

Independent Investigation

F&D S.A. de C.V. San Salvador, El Salvador

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I. Background

In March 2015, the F&D branch (seccional) of the Sindicato de la Industria Textil Salvadoreña (SITS), affiliated to the Federación Sindical Salvadoreña (FESS), filed a complaint with the Fair Labor Association (FLA), alleging a number of violations of Salvadoran law regarding hours of work at the factory F&D S.A. de C.V. in San Salvador, a contract factory producing for FLA-affiliated company Hanesbrands (HBI). Therefore, the FLA commissioned this Independent Investigation to be performed at the factory F&D to determine whether:

1. All hours worked by workers either before or after regular working hours, during lunch breaks, or on Saturdays, were properly recorded in payroll records.
2. Such hours were paid at a rate that reflected the legally-required overtime premium.
3. Pay slips issued to workers accurately reflected the number of regular hours worked, the number of overtime hours worked, and the pay received for each category of work, including legal and voluntary deductions, and bonuses paid for achieving production goals.
4. All workers punched in and out by themselves for all categories of work, including overtime performed on Saturdays.
5. Regular and overtime pay rates reflected the increase in the minimum wage decreed by the Government of El Salvador effective January 1, 2015.
6. Workers enjoy all factory provided and legally required breaks and if not, whether workers are compensated for the additional work time.

II. F&D's General Facts

F&D is a publicly traded company engaged in the manufacturing of clothing. It is located in the San Marcos free trade zone, in the city of San Salvador. At the time of the investigation, HBI was its sole buyer.

The company has a total of 644 employees, of which 78% are female and the remaining 22% are male.

There are two legally-constituted unions inside the factory:

1. Seccional del Sindicato de la Industria Textil Salvadoreña (SITS), affiliated to the Federación Sindical Salvadoreña (FESS); and
2. Sindicato de Trabajadores de F&D (STF&D).

III. Methodology

The independent investigation process was divided in two phases: an external inquiry phase, followed by a visit to the factory's facilities.

3.1 Phase 1: External Inquiry

The external inquiry phase included conducting interviews with F&D's Ombudsperson¹ – who served in this capacity at F&D in 2013 and 2014 with the aim of trying to facilitate a dialogue between the factory and the SITS union branch – and another with the Organization Secretary of the SITS branch².

3.2 Phase 2: Visit to the plant

During the visit to F&D's plant, the investigation process included a visual inspection of the factory's plant, a review of documents, and interviews with representatives of the factory's management, production workers and the unions at F&D (the SITS branch at F&D and the STF&D).

F&D's management provided the following documents to the Investigator for review:

1. Employees' Handbook of F&D, S.A. de C.V.
2. Payroll records and legal deductions for the most recent twelve months, from March 2014 to March 2015.

¹ In-person interview conducted on Monday, April 6, 2015, in San Salvador.

² Telephone interview conducted on Wednesday, April 8, 2015.

3. Records of timestamps reflecting start and end time of shifts for 35 factory employees from March 2014 to March 2015.
4. Goal achievement studies conducted by HBI.
5. Percentage of production units that earned a bonus between March 2014 and March 2015; and
6. Samples of payslips given to workers at the factory.

Also, the SITS branch at F&D provided the following documents:

1. Records of meetings related to the revision of production goals at F&D, elaborated by Ena Lilian Núñez, attorney and specialist on labor rights, and designated Ombudsperson at F&D for the purpose of facilitating a dialogue table during 2013-2014.
2. Record of conciliation audience of February 13, 2015, held at the General Directorate of Labor, between representatives of F&D and representatives of SITS.
3. Summary of the meeting regarding the dialogue process between the SITS branch at F&D and F&D management held on July 28, 2014. Present at the meeting were representatives of SITS, FESS, F&D, WRC, FLA, HBI and the Ombudsperson appointed to facilitate the dialogue process at the factory during 2013-2014.

