

# WORKER RIGHTS CONSORTIUM FACTORY ASSESSMENT

*Mex Mode (Mexico)*

*Findings, Recommendations, and Company Response*



*October 5, 2022*



WORKER RIGHTS  
CONSORTIUM

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## I. Introduction and Executive Summary

The following is a report of the investigation by the Worker Rights Consortium (WRC) of violations of Mexican labor laws and university and brand codes of conduct, as well as the later partial remediation of some of these violations, at the Mex Mode garment factory in Atlixco, Mexico (Mex Mode), which is owned by the Korean multinational, Kukdong Corporation. At the time that the WRC initiated this investigation in December 2021, Mex Mode was disclosed as a supplier of collegiate apparel by the university licensees, Fanatics and Lakeshirts.

As discussed below, Fanatics informed the WRC that in October 2021, i.e., prior to the occurrence of the violations discussed in this report, Fanatics had decided that it would stop sourcing apparel from the factory by February 2022. Lakeshirts informed the WRC that it had actually ceased production of collegiate goods at the factory in 2018, although the factory had continued to appear on lists of Lakeshirts' suppliers of collegiate apparel. Other buyers of (noncollegiate) apparel from the factory include VF Corporation and Carhartt, which continue to source from Mex Mode.

The WRC investigated the factory's compliance with freedom of association standards under Mexican law and university and brand codes of conduct in response to a complaint filed by the Liga Sindical Obrera Mexicana (Mexican Workers Union League or "Liga union"), whose members include workers employed by Mex Mode. These workers sought to cease being represented by, and paying dues to, another incumbent union in the factory, the Sindicato Independiente de Trabajadores de la Empresa Mex Mode (Independent Union of Workers of the Mex Mode Company or "Sitemex").

The WRC's investigation of the allegations brought by the Liga union and by current factory employees found that Mex Mode violated its workers' right to freedom of association by:

- Threatening workers that they would be dismissed for participating in associational activities;
- Intimidation and surveillance of and interference with workers' associational activities;
- Unlawful refusal to recognize the Liga union as the representative of the workers who have joined it; and
- Failure to discontinue dues collection for the Sitemex incumbent union from workers who had requested this.

The WRC found that these actions by Mex Mode factory management violated Mexican labor law, which guarantees the rights of all workers to freedom of association,<sup>1</sup> as well as International Labour Organization (ILO) Conventions 87 and 98, both of which have been ratified by Mexico. By extension, these actions violated both university<sup>2</sup> and buyer<sup>3</sup> codes of conduct.

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<sup>1</sup> Federal Labor Law of Mexico, Article 2,

[https://www.gob.mx/cms/uploads/attachment/file/156203/1044\\_Ley\\_Federal\\_del\\_Trabajo.pdf](https://www.gob.mx/cms/uploads/attachment/file/156203/1044_Ley_Federal_del_Trabajo.pdf).

<sup>2</sup> Collegiate Licensing Company (CLC), Special Agreement Regarding Labor Codes of Conduct Sched. I, §§ II (A) ("Licensees must comply with all applicable legal requirements of the country(ies) of manufacture in conducting business related to or involving the production or sale of Licensed Articles.") and (B)(9) ("Licensees shall recognize and respect the right of employees to freedom of association....").

<sup>3</sup> See, for example, Fanatics, Workplace Code of Conduct, §§ I.1.1 ("Suppliers shall comply with all relevant and applicable federal and country laws in which the workers are employed.") and VI ("Employers shall recognize and

The WRC first contacted Mex Mode to share preliminary findings and recommendations for corrective actions with respect to these violations in February 2022. Mex Mode responded by denying that it had violated the labor law.

The Liga union also shared its complaint concerning violations of associational rights at the factory with Mex Mode's buyers, the university licensee, Fanatics Apparel,<sup>4</sup> and the factory's other buyers, VF Corporation and Carhartt, which, in response, jointly commissioned an external audit to investigate the Liga union's allegations. The findings of the brands' investigation were consistent with those of the WRC concerning violations of freedom of association at the factory.

As detailed in this report, engagement with the factory by the WRC, the university licensee, Fanatics, and other buyers resulted in partial remediation of some of the violations the WRC had identified. Mex Mode did agree to implement some of the WRC's recommendations, but there were other corrective actions that the WRC recommended that Mex Mode did not agree to implement, and even where implementation has occurred it has been inadequate in most respects.

