



PAXAR Turkey – Third Party Complaint **A Brief Summary**

The Fair Labor Association (FLA) appointed Vic Thorpe to assess the dialogue and negotiation process in the Paxar dispute, liaise with the various parties and ensure that the FLA is updated of events and of any action to be taken. The following brief summary provides the background to the complaint and the perspectives of the two direct parties involved. The FLA and its affiliated companies remain convinced that Paxar and TEKSIF should begin and engage in good faith bargaining to reach a negotiated settlement.

**By Vic Thorpe, Just Solutions Network
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Introduction

Paxar is a US-originating global leader in production of labels, tags, transfers and bar codes, primarily for the apparel sector. Operating in some 47 countries, it had 2005 revenues of some US\$809 million.

Paxar Turkey is a wholly-owned subsidiary, with an office in Istanbul and a factory in Saray, some 85 kms. West of Istanbul, that employs 365 permanent employees and variable numbers of contract personnel according to peaks and troughs of production. The factory's output is 80 per cent consumed in Turkey by suppliers to a wide range of global apparel brands.

In February of 2006 a complaint was raised by the Teksif trade union (Turkish Textile Workers Trade Union, affiliated to the TURK-IS national confederation) against Paxar management for its refusal to enter into negotiations towards a collective agreement, despite the union's legally-certified recognition for this purpose. Grievance was also made against the company for alleged intimidation of workers, including the unjust dismissal of 11 workers for trade union activity.

This reporter has spoken on several occasions with the representatives of Teksif about this case and, at the request of FLA President Auret van Heerden, arranged a visit to the Paxar factory in Saray on the morning of 13th June in order to discover the position of company management on the dispute. There he met with Paxar's Regional Director for Eastern Europe, based in Turkey, Mr. Stewart Fergus, with the Factory Operations Director, Mr. Berkand Pakar, and with the HR Director, Mrs. Ayfer Elvermezyilmaz. Also interviewed was one worker who had recently been elected as the plant 'workers'

representative' on the disciplinary committee. This report is an attempt to summarize the different perspectives of the origins of the dispute at Paxar Turkey as expressed by the two sides – management and union - with a view to suggesting a possible way forward.

Historical Development of the Paxar Turkey Dispute – Two Versions of Reality

Union Version

February 2005 – Teksif runs a legitimate organizing campaign among workers at Paxar and achieves an overwhelming majority of members among the workforce.

March 2005 – Teksif approaches Paxar management with the request to open negotiations on a collective agreement in view of the union's de facto majority among its employees. Management refuses to negotiate until the courts have adjudicated the case. Legally a response should be forthcoming within a month; however, in this case, as in many others, there was a much longer delay - a ruling was not officially delivered until November of 2005.

The union, well aware that this process takes considerable time in Turkey's legal system, and anxious to maintain the momentum it had generated among Paxar workers, continued to campaign for the company to open negotiations.

During this time the company undertook a counter-campaign at the factory level among its workers to intimidate them and to persuade them to discontinue their union

Management's Version

February 2005 – Teksif begins a recruitment campaign among Paxar's workers. Arranging a fiesta on a Sunday and bussing the workers from their homes to meet a notary public for signing on to the union, with the exaggerated promise that, if workers signed on that day, they would receive 6 bonuses as a result of the union agreement. (Paxar's factory manager claims that several workers came to him on the Monday following the recruitment fair and asked when they would be paid their bonuses.)

March 2005 – Paxar management prefers to wait for the official finding rather than take the union's word for its majority, since the company has never received copies of the workers' signed union membership forms to know who is or is not a union member.

The union opens an aggressive campaign in the local community and in the press, including demonstrations and statements that the company acts illegally in not paying its taxes, under-paying social security payments for workers and employing under-age workers. Mr. Fergus reacts to these statements also in a public letter of his own denying all accusations.

The company denies having pressured

memberships. This included:

- sacking 11 workers who were prominent trade union members to strike fear into others (in March 2005, directly following the union's successful recruitment campaign);
- Bussing workers to the notary public where they were encouraged to resign officially from the union. Membership was inevitably lost during this period (union figures unavailable).

With union help, the 11 dismissed workers sue for unjust dismissal in the courts, which eventually rule in favor of the workers and order their re-instatement with monetary compensation to be paid by Paxar to 5 of the workers. Union demands for re-instatement are rejected by the company.

workers to resign from the union. Instead, it claims that workers were shocked at the activities of Teksif and the 'outrageous claims' made by them as regards conditions in the factory and began to withdraw voluntarily from a union that was seen as aggressive and ignorant of the situation in the factory.