Regarding the interviews conducted during the visit to the plant, the following can be mentioned:

No of Interviews	Persons Interviewed	Date of Interview
1 <i>(Group Interview)</i>	8 persons: General Secretary, Organization Secretary, 1 st Secretary of Conflicts, 2 nd Secretary of Conflicts, Press and Information Secretary, Agreements and Records Secretary, Security and Conflicts Coordinator, and Finance Secretary of the Sindicato de la Industria Textil Salvadoreña (SITS).	Thursday, April 9, 2015
1	F&D's Manufacturing Manager.	Thursday, April 9, 2015
1	5 persons: General Secretary, Finance Secretary, Statistics and	Friday, April 10,

No of Interviews	Persons Interviewed	Date of Interview
(Group Interview)	Organization Secretary, Press and Information Secretary, and Social Welfare Secretary of the Sindicato de Trabajadores de F&D (STF&D).	2015
13	Factory workers interviewed individually, without interference from management and unions (3 of whom stated being members of a union).	Friday, April 10, 2015
Total interviews: 16		

IV. Independent Investigation results

4.1 Total number of hours worked by factory employees and total hours reflected in payroll records

The purpose of investigating this subject was to verify that all of the hours worked by factory workers were effectively recorded in the payroll records, including hours before or after the regular workday, during lunch break, or on Saturdays.

Before making a proper analysis it is necessary to consider the legal limits of a regular workday established in the Constitution of El Salvador (Cn.), the Labor Code (LC) and Internal Regulations Governing F&D employees, authorized by the Ministry of Labor and Social Welfare.

The Art. 38 Ord 6^o of the Cn. states that *“The ordinary workday of effective daytime work shall not exceed eight hours, and the work week shall not exceed forty-four hours”* and along the same line, Art. 106 of the LC states that *“The ordinary workday of effective daytime work, excluding legal exceptions, shall not exceed eight hours (...). The work week shall not exceed forty four hours”*.

The regular workday established in Art. 14 of F&D’s Internal Regulations is consistent with the aforementioned constitutional and legal requirements. It is as follows³:

³ Table based on investigator’s research.

Days		Morning Shift	Afternoon Shift	Total of daily hours
Monday	to	7:00 a.m to 12:00	1:00 to 5:00 p.m.	9 hours ⁴
Thursday		noon.		
Friday		7:00 a.m to 12:00	1:00 to 4:00 p.m.	8 hours
		noon.		
Weekly work hours				44 hours

In order to evaluate this subject, F&D's Management was asked to provide all payroll records between March 2014 and March 2015. From these payroll records, a random sample of 35 payments made to factory workers was selected, which represented 5.43% of F&D's workforce; at the same time, punch-in and punch-out entries for these same employees were solicited in order to verify the inclusion of all work hours in the payroll records⁵.

After cross-checking the payroll records with the punch-in and punch-out entries, and taking into account the interviews conducted, the following could be determined:

- 1) The punch-in and punch-out entries only show the beginning and the end of the workers' shifts. Therefore, it was impossible to document if work was performed during the lunch period. However, it is important to mention that in 100% of the interviews with workers and with both unions, it was mentioned that during 2014 it was usual for workers to work during the lunch break in order to increase output in order to reach the production goal required to earn a monetary bonus paid by

⁴ The 9-hour workdays are legal exceptions to the established 8 hours workday, allowed with the objective of completing the 44 weekly hours without working on Saturdays.

⁵ The sample of punch-in and punch-out entries correspond to the following time periods: March 5, 2014 to March 18, 2014; April 16, 2014 to April 29, 2014; April 30, 2014 to May 13, 2014; May 28, 2014 to June 10, 2014; June 11, 2014 to June 24, 2014; June 25, 2014 to July 8, 2014; July 9, 2014 to July 22, 2014; July 23, 2014 to August 5, 2014; August 6, 2014 to August 19, 2014; August 20, 2014 to September 2, 2014; October 1, 2014 to October 14, 2014; and December 10, 2014 to January 6, 2015.

F&D for goal achievement. Workers stated that it was difficult to reach these goals on a regular workday. **It is important to mention that this practice does not occur any longer because of the factory's decision -- since the second week of February 2015 -- to turn off the factory's electricity during the lunch break, to avoid staff working during this time which is necessary for eating and resting, a fact the investigator ascertained during the two-day visit to the factory.** The SITS branch at F&D considers this measure to be a retaliatory action for the strike this union carried out also in February 2015, to demand payment for the overtime hours workers performed.