In Section V of this report, we detail the remediation actions that Mex Mode has taken, as well as the specific steps that the factory must still take in order to comply with buyer codes of conduct and Mexican labor laws. The WRC urges the brands that are currently still buyers from Mex Mode, VF Corporation and Carhartt,<sup>5</sup> to require the factory to complete the corrective actions detailed in this report in order to ensure compliance with these standards.

The WRC will report going forward on whether the factory takes the steps needed to correct the violations of freedom of association that have occurred at Mex Mode and, accordingly, what actions should be taken by the factory's buyers to ensure compliance with the relevant labor standards.

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respect the right of employees to freedom of association and collective bargaining.”)

<https://www.fanaticsincl.com/s/FANATICS-WORKPLACE-CODE-OF-CONDUCT-v0320211.pdf>.

<sup>4</sup> In December 2021, the Liga union contacted all known buyers from the factory, including the university licensee, Lakeshirts, which had publicly disclosed Mex Mode as a supplier of university licensed apparel, about the alleged violations. Lakeshirts reported to the WRC that it had discontinued production at Mex Mode in 2018, however, Lakeshirts still informed Mex Mode that any future business with the factory would be contingent on assurance that the factory was respecting its workers' associational rights.

<sup>5</sup> The university licensee, Fanatics, informed the WRC that, in October 2021 (i.e., prior to receiving the Liga union's complaint) Fanatics had decided to cease doing business with the Mex Mode factory and other holdings of Kukdong in Mexico by February 2022. Fanatics committed, however, that, during its final months doing business with Mex Mode, it would press the factory to remedy the violations identified by the WRC.

## II. Methodology

The findings in this report are based on the following sources of evidence:

- Extensive and detailed interviews with current Mex Mode employees;
- A review of relevant documents, including correspondence from the Liga union and its members, communications issued by the Sitemex union, news reports in Mexican media outlets, the collective bargaining agreement signed between Mex Mode and the Sitemex union, documents filed in litigation brought by the Liga union in the Mexican labor courts, and decisions issued by Mexican labor courts in that case;
- Communication with Mex Mode management and a review of documents and information provided by the company and the factory's buyers to the WRC;
- WRC Virtual meetings with representatives of the Liga union and, separately, with VF Corporation, which was acting on behalf of all factory buyers;<sup>6</sup> and
- A review and analysis of applicable Mexican law, ILO conventions, and university and buyer codes of conduct.

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<sup>6</sup> The licensee, Fanatics, did not participate in these virtual meetings as they occurred after the brand notified Mex Mode that it would be discontinuing production orders at this facility.

### III. Findings

#### A. Background information: Prior violations of freedom of association at Mex Mode, 2000–2020

The WRC has documented a long history of both associational activities by workers and acts of retaliation by company management and others against such organizing at the Mex Mode factory (which was formerly known as Kukdong International Mexico).

These violations have occurred at the factory within a broader context in Mexico of decades of fierce and ongoing repression of attempts by garment workers (and workers in other industries) to form independent unions. For decades, workplace representation in Mexico has been monopolized by what are known as “protection unions”. Historically, these unions have maintained arrangements with employers that profit the union’s leadership but do little to provide meaningful representation to employees or improve working conditions.<sup>7</sup>

Protection unions, which are often the labor arms of national or local political organizations, typically enter into “employer-protection collective bargaining agreements” (“protection contracts”) with garment sector employers. Designed primarily to “protect” the employer from independent union organizing, these contracts provide negligible benefits to workers. In exchange, employers reward the protection unions by collecting union membership dues from employees.

The WRC’s first investigation at Mex Mode,<sup>8</sup> in 2001, was launched in response to the factory’s retaliation against employees who were seeking to improve their working conditions by forming an independent union as an alternative to the then-incumbent protection union at the factory, which was affiliated to the Confederación Revolucionaria de Obreros y Campesinos or “CROC” (Revolutionary Confederation of Workers and Peasants).<sup>9</sup> The WRC’s investigation found that the factory had first illegally dismissed five workers for filing grievances with factory management about poor workplace conditions and then fired more than 100 other workers for holding a work stoppage to protest their coworkers’ dismissals. The WRC’s investigation also found that the CROC protection union and the factory management were complicit in threatening and coercing workers who supported an independent union.<sup>10</sup>

To its credit, the factory remedied the violations documented by the WRC in 2001 by reinstating the terminated workers and making improvements at the workplace that remedied other violations of university and buyer codes of conduct. The workers established the Sitemex union, which they voted to have represent them for collective bargaining.

