January that would announce that the JDH closure was due to economic reasons only. The union disagreed with the proposal, however the exact conversation and reasons could not be verified without a union interview. Meeting notes indicate that the factory halted the communication plan at the union's request.

Internal presentations are being given to the entire workforce and will be completed by June 10<sup>th</sup>. These presentations include the statement that JDH closed for economic reasons. Workers who have heard the presentations are all aware of the poor economic climate, as it has impacted their own workplaces. This statement is posted in writing next to employment policies at factory entrances and cafeterias.

2. Communicate directly and formally with other local factories about the closure and encourage other plant managers to hire JDH workers. If needed, offer compensation towards the retraining of JDH workers so that they can secure employment elsewhere.

The DEA offices have formally extended their placement services to other factories in and around San Pedro Sula. The DEA staff call companies to learn about job openings and then notify qualified job seekers (based upon job type) how to apply. They can send resumes and even applicants to the factory upon request. DEA staff report that most companies prefer to have an application process open to the public rather than give preference to former Fruit of the Loom workers.

Job retraining is offered through the DEA office and includes reimbursement of transportation expenses. The training is offered at no cost to participants. There is no compensation for time spent in the training. Additional details are listed in point D above. In addition, the company is actively seeking more training opportunities in cooperation with government agencies.

3. Reissue to all facilities the November 2007 letter on freedom of association and ensure that all workers and managers are aware of its contents.

The policy on freedom of association has been explained verbally in presentations to the workforce (see item B). It is also posted in areas of the factory where other employment policies are posted, such as at the entrances and in cafeterias. The original letter, which is translated in the action matrix, has one additional (new) sentence at the end: "It is our commitment that you ought to have the freedom to

decide whether you want to be part of a union or not.”<sup>7</sup> Workers receive a paper copy of the policy to sign and date, after which the factory files the paper in each employee’s file.

4. Develop or strengthen formal internal grievance procedures at its factories so that allegations of harassment or other forms of behavior by supervisors and managers that violate worker rights can be brought to upper management’s attention on real time and will not contribute to tensions at the factory level.

The company is currently participating in an FLA 3.0 project at the Buena Vista plant (as noted in item I above). This consultative process will assist with improving grievance procedures at that factory.

The company currently has a formal grievance procedure across all factories that is based upon the “open doors” policy which states that any concern can be elevated through factory management in a linear fashion. An employee who has a problem with a supervisor can go to the production manager to discuss the issue and, after that, to the human resources office. The policy is very well known within all the factories. The formal grievance procedure might need strengthening by opening informal channels as well.

Many interviewees, asked whether they have spoken to the production manager for their area (no reason specified by interviewer), responded that they have not spoken with the production manager because they never had a problem that needed resolution at that level. This means that most workers would *only* approach the plant manager to make a complaint, not for any other business or social reason. This response to the interview question suggests that the “open doors” policy has an unintended consequence of only permitting conversations with the production manager or human resources office when a worker has a problem that the supervisor did not fix.

Any person who speaks with the production manager might be perceived by others as having a specific complaint rather than having a normal work conversation. This impression could unintentionally create an impediment to free flow of information, as workers may not wish to give the appearance of complaining. Although the open doors policy has an explicit goal of increasing communication, its expression within the Honduran factories might create an unintentional barrier between workers and upper management.

The use of informal communications could strengthen workers’ access to and willingness to use the formal procedure. For example, in the DeSoto plant, upper management organizes a series of informal meetings with workers which has

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<sup>7</sup> “Es nuestro compromiso que usted debe tener la libertad de decidir si quiere ser parte or no de un sindicato.”

allowed many workers (including some interviewees) to have direct contact with the plant manager. There appears to be far less or no stigma attached to speaking with the human resources manager or plant manager. Such conversations would not indicate to other employees the existence of a formal complaint.

Some of the other plants have recently embarked on similar programs, however the interviewers did not find any examples of machine operators who had participated or conversed with upper management (the random sample did not seek to identify such persons). This may change with the passage of time as more workers participate in such opportunities.

5. Include in performance standards for supervisors and management a standard on freedom of association.

The use of evaluations for enforcing freedom of association is discussed above in item H.

6. Discipline supervisors, managers and workers who use threats or harass workers because of the exercise of freedom of association.

This requirement was written while JDH was still operating; therefore it may have been intended to initiate discipline procedures within the plant. However, the closure occurred so rapidly that it could not be acted upon. Therefore, following Board recommendation G, the researchers examined this as a future action.

As discussed in item G, there is new language in the discipline policy which specifies the type of penalty that will be applied in freedom of association cases, namely the use of written warnings and dismissal. In addition, the company policy on Non Harassment and Non Discrimination (policy 1400) has been amended to include threats related to freedom of association as one of the bases for initiating an investigation into harassment.

7. Continue to work with the union board at JDH throughout the closure process and strictly follow the company's retrenchment policy as employment is reduced.

This item could not be verified as the union decided not to participate in the verification process.