- 2) Regarding work on Saturdays, during 100% of the interviews conducted with factory workers, unions, and F&D's Manufacturing Manager, it was mentioned that workers did not punch in or out on Saturdays when they came in to work to achieve production goals that would allow them to earn the monetary bonuses – \$10 for 80% efficiency rate, \$11 for 90%, and \$13 for 100% depending on the clothing item they were manufacturing. Therefore, it was impossible to determine the exact number of hours worked by factory's workers on Saturdays by checking payroll records and punch-in and punch-out records.
- 3) It is also important to clarify that there were some workers who did punch in and out on Saturdays. These workers went to the factory to work overtime previously requested by F&D. The Manufacturing Manager was consulted about the criteria used to determine who works to achieve a production goal and who works to earn overtime. He stated that he did not know the criteria used for this in 2014, but currently, workers who report greater levels of production and efficiency during the week are rewarded with the possibility of working overtime. This means that overtime work is now being used as an incentive to reward workers who achieve the production goals previously set. Finally, the Manufacturing Manager expressed that staff members who are entitled to work 8 overtime hours on Saturday, need to achieve the established goals, understanding that by achieving these goals, the

workers would not be entitled to a bonus as they are already receiving overtime payment, at the rate of \$14.06. In 18 of the 35 cases (51.40%) it was verified that the overtime worked was not reflected on payroll records. The following two tables, elaborated from data obtained from the punch-in and punch-out entries and payroll records, illustrate the previously mentioned issue⁶:

Chart 1

Time period: 05/03/2014 to 18/03/2014					
Employee code: 00XXX1					
Date	Punch In	Punch Out	Hours per day	Overtime	Overtime reflected on payroll
Wednesday 05/03/2014	06:55:11	17:10:11	10:15:00	00:15:00	Not Reflected
Thursday 06/03/2014	06:49:04	17:10:51	10:21:47	00:21:47	Not Reflected
Friday 07/03/2014	06:52:30	16:47:01	09:54:31	00:54:31	Not Reflected
Monday 10/03/2014	06:55:48	17:14:02	10:18:14	00:18:14	Not Reflected
Tuesday 11/03/2014	06:54:15	17:13:25	10:19:10	00:19:10	Not Reflected
Wednesday 12/03/2014	06:56:47	17:10:05	10:13:18	00:13:18	Not Reflected
Thursday 13/03/2014	06:53:12	17:14:33	10:21:21	00:21:21	Not Reflected
Friday 14/03/2014	06:52:04	16:19:50	09:27:46	00:27:46	Not Reflected
Monday 17/03/2014	06:57:42	17:16:19	10:18:37	00:18:37	Not Reflected
Tuesday 18/03/2014	06:52:24	17:19:01	10:26:37	00:26:37	Not Reflected
Total overtime worked				3:56:48	Not Reflected

Chart 2

Time period: 10/12/2014 to 06/01/2015					
Employee code: 00XXX2					
Date	Punch In	Punch Out	Hours per day	Overtime	Overtime reflected on payroll
Wednesday 10/12/2014	06:44:26	17:47:37	11:03:11	01:03:11	Not Reflected

⁶ It is important to clarify that to determine overtime hours, the lunch break time (1 hour) was deducted from each cell, taking into consideration that, as mentioned earlier in this report, it was not possible to determine if the lunch break was being used for production tasks.

Time period: 10/12/2014 to 06/01/2015					
Employee code: 00XXX2					
Date	Punch In	Punch Out	Hours per day	Overtime	Overtime reflected on payroll
Thursday 11/12/2014	06:41:48	17:40:53	10:59:05	00:59:05	Not Reflected
Friday 12/12/2014	06:36:55	17:11:27	10:34:32	00:34:32	Not Reflected
Monday 15/12/2014	06:41:52	17:46:58	11:05:06	01:05:06	Not Reflected
Tuesday 16/12/2014	06:44:45	17:50:49	11:06:04	01:06:04	Not Reflected
Wednesday 17/12/2014	06:45:05	17:47:17	11:02:12	01:02:12	Not Reflected
Thursday 18/12/2014	06:48:57	17:47:49	10:58:52	00:58:52	Not Reflected
Friday 19/12/2014	06:42:41	17:05:15	10:22:34	01:22:34	Not Reflected
Tuesday 06/01/2015	06:46:51	17:39:36	10:52:45	00:52:45	Not Reflected
Total overtime worked				9:04:21	Not Reflected