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<sup>7</sup> John Otis, “How Mexico’s pro-industry unions undermine workers’ rights,” *The World*, March 21, 2012, <https://theworld.org/stories/2012-03-21/how-mexicos-pro-industry-unions-undermine-workers-rights>.

<sup>8</sup> At the time of the WRC’s 2001 investigation, the factory was known as Kukdong International Mexico. The factory’s name was later changed to Mex Mode.

<sup>9</sup> United Nations High Commissioner for Refugees, “Mexico: The Confederación Revolucionaria de Obreros y Campesinos (CROC), including membership details, influence and political affiliation, nationally and in the State of Jalisco 1996-1999,” June 1, 1999, <https://www.refworld.org/docid/3ae6aac530.html>.

<sup>10</sup> Worker Rights Consortium, *Investigation re Complaint against Kukdong (Mexico) Preliminary Findings and Recommendations*, January 24, 2001, [https://www.workersrights.org/wp-content/uploads/2016/02/Report\\_Kukdong\\_1.pdf](https://www.workersrights.org/wp-content/uploads/2016/02/Report_Kukdong_1.pdf).



In 2008, the WRC received and investigated a second complaint filed by workers at Mex Mode. Employees reported that they had been subjected to violence and intimidation inside the factory by the Mexican political organization Antorcha Campesina (Peasants' Torch), an entity that has close ties to the Mexican Partido Revolucionario Institucional (Institutional Revolutionary Party).<sup>11</sup> According to workers, the Sitemex union, which had successfully negotiated improvements for workers through collective bargaining, was taken over by the Peasants' Torch organization through a series of physical assaults on its then-leaders inside the factory.

The WRC's second investigation, while confirming that such a takeover had occurred, did not find the factory management to have played a role in the violence that workers had reported.<sup>12</sup> After 2008, the Peasants' Torch organization continued to control the Sitemex union, functioning in a manner similar to that of the previous CROC-affiliated union at the factory and other protection unions in Mexico.

Following its capture by Peasants' Torch, the Sitemex union renegotiated its collective bargaining agreement with Mex Mode management. Workers interviewed by the WRC reported that the factory's most recent union contract, which was signed in February 2020, was less favorable to workers than the union's previous agreement, which it had negotiated prior to the union's takeover by Peasants' Torch. Workers reported that the new contract reduced benefits by workers by, among other things, (1) obligating a larger percentage of the workforce to work on the nightshift than was previously the case; (2) reducing the value of the food vouchers the company provided workers for use at the factory cafeteria; and (3) eliminating the union's previous role in negotiating production goals and bonuses with factory management. Furthermore, Mex Mode employees reported to the WRC that Peasants' Torch-controlled leadership of the union failed to enforce other terms of the collective bargaining agreement that previously benefited workers.

## **B. Violations of freedom of association in 2021–2022**

In the second half of 2021, workers at Mex Mode joined the newly formed Liga union as an alternative to the Peasants' Torch-controlled Sitemex, which was functioning as a protection union. As they subsequently told the WRC, their goals in doing so were to address not only the Sitemex union's failure to effectively represent factory employees, but also to defend factory employees from verbal harassment by supervisors and other managers, as well as increase workers' low wages.

On November 24, 2021, workers notified Mex Mode management that they had joined the Liga union. As discussed below, the factory responded to their joining the Liga union by threatening workers with retaliation. The WRC's findings with regard to management's actions in response to the workers' associational activities are detailed in Sections 1 through 4, below.

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<sup>11</sup> United Nations High Commissioner for Refugees, "Mexico: Antorcha Campesina, whether it is an armed branch of the Institutional Revolutionary Party (PRI), and reports of abuses of its opponents," March 1, 1999, <https://www.refworld.org/docid/3ae6ad8614.html>.

<sup>12</sup> Worker Rights Consortium, *WRC Investigation re: Mexmode S.A. de C.V. (Mexico), Findings and Recommendations*, July 3, 2008, <https://www.workersrights.org/wp-content/uploads/2016/02/WRC-Assessment-re-Mexmode.pdf>.

## 1. Threatening workers with dismissal for participating in associational activities.

Workers testified that, after the company was notified, in November 2021, of their decision to join the Liga union, factory management met with the workers who are the Liga union's leaders and told them that the company considered these leaders to be “confidential employees” (*empleados de confianza*) and that, given that Mexican law does not allow confidential employees to be part of a union, the company could fire them for being involved in the Liga union. Workers reported that the management repeated these threats of dismissal on December 6, 2021, when the Liga union's worker leaders sought to represent other employees in requesting that the factory cease deducting dues for the Sitemex union from their pay (as detailed in Section D below).