8. Compensate terminated JDH workers to the full extent provided by Honduran law.

JDH workers were paid severance as they were dismissed in stages between October 2008 and January 2009. The company has signed receipts demonstrating that the payments were made. The question of payment of appropriate compensation under Honduran law appeared to have been addressed but was recently re-opened. The Ministry of Labor issued a letter stating that the January

30<sup>th</sup> report by an inspector, which attested that severances had been paid and no further severance was owed, does not exist within the Ministry's files. The existence/validity of the January 30<sup>th</sup> report cannot be confirmed at this time. There is instead a new official report dated May 26<sup>th</sup> in which the same inspector states that he did not make or sign the mentioned January 30<sup>th</sup> report.<sup>8</sup>

During a discussion of this matter on June 5<sup>th</sup>, staff from the Ministry of Labor stated that the Ministry's role is to review or confirm whether a particular severance amount was paid to workers, however the Ministry does not have the power to state whether such pay was legal or whether it completely fulfills the severance requirement, as such determination can only be made by a judge after hearing a claim.<sup>9</sup> Any statement or review by the Ministry is not meant to prejudice the right of any worker to bring a claim to the court for any payments to which he or she might be entitled.

A review of a severance payment would include calculations based upon the previous six months of pay. An announcement to this effect is prominently posted in the lobby of the Ministry office where workers apply for assistance with such calculations. Ministry staff state that it would be impossible for an inspector to certify if severances were correctly paid for hundreds of workers unless the inspector had reviewed six months of wages for every worker in the group. This is one of the reasons why the Ministry does not accept that the January report by an inspector making the claim that severance payments were correctly paid could have been genuine. The report was never reviewed or approved by the supervisor of inspectors. And there was never any authorization to make public any document of this type.

In a company that has a union, the Ministry expects that the union and company together would review the previous six months' wages and then calculate the severance and benefits owed to workers.

The company, which was given a copy of the January letter by the inspector (apparently against Ministry policy), has followed up on the claim that no inspector approved severance payments by seeking further review of the severance payments by Ministry of Labor staff in Tegucigalpa. A formal request to the Ministry on June 12<sup>th</sup> asked that the January 30<sup>th</sup> report be confirmed as a legal report, that the Ministry review and confirm full payment of severance, and that the inspector's May 26<sup>th</sup> report be investigated.

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<sup>8</sup> The inspector Oscar Lobo Fino was not in the office or available for interview.

<sup>9</sup> January 30<sup>th</sup> letter had this controversial statement: "Así mismo, que no se le quedo a deber prestaciones laborales, ni indemnizaciones a ningún empleado." In English: "In this manner, no severance or indemnity is owed to any employee."



There are a few pending cases from the JDH closure; at least seven workers are seeking additional severance payments. Some of the cases pertain to longevity calculations and some pertain to a dispute over whether August vacation days should have been paid apart from or as part of annual leave. (The August vacation days are a practice within Fruit of the Loom plants that had not specifically been negotiated with the JDH union.)

9. Assist JDH workers in securing employment in other facilities in the general area by allowing workers a reasonable amount of time away from work to seek employment opportunities, communicating with local factories about job opportunities that may be available to JDH workers, accompanying individual or a group of workers as needed to potential factories to facilitate entry to certain manufacturing zones, and issuing whatever documentation workers need (in a timely manner) regarding proficiency records and service tenure at JDH to enhance their opportunities to find employment elsewhere.

JDH workers were issued letters of proof stating their employment dates and positions within JDH, which can be included on any job application. Services provided by the DEA offices are described above in item D. With respect to those workers who had received time off for interviews, the breakdown of the 29 persons granted leave is as follows: 14 trainers, 4 quality inspectors, 2 each from payroll, human resources, accounting, and 1 each from maintenance and administration. Three persons were not identified by position.

10. Reach out to community leaders to explore ways in which the impact of the closure can be mitigated.

The company has contacted a variety of business associations, training organizations and government officials in San Pedro Sula and the surrounding areas. It has not interacted with local nongovernmental organizations that work on labor rights, human rights or issues within the industrial zones, such as EMIH, the Equipo de Monitoreo Independiente de Honduras (the Independent Monitoring Team of Honduras) or CODEMUH, the Colectivo de Mujeres Hondureñas (Honduran Women's Collective). Other possible avenues for assisting workers would include churches or community associations within Choloma and San Pedro Sula.

The value of connections with grassroots community groups is to gain a better perspective on the needs of laid-off workers and learn about services or programs they may be relying upon for emergency and/or transitional support. Business associations and government trainers will not be as "up to date" because they are far removed from daily conversations with workers.

## **Looking Ahead**

The verification process was an intense look at a number of facilities and could easily have taken another week to interview former JDH workers, a missing voice in this process, both union and non-union workers.

In spite of the limitations of time and resources, the researchers were able to get a general picture of what the company is doing to extend job placement services to former JDH employees. These services will need to be enhanced by giving “first hire” priority to JDH workers after plants have re-contracted their own laid-off workers. There is evidence that the infrastructure for protecting freedom of association in other factories is being put into place. It is not a quick process. Amending policies and supervisor evaluations is part of the work that has been done. Raising awareness and understanding about freedom of association, as well as gaining trust in a functioning grievance procedure, is a much longer-term process.

We hope that re-establishing meetings between the company and SITRAJERZEESH will support and strengthen the many avenues of work listed within this report.

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