4) In 17 of the 35 sampled records (48.60%), overtime done during the week and on Saturdays was reflected on the payroll records. However, when cross-checking the number of overtime hours reported on payroll records with the number of hours in the punch-in and punch-out entries, it was observed that in all 17 cases (100%) these were not completely reported. Two concrete examples are provided below:

Chart 3

Time period: 23/07/2014 to 05/08/2014					
Employee Code: 00XXX3					
Date	Punch In	Punch out	Hours per day	Overtime	Overtime reflected on payroll
Wednesday 23/07/2014	06:44:00	17:11:59	10:27:59	00:27:59	10 overtime hours reflected on Saturday
Thursday 24/07/2014	06:37:00	17:08:02	10:31:02	00:21:02	
Friday 25/07/2014	06:48:07	16:16:55	09:28:48	00:28:48	
Saturday 26/07/2014	06:52:07	12:13:36	05:21:29	05:21:29	
Monday 28/07/2014	06:41:28	17:10:37	10:29:09	00:29:09	
Tuesday 29/07/2014	06:38:46	17:12:32	10:33:46	00:33:46	
Wednesday 30/07/2014	06:37:09	17:08:07	10:30:58	00:30:58	
Thursday 31/07/2014	06:42:48	17:13:13	10:30:25	00:30:25	
Friday 01/08/2014	06:37:12	16:10:20	09:33:08	00:33:08	
Saturday 02/08/2014	06:37:20	12:04:21	05:27:01	05:27:01	

Monday 04/08/2014	06:47:28	17:07:26	10:19:58	00:19:58	
Tuesday 05/08/2014	06:44:48	17:01:54	10:17:06	00:17:06	
Total overtime worked				15:20:49	10 Hours

Chart 4

Time period: 26/10/2014 to 09/11/2014					
Employee code: 00XXX4					
Date	Punch In	Punch Out	Hours per day	Overtime	Overtime reflected on payroll
Monday 27/10/2014	06:32:00	17:08:27	10:36:27	00:36:27	17 hours
Tuesday 28/10/2014	06:39:06	17:01:15	10:22:09	00:22:09	
Wednesday 29/10/2014	06:35:01	17:00:44	10:25:43	00:25:43	
Thursday 30/10/2014	06:36:25	17:00:57	10:24:32	00:24:32	
Friday 31/10/2014	06:36:55	17:06:36	10:29:41	00:29:41	
Saturday 01/11/2014	06:50:02	15:01:14	08:11:12	07:11:12	
Monday 03/11/2014	06:40:25	17:00:08	10:19:43	00:19:43	
Tuesday 04/11/2014	06:46:12	17:12:02	10:25:50	00:25:50	
Wednesday 05/11/2014	06:42:18	17:02:01	10:19:43	00:19:43	
Thursday 06/11/2014	06:42:46	17:03:44	10:20:58	00:20:58	
Friday 07/11/2014	06:45:26	17:03:36	10:18:10	01:18:10	
Saturday 08/11/2014	06:51:33	16:01:23	09:09:50	08:09:50	
Total overtime worked				20:23:58	

Besides showing the incomplete recording of overtime, the two cases presented above also show that workers had work weeks of over 60 hours, surpassing the limits of 44 weekly hours established in Art. 38 Ord. 6 Cn., Art. 106 of the LC, and the Workplace Code of Conduct of the FLA, benchmark HOW.1.3, that establishes that “the sum of regular and overtime hours in a week shall not exceed 60 hours”.

4.2 Overtime payment according to Salvadoran Legislation

Art. 38 Ord. 6^o Cn. establishes that overtime hours shall be remunerated at a premium rate (surcharge), and Art. 169 LC states that “all work beyond the regular workday, is entitled to a premium of 100% over the basic salary rate per hour.”

Taking into account the legal requirements for overtime payment and using the sample of 35 punch-in and punch-out entries and payroll records, it can be shown that ***in 100% of cases there was overtime work, with overtime not paid in 18 cases and overtime not fully paid in 17 others.*** For example, in the charts previously presented it can be observed in charts 1 & 2 that approximately 13 overtime hours were not paid; and in charts 3 & 4 that approximately 8 overtime hours were not paid.

4.3 Issuance of payroll slips issued to workers and contents.

The investigation sought to determine whether the pay slips issued to workers reflected the total number of regular work hours, of overtime hours, and the corresponding payment for each category, including legal and voluntary pay deductions, as well as payment for production goals.