The workers in question are employed at the factory as forepersons and quality control staff, not managers. Moreover, according to workers, current leaders of the Sitemex union are employed by the factory in positions of greater authority than the Liga union worker leaders who the factory claimed were confidential employees. Therefore, the WRC found that the statements by the company that it could fire these employees for being involved in the Liga union constituted an illegal threat of retaliation for union activities, rather than an expression of legitimate concern regarding the workers' occupational status.

Other workers at the factory also reported that, on multiple occasions in January 2022, several frontline supervisors, including Clara (sewing line 1), Moises (line 2), Efigenia (line 5), Lulu (line 6), and Saul (cutting department), told them that they should not join the Liga union and that there would be negative consequences for them if they did. The workers reported that these supervisors interrogated them, asking, “You already have a union, why do you need another one?” These workers testified that the supervisors then told them that they could be disciplined or even dismissed for participating in the Liga union.

Mexican labor law prohibits employers from restricting workers' exercise of freedom of association or impeding the formation or development of a union.<sup>13</sup> The actions of the factory management described above violated not only Mexican labor law but also international labor standards, which guarantee the right of workers to freely associate and to exercise their representational rights. These actions also violated, by extension, university<sup>14</sup> and buyer<sup>15</sup> codes of conduct.

## 2. Intimidating, surveilling, and interfering with workers' union activities

Workers who are members of the Liga union also testified that Mex Mode management attempted to intimidate, surveil, and interfere with their union activities at the factory during non-work time and in non-work areas. For example, workers stated that on multiple occasions in January 2022, factory security guards (who work at the direction of management) photographed workers who were meeting outside the factory gates during non-work time. Following one of these meetings, three of the managers followed one of the Liga union's worker leaders, who is the union's elected general

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<sup>13</sup> Federal Labor Law of Mexico, Article 133, Paras IV, V, and VII, [https://www.gob.mx/cms/uploads/attachment/file/156203/1044\\_Ley\\_Federal\\_del\\_Trabajo.pdf](https://www.gob.mx/cms/uploads/attachment/file/156203/1044_Ley_Federal_del_Trabajo.pdf).

<sup>14</sup> Collegiate Licensing Company (CLC), Special Agreement Regarding Labor Codes of Conduct Sched. I, §§ II (A).

<sup>15</sup> See, for example, Fanatics, Workplace Code of Conduct, §§ I.1.1 and VI.



secretary, back into the factory and told her that she was not authorized to hold [union] meetings and that she was not the “secretary of anything”.

Mexican labor law prohibits employers from impeding the formation or development of a union or restricting workers from exercising their rights under the law.<sup>16</sup> The actions of factory management described above violated not only Mexican labor law but also international labor standards, which guarantee the right of workers to freely associate. Furthermore, these actions, by extension, also violated university<sup>17</sup> and buyer<sup>18</sup> codes of conduct.

### **3. Unlawfully refusing to recognize the Liga union as workers’ representative**

On November 24, 2021, a group of eight workers who are Liga union members went to the factory’s administrative offices to deliver a letter notifying the company of the Liga union’s formation, introducing the union’s plant level leadership, and asking to meet with the management to discuss workplace issues of concern to employees. In a February 15, 2022, communication to the WRC, Mex Mode confirmed that the requested meeting subsequently did occur and that management and the Liga union leaders discussed workplace issues, including workers’ wish to disaffiliate from and cease paying dues to the incumbent Sitemex union.

However, according to Liga union leaders who were present at the meeting, Mex Mode’s human resources (HR) manager, Candido Marquez, told them that Mex Mode did not recognize the Liga union and would only recognize the union that holds the “title” to the factory’s collective bargaining agreement, i.e., the incumbent Sitemex union. HR Manager Marquez also reportedly asserted that two of the worker leaders of the Liga union were classified by the factory as “confidential employees” and therefore, under Mexican law, were not allowed to be members of a union. As mentioned previously, Marquez added that, accordingly, these two employees could be fired by the company for participating in the Liga union’s activities.

The February 15, 2022, communication from Mex Mode to the WRC stated that the management and the union had agreed, on November 24, 2021, that they would meet again the following week. However, the Liga union leaders reported that they were told by HR Manager Marquez that the company would notify them as to when it would meet again with the Liga union and that management did not, for several months, convene or agree to another meeting.

On December 6, 2021, the Liga union’s leaders attempted to meet again with the factory management, this time to formally request that the company discontinue deduction of dues for the Sitemex union from the wages of 51 workers who had signed a document requesting this. The Liga union worker leaders reported that Mex Mode management refused to meet with them on this occasion, taking the position that the company did not recognize the Liga union as a legitimate entity with the power to represent its employees.