In addition, it claims that the union used threats of physical violence in its campaigning. It has a signed affidavit from one worker claiming that certain individuals associated with the union threatened to 'break his legs' unless he stopped talking against the union.

With regard to the dismissed workers, the company claims that it was suffering from the effects of the end of MFA quotas on the apparel industry in Turkey that had cut its orders by an average 20% (50% on US brand activity that had accounted for longer runs and a better economic outturn). As a result, it was seeking to make cuts. It sold two machines and sought volunteers for redundancy. It eventually made 76 workers redundant during the whole of 2005. In March of that year it made 22 workers redundant – 8 of them were volunteers. Of the remaining 14, 11 turned out to be union members – 6 permanent workers and 5 probationary workers. It comments that 11 union members out of 22 made redundant cannot be called discrimination in a workforce where the union claims to have had two-thirds representation. It also claims that it could not have known who was or was not a union member, since it never received copies of the workers accession forms to the union. In response to the question why these particular people were chosen to be made redundant, the company claims that they were chosen on the basis of past poor performance (one had been caught sleeping on the job, another had poor disciplinary record, etc) and on a 'last in – first out'

basis.

(ITGLWF conducted its own investigation into company's charges that Teksif had grabbed a substantial proportion of the compensation monies paid to the dismissed workers and found them groundless.)

It claims that all 11 cases of unjust dismissal were judged by the same judge at the same time and only the 5 cases of probationers were judged to be cases for compensation. This, claims the company, is always the situation in Turkey because the courts wish to ensure that these workers do receive some money while they seek alternative employment, whilst those who did receive redundancy pay as permanent employees do not usually obtain compensation. The company paid the compensation demanded and has since discussed with the union terms for the reinstatement of the workers. (Company also claims that Teksif somehow annexed a large part of the compensation monies to its own funds.) This discussion is still ongoing as "the union does not really seem to rate this as a priority, but is using the argument simply for campaigning purposes with the NGO's."

17th November 2005 – The labor courts hand down an official certification for the union as bargaining agent on behalf of 267 workers at Paxar, based on its review of signed membership application forms. This equates to more than two-thirds of the workforce at the factory.

17th November 2005 – By this time, the company claims, Teksif's name had become anathema to workers in the facility because of their scandal tactics. The management believed that the union no longer represented a majority of its workforce and that its presence would have a negative effect on industrial relations. The demands made by the union in its opening draft c.a. were 'unrealistic' and 'economically ruinous'.

Teksif presents a draft collective agreement to Paxar management as an opening of negotiations. However, management does not respond and refuses to negotiate in good faith, claiming the demands to be 'ruinous' and 'unrealistic' and that the union no longer has a majority of members at the factory.

The demand to join the sector agreement would require payment of 4 extra monthly bonuses under the prevailing system, whereas Paxar currently had a basic payment system of 12 equal monthly payments based on a yearly salary target. Costs would increase by 38% on this model and were not sustainable.

February/May 2006 – Talks take place between the company and Teksif

Company also claims that the union said during negotiations that its calculations

representatives about negotiating a collective agreement, but no negotiations as such. Indeed, company refuses to negotiate an agreement, based upon its claim that the demands are economically disastrous in face of economic downturn and that the union no longer represents a majority of its workers.

11th May – union calls a strike of its members at Paxar. Due to fear of victimization, however, only 8 members actually turn out to demonstrate in front of the factory, while others cross the picket line to work.

In response to the temporary court injunction the union calls off the strike awaiting the final decision.

3-4 June 2006 - The union resorts to international campaigning and raises complaints with the relevant NGO's and MSI's to bring pressure on the company to negotiate in good faith. This has the effect that opening talks take place between the company in Turkey in the observing presence of ETI and the 'Next' company, with the ITGLWF General Secretary, Neil Kearney, acting as a facilitator.

The result of these talks is an agreement to open good faith bargaining towards a collective agreement. After some delay, constructive talks take place between the union and factory management over specific issues at the factory, but no negotiation is begun on the collective agreement as such.

were based on the fact that turnover would run at a rate of 35%, whereas current turnover at the factory is less than 3%. This, claimed management, was typical of what had happened in other cases where Teksif had reached agreements. The union cared nothing for the employees, only for its own income.