Both factory management and representatives of the SITS branch at F&D provided samples of pay slips corresponding to 14 days (biweekly periods) from March 2014 to March 2015; the pay slips provided details about regular working hours, overtime hours, bonus payment for the achievement of production goals, and legal and voluntary pay deductions (such as contributions to the Salvadoran Institute of Social Security, ISSS, and Pension Funds, AFP; repayment of personal loans; and payment of union fees).

The reviewed pay slips included the total number of regular work hours. However, ***regarding overtime hours worked, the pay slips did not reflect the exact number of hours worked by F&D's workers*** because the pay slips are elaborated using the information on F&D's payroll records which, as it has been mentioned in sub-sections 4.1 and 4.2 of this report, when cross-referenced with punch-in and punch-out entries of the 35 employees sampled, did not reflect the total number of overtime hours. Therefore, these hours have not been included on the pay slips. Consistent with this conclusion, the SITS branch at F&D indicated that the problem with the 2014 pay slips is that they did not reflect the real number of work hours worked by employees.

Regarding payment for the achievement of production goals, pay slips only show payments in a very general manner; there are no specifications regarding what the

efficiency rate was or which goal was achieved. To this point, in interviews conducted, 4 persons expressed that they did not have a clear understanding of how the bonus payment for the achievement of goals operates; in contrast, 9 persons expressed that they had a clear understanding of the bonus payment system and to ensure they were being paid correctly, they keep their own log of the goals they achieve daily. The SITS branch at F&D mentioned that pay slips do not clearly reflect the criteria used for production bonus payments.

In the interview conducted with the Ombudsperson who facilitated a dialogue table at F&D during 2013-2014, she stated that the pay slips do not meet the requirements of a formal document, as it consists of information printed on a piece of paper without any official stamp from F&D as the employer, pointing out that this could potentially harm workers in a labor court proceedings, as these pay slips lack legal status. Finally, it is important to note that the pay slips that the SITS Branch at F&D provided to the investigator are in effect simple documents (without legal status) because they do not have an official stamp or a signature from a F&D's Legal Representative as employer.

4.4 Punch-in and Punch-out entries of overtime work performed on Saturdays.

There are groups of workers who do punch in and out for overtime worked at F&D on Saturdays. However, as it has been stated previously in sub-section 4.1, employees who worked on Saturdays to achieve a production goal did not punch in and out. This was confirmed by 100% of the persons interviewed and both unions manifested that during 2014, persons who worked Saturdays (regardless of the hours worked) were not allowed to punch in or punch out per the factory's instructions, as they argued that this time was not considered as working hours, but rather a time used by workers to reach the established goals. Moreover, the Manufacturing Manager explained that at present, the factory recognizes overtime carried out on Saturdays in order to meet customer's needs when the latter requires high levels of production. In these instances, the factory seeks out the modules with the highest efficiency and productivity during a normal work week and assigns them to work on a Saturday for an 8-hour period. F&D pays workers overtime

for these hours, but does not also recognize production goals as the workers are paid for overtime hours.

This shows that the factory has an erroneous understanding of the nature of effective hours of work and of overtime hours. According to Art.163 LC, “It is considered as effective work time all the time in which the worker is at the employer’s disposal”. This means that even though the factory argues that work conducted on Saturdays was “time to recover or achieve a production goal”, workers who came to work were at the employer’s disposal and therefore this would be considered as effective work time. To the extent that this time exceeds the 44-hour weekly limit established in Salvadoran Law, then these hours fall into the overtime category, and should be recorded and paid as such consistent with provisions regarding the payment of overtime hours in Art.38 Ord. 6 Cn., Art.169 LC, and the FLA Workplace Code of Conduct.

4.5 Regular and overtime payments in accordance with the increase in minimum wages enacted by the Government of El Salvador.