Mex Mode workers in the Liga union responded to the management’s refusal to recognize their union as a legitimate entity with the right to represent factory employees by filing suit against the

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<sup>16</sup> Federal Labor Law of Mexico, Article 133, Paras IV, V, and VII.

<sup>17</sup> Collegiate Licensing Company (CLC), Special Agreement Regarding Labor Codes of Conduct Sched. I, §§ II (A).

<sup>18</sup> See, for example, Fanatics, Workplace Code of Conduct, §§ I.1.1 and VI.

company in the Mexican labor courts. On February 17, 2022, a Mexican labor court ruled in the workers' favor that the Liga union possessed all the rights and privileges granted to trade unions under national and international law.<sup>19</sup>

In its ruling, the labor court ordered Mex Mode to: (a) recognize the Liga union; (b) provide it with facilities necessary for the union to fulfill its functions; (c) maintain neutrality with regard to the workers' exercise of freedom of association; (d) comply with Art. 110 (VI) of Mexican Federal Labor Law with regard to employees' union membership in and dues contributions; (e) correctly apply the terms of its collective bargaining agreement; (f) refrain from retaliation against workers who join the Liga union; and (g) fulfill all its other obligations under national law concerning employees' freedom of association.

With respect to implementing the labor court's directive that the factory correctly apply the terms of the collective bargaining agreement, the Mexican Supreme Court has ruled that a "minority union"—a union that, like the Liga union, has not demonstrated that it represents the majority of employees at a factory and therefore does not hold "title" to the collective bargaining agreement—still has the right to represent its members, and employees have the right to choose which union they wish to join. Furthermore, the Mexican Supreme Court also has ruled that, under any collective bargaining agreement, minority unions must be allowed to propose workers to be hired for new positions, to negotiate with the employer regarding working hours, and to participate in joint labor-management committees.<sup>20</sup> With regard to the worker leaders in the Liga union who Mex Mode claimed were "confidential employees" and, therefore, could not be involved in the union, the court found that Mex Mode did not present credible evidence that the Liga union's registration should be nullified on this basis.

Given the clear ruling of the labor court, the WRC found that, by refusing to recognize the Liga union and allow it to carry out its legitimate representative functions on behalf of the workers who are its members, Mex Mode violated Mexican labor law, ILO conventions, and, by extension, university and buyer codes of conduct.

#### **4. Refusal to respect workers' request to discontinue union dues deductions**

Mex Mode workers interviewed by the WRC reported that, at the time newly hired employees sign their employment contracts, it also requires employees to sign a document affirming their membership in the Sitemex union, which triggers a factory deduction of six Mexican pesos from their weekly pay as union dues (\$0.30 per week or \$15.60 per year).

Leaders of the Liga union reported to the WRC that, on December 6, 2021, they asked the factory management to cease deducting dues for the Sitemex union from the pay of 51 workers. The union leaders presented management with a document signed by each of these workers expressing these workers' wish to discontinue dues deductions for Sitemex. However, the factory's human resources

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<sup>19</sup> The Second Labor Court of the State of Puebla, Mexico ruling on the Liga union's complaint against Mex Mode (Case File Number 0061/2021-C), based on Articles 123 (XXII Bis) and 133 of the Mexican Constitution and ILO Conventions 87, 98, and 135, all of which have been ratified by Mexico.

<sup>20</sup> Supreme Court of Mexico, *Titularidad y Administración del Contrato Colectivo de Trabajo. Cumplimiento y Reconocimiento de Cláusulas del Contrato Colectivo de Trabajo*, August 24, 2011, <https://www.scjn.gob.mx/node/30748>.

manager, Marquez, responded that he would not discontinue dues deductions simply on the basis of these signed documents. The union reported that HR Manager Marquez told them that each of the workers who wanted to discontinue dues deductions needed to visit the human resources offices, in person, to personally make the request to discontinue dues deduction.

In its February 15 letter to the WRC, Mex Mode confirmed that it had told the Liga union leaders that the request to end dues deductions “should be done personally by [each] worker” and that the matter “was not up for discussion ... [as] the procedure was personal [i.e., in person] because [this] is what the Law establishes.”

Mexican labor law, however, specifically states that a worker can request to discontinue deduction of union dues by providing their employer a written document stating this request.<sup>21</sup> The law does not require workers, who may feel too intimidated to approach management individually with such a request, to make this request in person.