The union 'strike' clearly demonstrates the company's point that the union no longer has a majority of members among Paxar workers. The company therefore applies to the courts for an injunction to stop the strike. Company claims that one of its grounds for the decision is that the union represents only eight workers at the factory and is acting in a manner likely to cause disruption and friction with the majority of those who wish to work. A temporary injunction is granted by the courts on 16th May on grounds of possible public disturbance, while awaiting a definitive verdict. The union ceases its action and the 8 strikers return to work. Company claims there is no intimidation of those who struck.

The company feels that it is being 'railroaded' by the combination of campaigning organizations and brands. Faced by a 'threat' during talks with the ETI and Neil Kearney that the situation would be raised as a case to the ILO and the OECD, management felt out of its depth and contacted the Paxar head office in the USA. They were directed to no longer negotiate directly with the union, but to hire an experienced lawyer to do this from now on. However, to show goodwill, factory management has continued to try to talk constructively to the union representatives on smaller industrial relations issues on a day-to-day basis. It also has talked about a protocol to cover the return to work of five of the dismissed workers.

The company introduces its legal adviser into the situation. Dates are shifted for negotiations to begin with this person. The latest date set is for the morning of 14th June. At midday on that day, no further communication is forthcoming from the company on its intentions. A call to the company elicits a new date for negotiations to begin - on Monday 19th June.

The company lawyer advised local Paxar management that it should not negotiate with the union now that the union appeared to have less than a majority of members at the factory. The company can check this fact by reference to the signed copies of withdrawal affidavits that the workers have made at the notary public – copies of these statements are legally required to be sent to the company and they have them as evidence of their claim.

On 16th June, The Turkish Labor Court rules against the strike on the grounds that it is likely to cause public disruption. Despite the company's attempts to cloud the issue of the union's representation in the factory, there is no mention of this issue in the judgment. However, following the court decision, the company fires its lawyer and refuses to negotiate further. The union intends to appeal this decision through the higher courts and seeks external solidarity from trade union and NGO sources to put renewed pressure on the company to meet its legal obligations to bargain with the union.

16th June – The Turkish Labor Court rules against the strike. The company takes this ruling as evidence that the union is non-representative.

Acting on direction from its US head office, the company refuses to negotiate further with the union on the grounds that it now represents a tiny minority of the workforce at Paxar.

Where Next?

The following considerations can be drawn from the foregoing history:

1. The prevailing legal situation would have required the company to start negotiations in good faith in November when the union's official certification was finally handed down. This opportunity was actively avoided by Paxar.
2. There is some confidential evidence (based on worker interviews) to back the union's claim that Paxar used the time between the union's application to the courts for recognition and the court's eventual ruling (over six months) to influence workers against the union and, probably, to actively promote their disaffiliation. (Workers would not normally bother to pay extra money to a notary to leave the union – as they must do under Turkish law. They would normally simply become inactive if they were no longer motivated.)
3. The company's court challenge to the union's strike was accompanied also by its version of the 'facts' regarding the union's representation in the factory. Although the court found against the strike, its grounds were that a strike could lead to public disorder – NOT that the union was non-representative. The company persists in interpreting the

court's decision against the strike as a de-certification decision, however, and challenges the union's representation based upon it.

4. The company is by no means unaware of the wide international interest that this case is attracting among the NGO community and among its suppliers. Guided by its headquarters 'get tough' policy, it is clearly ready to stand firm in the face of negative campaigning if it has chosen this course of action. The local management of Paxar already points to loss of major investment in the plant from the parent company as a result of this dispute. If the situation is escalated in the most probable fashion, it is not impossible that the company may close its doors altogether in Suray, leading to negative consequences for the workers and for union organizing in general.

The global brands that are seeking to lessen the tension in this situation and to encourage a 'social dialogue' (the term is not general currency in Turkey) should best address the US head office of Paxar, where the major decision in this matter appears to have been taken. It is worth pointing out the political nature of the current events, where Turkey itself is also under scrutiny from the European Commission that will shortly be producing a report on the country's progress towards the European entry criteria, including the issue of increased social dialogue and the construction of the necessary institutions for that process to advance. This dispute does not, therefore, take place in isolation and any company seeking to play 'hard ball' at this time is likely to take a hard public relations knock.

The legal path will only exacerbate the situation – an active social solution needs now to be found. In the longer term, the way to ensure 'responsible' union behavior is for the company to sign a collective agreement that allows closer relations to be established and to work hard at drawing the union into a pattern of regular consultation. Once this happens, it would also be wise to engage both management and workers in a program of training and awareness-raising around expectations of brands and the international community on issues of social compliance and labor relations. It is difficult to see this being possible unless the company can meet its obligations under the law to bargain in good faith with the union, based upon the currently prevailing legal status of Teksif as bargaining agent.