The Government of El Salvador in the last few years has enacted a series of minimum wage increases for private sector workers, establishing the following minimum salaries for workers in the textile and apparel sector:

Salary	Year 2014	Year 2015
Daily	Daily: \$ 6.76	Daily: \$ 7.03
Hourly	Hourly: \$ 0.845	Hourly: \$ 0.879

From the sample of 35 payroll records for 2014 and 2015 reviewed, it was observed that regular working hours and overtime hours recorded were calculated in accordance with the salary increases enacted by the Government of El Salvador as shown in the box above. It was verified from the payroll records that for 2014, the rate of pay for ordinary work

hours was \$0.845 and \$1.69 for overtime hours. This is consistent with Art. 169 CT, which sets forth that overtime pay shall be 100% over the rate of ordinary pay. Similarly, for 2015, it was confirmed from payroll records that the rate for ordinary work hour was \$0.879 and for overtime work hour was \$1.76.

However, it should be noted that 100% of the individual interviews conducted with workers and with the SITS representatives indicated that the minimum wage increase has affected their earnings, due to the fact that the factory lowered the amount of the bonus payments for the achievement of goals; and besides, that the factory keeps these goals high for different production units, making it impossible for workers to achieve these goals in an ordinary workday. This was expressed even by the STF&D in the interview conducted. On this point, F&D’s Manufacturing Manager admitted that reducing the level of bonuses paid for the achievement of production goals was a decision made by the owners of the factory. For example, depending on the style of apparel manufactured, a worker who in 2014 could earn \$17 daily with a 100% efficiency, in 2015 would earn only \$13 daily.

Style	Efficiency Level	Bonus amount 2014	Bonus amount 2015	Amount of reduction for daily goal achievement
"X"	100% (production of 120 dozens of clothing items)	\$17	\$13	\$4.27
		Daily real Incentive 2014	Daily real Incentive 2015	
		\$10.24	\$5.97	

4.6 Legally required breaks, and/or additional work time compensation.

In reviewing the payroll records it was confirmed that F&D provides the rest days, holidays and vacations required by law. The only finding of noncompliance was related to the work performed by factory workers on August 6, 2014, which is a holiday as defined by the Labor Code. It should be mentioned that this workday was arranged by management and workers and it was agreed that employees would enjoy 2 days of compensatory time.

However, the identified problem lies in the incorrect application of Art. 192 of the Labor Code which states: *“Workers who reach an agreement with their employer to work on a holiday, will earn an extraordinary salary composed of an ordinary salary plus a bonus of 100% of this salary”*. Providing compensatory time does not relieve the employer of responsibilities for paying this workday as a recognized right in favor of workers. Even though there was an agreement between the factory, unions and workers, the application of the constitutional principle in Art.52, which *establishes the irrevocability of workers’ rights*, prevails.

V. Other findings

5.1 High production goals could potentially affect mental and physical health of workers.

In 100% of the interviews conducted individually and collectively, the workers who perform their duties based on production goals manifested a feeling of intense pressure to achieve them, as they consider this an impossible task to accomplish in an ordinary workday. These workers expressed the feeling that it was frustrating to work under the amount of pressure to which they are subjected by their supervisors. Others interviewed mentioned that they self-impose “sacrifice” measures by depriving themselves of some biological needs (such as hydration not to have to go to the washroom) to “avoid wasting time”. In this regard, two people said they have had health issues related to their kidney functions associated with limiting their water consumption.

The Manufacturing Manager provided the investigator with a study of production goals conducted by HBI which concludes that the defined production goals determined for the different clothing styles are reachable in an 8-hour effective workday. However, the SITS branch at F&D manifests that this study needs to be debated as it was developed under conditions different from the ones under which they work at F&D at this time, mentioning as an example that sometimes they use machines that are not functioning optimally. The Manufacturing Manager provided the Investigator with a report that concluded that for

the period September 2014 to March 2015, an average of 68.5% of F&D workers subject to production goals met such goals.

Based on the statements made by workers and management, it is relevant to note that the incentive system in place at F&D is not fulfilling its objective of motivating workers; far from it, the pressure generated by unattainable goals and small bonuses creates a degree of demotivation that workers have expressed in general, both when interviewed individually and through their unions. To better understand this point, the information provided in the below table shows the actual bonuses paid by F&D to its workers⁷.