Mexican labor law states that “the worker may express *in writing* their wish that union dues are not applied, in which case the employer will not make the deduction” (emphasis added). The law does not state that the worker needs to deliver the document where they express this wish, themselves. Therefore, upon receiving such a written request from a worker, by whatever form of delivery, the employer is, by law, required to discontinue the deduction of union dues.

The WRC found that the company’s refusal to discontinue deductions of union dues, upon receipt of workers’ written requests that it do so, violated Mexican labor law and, by extension, university and buyer codes of conduct.

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<sup>21</sup> Federal Labor Law of Mexico, Article 110, Para VI.

## **IV. Recommendations for Remedial Action**

The WRC shared the following recommendations with Mex Mode concerning measures that the company should take to correct the violations of freedom of association identified by the WRC.

### **A. Statement concerning respect for freedom of association and nonretaliation**

The WRC recommended that Mex Mode issue a verbal and written statement to all factory employees affirming the legal right of all workers to exercise freedom of association by joining and participating in the union of their choosing, including the Liga union, or declining to do so, if that is their preference. The WRC recommended that the statement affirm that the worker's decision whether or not to join or participate in any union should not result in any retaliation from factory management. The text of the statement was to be approved in advance by representatives of the Liga union and by the WRC and delivered via public address system to the entire workforce during working hours, distributed individually in writing to each of the factory's employees, and posted permanently in a public location in the factory.

### **B. Statement concerning deduction of union dues**

The WRC also recommended that, on a separate date, the factory should issue a verbal and written statement to all factory employees informing them that they could choose to have union dues deducted from their pay for the union of their choice or to not have dues deducted for any union. The statement was to outline a process by which individual workers confirm for which union, if any, they were having union dues deducted and the process necessary to change their dues deduction. The text of the statement was to be approved in advance by representatives of the Liga union and by the WRC and delivered via public address system to the entire workforce during working hours, distributed individually in writing to each of the factory's employees, and posted permanently in a public location in the factory.

### **C. Correcting involuntary deduction of union dues for the “protection” union**

With regard to the 51 factory employees whose pay Mex Mode continued to deduct union dues for the Sitemex “protection” union after the workers had requested that these deductions cease, the WRC recommended that the factory return the amounts deducted starting in December 2021, with interest, to each of these workers.

### **D. Recognizing workers' independent union**

To comply with the Mexican court's orders, the WRC recommended that the company recognize the Liga union as a legitimate representative of all factory employees who have joined this union by undertaking the following actions going forward:

- Mex Mode should agree to and hold regular, monthly meetings with Liga union representatives and their advisors;

- Liga union leaders should be allowed to represent employees who are Liga union members, in addressing workplace issues, when any such employee requests the presence of a Liga union representative in a meeting with factory managers or supervisors;
- The Liga union should be allowed, during non-work time and in non-work areas of the factory (such as the factory cafeteria), to hold meetings with any Mex Mode employees that choose to attend such meetings, with no interference, surveillance, or participation by factory managers or security guards; and
- Mex Mode should provide Liga union leaders with the opportunity to represent workers who are Liga union members, pursuant to the terms of the collective bargaining agreement signed between the factory and its employees, with regard to recommending workers for employment, serving on joint committees, working hours, and the implementation of updated timeclocks.

#### **E. Oversight and mediation of labor relations with participation of an ombudsperson**

In order to safeguard factory workers from future violations of freedom of association, the WRC recommended that Mex Mode arrange for an outside, independent labor rights ombudsperson, approved in advance by the WRC, to be present at the factory at least one day per week, at the company's expense, for a period of six months. The role of the ombudsperson would be to receive, assess, report on, and recommend remedies for any future complaints from workers of violations of freedom of association and attend any labor-management meetings between Mex Mode and the Liga union during the term of the ombudsperson's engagement.

## V. Company Response, Current Status, and Next Steps

After conducting an initial investigation of the complaint brought by the Liga union, the WRC shared with Mex Mode the preliminary finding that the factory had violated its workers' rights to freedom of association, along with initial recommendations for remedial action. The company responded to these findings by denying that the factory management had taken any actions that violated freedom of association.

The university licensee and (former) Mex Mode buyer, Fanatics Apparel, along with the brands, VF and Carhartt, which also were (and still are) buyers from the factory, received the same complaint alleging retaliation by the factory against workers for their associational activities that the WRC had received from the Liga union. These brands responded to the union's complaint by engaging an external auditor to investigate the union's allegations. The brands told the WRC that the findings of their auditor were consistent with those of the WRC, as detailed in this report, i.e., that the factory management had violated workers' associational rights.

Fanatics also informed the WRC, however, that, in October 2021—prior to receiving the union's complaint—Fanatics had decided that it would cease doing business with Mex Mode and Kukdong's other Mexico-based facilities in February 2022. Nevertheless, Fanatics committed to engaging with Mex Mode's management during Fanatics' final months as a buyer from the factory in order to secure remedies for the violations of university codes of conduct that had been identified.

Fanatics and the factory's other buyers required Mex Mode's management to develop a corrective action plan to address the violations found by the WRC. Subsequently, under this corrective action plan, Mex Mode implemented some of the WRC's recommendations for remediation, as detailed below. However, given that the factory's implementation of these steps was, in many aspects, partial, the remediation did not fully protect workers' associational rights going forward.

For this reason, the WRC provides, in the subsections below, specific steps that buyers from the factory must require Mex Mode to take to comply with their codes of conduct and Mexican labor law.

### A. Statement on freedom of association and nonretaliation

With regard to the WRC's recommendation concerning issuance of a verbal and written statement to all factory employees on their right to exercise freedom of association, on April 4, 2022, the factory posted a written statement on this subject. However, the company did not consult with the WRC or with the Liga union regarding the content of the statement prior to its posting.

Workers at Mex Mode reported to the WRC that they found the text of the statement confusing, and the Liga union expressed concern that the statement did not clearly communicate to workers that they are free to join or not join any union of their choice and that the company had committed that it would not retaliate against workers for their decisions. Workers interviewed by the WRC further reported that the statement was torn down (presumably by members of the Sitemex union), soon after it was posted on the factory's bulletin boards and that the company did not repost it thereafter.



Prior to the publication of this report, the factory buyer VF shared with the WRC a second announcement that was posted at the factory that provided information to workers about their right to and the process to join a union, discontinue affiliation with a union, and discontinue the deduction of dues to a union. VF reported that it had reiterated to Mex Mode its expectation that this statement on freedom of association remain posted at the factory until such a time that the company communicates this information to its workforce through a training on freedom of association.

However, this statement, which was not shared with the Liga union or the WRC before being posted, did not express the company's commitment to refrain from discrimination or retaliation against workers on account of their union affiliation or participation. Moreover, according to workers, it was not posted in the factory's production areas or breakroom but, instead, was only posted in the factory's administrative office. Therefore, many, if not most, factory workers have not, at the time of publication of this report, actually seen the statement.

Buyers from the factory should, therefore, require Mex Mode, within 30 days, to:

- Provide to the WRC and the Liga union the text of the statement on freedom of association it previously issued;
- Revise and reissue to employees its freedom of association statement, according to input from the WRC and the Liga union, in order to make the statement clear and comprehensible to workers (including incorporating a commitment to refrain from discriminating or retaliating against workers on the basis of union affiliation or participation);
- Read the revised statement over the factory public address system, with prior notice to the Liga union;
- Provide a written copy of the revised statement to each employee; and
- Post a written copy of the revised statement in the factory in a secure manner and provide notice of (and impose) meaningful penalties for removing or defacing it.

## **B. Statement concerning deduction of union dues**

As discussed in the previous section, Mex Mode buyer VF shared with the WRC a second statement on freedom of association that included text regarding the procedure for discontinuing the deduction of union dues. However, as noted above, the factory did not consult with the WRC or with the Liga union in preparing the text. Furthermore, according to workers, the statement was not issued by public address to all workers or posted in the factory's production areas or canteen but, instead, has only been posted in the factory's administrative offices. Therefore, many, if not most, factory workers have not actually seen this statement.

Buyers from the factory should require Mex Mode, within 30 days, to:

- Incorporate text on workers' right to discontinue deduction of union dues, including workers' ability to exercise this right without disclosure to any outside party (see below), into a revised statement on freedom of association, as discussed above; and

- As detailed above, read the revised statement, including this additional text, over the factory public address system; provide a written copy of the revised statement to each employee; and post a written copy of the revised statement in a secure manner in the factory's production areas and canteen.

### **C. Correcting involuntary deduction of dues for “protection” union**

In May 2022, Mex Mode discontinued deducting union dues for the Sitemex union from the wages of the 51 workers who previously requested this and returned to these workers the amounts that were collected from them for dues for Sitemex after they first made this request in December 2021. The Liga union's leaders reported, however, that other factory employees continued to be too afraid to request that the factory discontinue deduction of dues from their wages for the Sitemex union, because, according to the Liga union leaders, Mex Mode had shared the names of those workers who previously made such requests with the political organization that controls Sitemex, Peasants' Torch—which, as discussed above, has a history of violence against Mex Mode workers.