Style	Efficiency Level	Incentive Amount	Subtract daily regular salary	Real Daily Incentive	Real Weekly Incentive
"X"	100% (production of 120 dozens of clothing items)	\$13	- 9 hours of work from Monday to Thursday: \$7.91	\$5.09	\$26.33
			- 8 hours of work on Friday: \$7.03	\$5.97	
	90% (production of 116 dozens of clothing items)	\$11	- 9 hours of work from Monday to Thursday: \$7.91	\$3.09	\$16.33
			- 8 hours of work on Friday: \$7.03	\$3.97	
	80% (production of 110 dozens of clothing items)	\$10	- 9 hours of work from Monday to Thursday: \$7.91	\$2.09	\$11.33
			- 8 hours of work on Friday: \$7.03	\$2.97	

As goals are established on a weekly basis, if a worker achieves an efficiency level of 100%, he or she would earn an additional \$26.33; if the efficiency level were 90%, the additional earnings would be \$16.33, and if it were 80%, the additional earnings would be \$11.33. With respect to this subject, the SITS and 100% of interviewed workers mentioned that with the current goals, workers hardly reach an efficiency of 80%; besides, they feel demotivated by the fact that even if workers reach the daily production goals for 4 days, if

⁷ The "X" style is used in the table to represent a hypothetical clothing style made at F&D; however, the efficiency levels and the incentive amounts reflect real data required for the production of some styles in the factory.

they fail to reach the goal on the 5th day, they lose the bonus for the whole week. For these reasons, the SITS has asked for a review and discussion of daily goals and bonuses.

According to the Ombudsperson, “the established incentive system at F&D hides a purposeful extension of the work schedule, as it is already planned that employees would have to work overtime to achieve production goals; also, workers are told the production goal system is a favor done for them to allow them to earn more money, which constitutes a fraud to avoid paying overtime and allows the factory to simulate minimum wage increases that in reality have not been implemented”.

In view of the above, it is important that the factory reviews the present system to be able to increase F&D’s productivity, through more attainable goals and payment of bonus levels that promote workers’ efficiency, always in accordance with current law.

Conclusions

1. After cross-referencing payroll records with information from the interviews conducted with management, unions, and workers, there was evidence of productive work being done in order to meet goals in the period of March 2014 to March 2015 that was not recorded as overtime and was not paid in accordance with the law, including work done on Saturdays.
2. In the cases where overtime hours worked on Saturdays were recorded in the payroll records, there was evidence that the calculations of remuneration was consistent with domestic law and followed the minimum wage increases for 2014 and 2015. However, it is important to note that when cross-referencing payroll records with punch-in and punch-out entries, in 18 cases the overtime hours were not completely recorded in the payroll and therefore they were not remunerated in accordance with the law.
3. Not all workers clearly understand the process of bonus payments for the achievement of production goals at F&D.

4. Saturday August 6, 2014, was a holiday in which workers and the factory agreed to work; part of the agreement included compensatory time off for workers, which is a good practice. But this did not absolve F&D from their legal obligation to pay holiday workdays at the regular rate of pay plus 100% premium.
5. According to a report regarding workers who were paid on the basis of production goals from September 2014 to March 2015, an average of 68.5% of workers met the production goal. However, from the perspective of unions and workers interviewed individually, the production goals set by the factory are unreachable within a regular 8-hour workday.
6. The monetary amount of the production bonus for goal achievement was reduced by the factory's owners at the time when the minimum wage increase for 2015 was made effective.
7. The pay slips given to factory workers do not have any legal validity, which could affect them in judicial proceedings.

Recommendations

1. It is critical that management records all work hours performed by F&D's employees through the biometric system, including work performed "to reach production goals" and recognizing corresponding bonuses.
2. It is necessary to implement a mechanism that allows determining the number of overtime hours performed by workers that were not recorded as such, because it is an unavoidable obligation of the factory to pay all overtime hours to workers, as these are not *negotiable, and cannot be waived*. Regarding this matter, it cannot be argued that the payment of production bonus absolves the responsibility to pay overtime to workers.
3. Include in pay slips the level of efficiency reached by workers in order to clarify the amount being paid for achieving these goals.
4. Issue pay slips to workers that contain a stamp and signature of a legal representative of F&D as the employer to give these pay slips legal validity.

5. It is important that the factory reviews the bonus system to try and increase productivity at F&D, through the creation of reachable goals to be remunerated with amounts that promote and stimulate the highest workers' efficiency, always in accordance with the law and protecting worker health and safety.
6. Strengthen the dialogue table existing inside the factory to address workers' demands in an adequate manner, establishing proper mechanisms and defining due dates to meet reasonable demands.