On September 30, 2022, VF reported that Mex Mode had implemented the practice of keeping the names of workers who discontinued dues deduction confidential.

The WRC recommends that buyers from the factory should require Mex Mode, within 30 days, to:

- Continue to keep confidential the names of workers who discontinue dues deduction;
- Affirm, in writing, that it will not disclose to the Peasants' Torch organization, or any other third party, the names of any workers who request discontinuation of union dues from any union at the factory; and
- Include a notification to workers of their right to discontinue deduction of union dues, without disclosure to any outside party, into the revised statement on freedom of association it should issue, per above.

### **D. Recognizing workers' independent union**

Mex Mode workers and Liga union leaders report that the company has only partially complied with the WRC's recommendations concerning recognition of the Liga union. Effective May 2022, factory management has agreed to regular, monthly meetings with Liga union representatives to discuss workplace issues, though the union expressed concern that, so far, the meetings do not result in resolution to the items of concern that the union brings forward.

Documents provided by Mex Mode demonstrate that the leader of both the Liga union and the Sitemex union are receiving paid leave to participate in union activities.

However, the Liga union reports that while its worker leaders are allowed to represent union members when they meet one-on-one with members of management, management has increased the workload of union members such that it makes it difficult for them to attend these meetings. This, they report, differs from the treatment for the Sitemex union leaders who, reportedly, are granted full access by management to represent their members in meetings with factory administration.

Furthermore, the Liga union also reported that, in June 2022, workers who requested representation by this union's worker leaders were interrogated by factory managers as to the circumstances of their joining the Liga union and were required by managers to sign written statements on this subject. Such interrogations and forced "confessions" are, in themselves, a violation of workers' associational rights.

Regarding the WRC's recommendation that the company respect the right of workers in the Liga union to meet during non-working hours in non-work areas, the Liga union worker leaders report that they are now allowed to meet with workers on factory premises. However, the Liga union leaders also noted that the factory management still affords the Sitemex union leaders greater privileges in this regard, since there are certain areas in the facility where the Liga union's worker leaders are not allowed to enter, but the Sitemex union's leaders are granted access. However, on September 30, 2022, Mex Mode buyer VF informed the WRC that Mex Mode has instructed its managers, supervisors, and security guards to provide equitable treatment to the leaders of both the Sitemex and the Liga unions.

Finally, Mex Mode has not complied with the WRC's recommendation that it permit the Liga union leaders to represent the workers who are their members with regard to enforcing the terms of the factory's collective bargaining agreement. The Liga union and the company report that Mex Mode has asked the Liga union to provide a list of all of the workers who are its members, in order to establish which employees the union is authorized to represent for this purpose.

However, the Liga union's leaders have told the WRC that, because they believe that the company is sharing the names of workers who join the Liga union with the violent Peasants' Torch political organization, the union is unwilling to provide its membership list to the company, out of concern for the safety of these workers. In a September 30, 2022, communication to the WRC, the buyer VF stated that while Mex Mode had previously disclosed the list of Liga union members to outside parties (presumably, including Peasants' Torch), the factory has discontinued this practice.

Buyers from the factory should require Mex Mode, within 30 days, to commit to the Liga union in writing (and comply in practice), that the factory will:

- Provide workers who are leaders of the Liga union with equal opportunity to represent workers who are its members as is provided to leaders of the Sitemex union, with respect to:
- Access to the various areas of the factory, and
- Time to attend meetings with management, without the employee union leaders' workloads being increased;
- Permit workers to be represented by the Liga union, if the worker verbally affirms that they are a member of the Liga union and a leader of the Liga union confirms this, *without* requiring:
- The Liga union to provide its full membership list to the company; or
- Workers to be interrogated about the reasons or circumstances of their joining the Liga union.

## **E. Oversight and mediation of labor relations with participation of an ombudsperson**

With regard to the WRC's recommendation that the company retain an ombudsperson to address future complaints of violations of freedom of association, factory buyers reported to the WRC that Mex Mode is unwilling to do this. The WRC continues to consider this to be an important remedial step to improve respect for and compliance with freedom of association at Mex Mode going forward and reaffirms this recommendation.

Buyers from the factory should require Mex Mode, within 30 days, to retain an ombudsperson approved in advance by the WRC, to be present at the factory at least one day per week, at the company's expense, for a period of six months.