



Ethical Trading Action Group

Transparency and Disclosure: New Regulatory Tools to Challenge Sweatshop Abuses

**Submission to
Public Policy Forum's National Consultation on Textile Labelling
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This submission was prepared by the Ethical Trading Action Group (ETAG).

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Canadian Council for International Co-operation
Canadian Labour Congress
Canadian Union of Public Employees
KAIROS: Canadian Ecumenical Justice Initiatives
Maquila Solidarity Network
Ontario Secondary School Teachers' Federation
Oxfam Canada
Steelworkers Humanity Fund
Students Against Sweatshops-Canada
UNITE

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Introduction

The Ethical Trading Action Group (ETAG) is a national coalition of faith, labour, teacher, student and non-governmental organizations advocating for government policies, voluntary codes of conduct and ethical purchasing policies that promote humane labour practices based on accepted international labour standards. ETAG also advocates for greater public access to information on where and under what conditions clothes, shoes and other consumer products are made, and greater transparency in monitoring and verification of company compliance with international labour standards and local laws.¹

ETAG was formed in 1999 as the reference group for civil society participation in multi-stakeholder discussions convened by the federal government to seek agreement on a Canadian base code of labour practice and monitoring and verification process. This initiative was known as the Canadian Partnership for Ethical Trading (CPET). At that time, ETAG proposed that those discussions also look at government policies and regulations that would complement and reinforce a voluntary code. However, because ETAG and the industry associations involved in those discussions were unable to gain agreement on the inclusion of the core labour rights conventions of the International Labour Organization (ILO) or the principle of independent verification in such a code, no discussions took place on government policy options.²

Following the breakdown in the CPET process, ETAG assessed other possible policy options to address the problem of sweatshop abuses. We developed a program that combined government policy advocacy, promotion of the adoption of ethical purchasing policies by public institutions, and dialogue with individual companies for the inclusion of internationally accepted minimum labour standards and transparent, credible and effective monitoring and verification methods in voluntary codes of conduct.

ETAG has consistently supported a policy mix that includes both voluntary initiatives and government action, and a combination of hard and soft regulation that promotes greater transparency so that citizens, consumers and workers can play an active role in the achievement of policy objectives. At the same time, we share the concerns raised in a number of recent studies that voluntary initiatives and market enforcement mechanisms have very serious limitations and therefore should not be seen as a substitute for government action at the national or multilateral levels.³

¹ ETAG members includes: Canadian Auto Workers, Canadian Council for International Co-operation, Canadian Labour Congress, Canadian Union of Public Employees, KAIROS: Canadian Ecumenical Justice Initiatives, Maquila Solidarity Network, Ontario Secondary School Teachers' Federation, Oxfam Canada, Steelworker Humanity Fund, Students Against Sweatshops-Canada, and UNITE. The Maquila Solidarity Network (MSN) acts as the secretariat for ETAG.

² For an analysis of the CPET process, see:
http://www.ccic.ca/devpol/csr/csr1_canadian_ngo_policy_views.htm

³ For critiques of the limits of voluntary codes, see: Peter Utting (UNRISD), "Corporate Responsibility and Labour Issues in China: Reflections on a Beijing Conference," *The Journal of Corporate Citizenship*, Summer 2003; and Dara O'Rourke, "Outsourcing Regulation: Analyzing Nongovernmental Systems of Labor Standards and Monitoring," *The Policy Studies Journal*, Vol. 31, No. 1, 2003.

In 2001, ETAG initiated a public policy campaign calling on the federal government to make changes in regulations under the Textile Labelling Act to require that companies publicly disclose the names and addresses of factories making apparel and other textile products sold in Canada. Since this campaign was launched, thousands of high school and university students across Canada have cut out tens of thousands of labels from their clothes to send to Industry Minister Allan Rock, thereby declaring their support for factory disclosure regulations. The most brand-conscious sector of the Canadian population has clearly demonstrated that they want to know where the apparel products they buy are made, and under what conditions.⁴

Canadians Want Information and Government Action

A number of public opinion surveys have confirmed that Canadians, and particularly young Canadians, care deeply about the issues of sweatshops and child labour and want the government to do something about the problem. A February 2002 Vector public opinion survey shows that 84% of Canadians surveyed support factory disclosure regulations, and that 55% of Canadians and 66% of students surveyed “strongly support” such regulations. Thirty-six percent of Canadians and 44% of students surveyed said that during the past year or two they had refused to buy a product they believed was made by child labour or in a sweatshop.⁵

A 2001 Vector poll showed that 80% of Canadians and 75% of shareholders surveyed want the federal government to establish standards for corporate social responsibility and make companies publish what they are doing to meet the standards. Seventy-five percent of Canadians and 78% of shareholders surveyed said governments should not buy goods and services from businesses that have a bad record of social responsibility.⁶

An October 2001 report prepared by the Apparel Human Resources Council, based on focus group discussions with young people in five Canadian cities and one small Quebec garment manufacturing centre, revealed that the young participants had “a very poor image of the apparel industry – derived largely from negative media coverage of third-world sweatshops, and the almost zero visibility of Canadian producers.” The report notes that the results were “remarkably consistent... across region, language, educational level and gender.”⁷

Inadequate Assessment of ETAG Proposal

We are hopeful that the Canadian government, apparel retailers and manufacturers will take seriously the concerns of Canadians, and particularly young Canadians, about the working conditions under which the clothes they buy are made and the lack of

⁴ CBC Television, Marketplace, *Cut It Out*, March 27, 2002. Also see: <http://www.cbc.ca/consumers/market/files/home/cutitout/>; Kathleen Harris, “Rock told to tag sweatshops,” *Ottawa Sun*, February 25, 2003; “Ethical labels sought,” *Winnipeg Sun*, February 25, 2003.

⁵ Vector Research + Development Inc., *The Vector Poll on Public Opinion in Canada*, February 2002

⁶ Vector Research + Development Inc., *The Vector Poll on Public Opinion in Canada, conducted for the Canadian Democracy and Corporate Accountability Commission*, October 2001.

⁷ Apparel Human Resources Council, *Attitudes of Youth Towards a Career in the Canadian Apparel Industry*, October 2001.

information currently available to them on where and under what conditions those products are manufactured.

We appreciate the fact that Industry Canada has responded to these concerns by commissioning the Conference Board of Canada to carry out a review of ETAG's proposal and other policy options,⁸ and the Public Policy Forum to facilitate multi-stakeholder round table discussion.⁹ However, while ETAG has agreed to participate in the roundtable, we continue to be concerned that the Conference Board report fails to accurately represent the ETAG proposal or to articulate other effective policy options that could complement the factory disclosure regulations.

As we stated in our June 13, 2003 letter to the Competition Bureau of Industry Canada, we believe the Conference Board report misinterprets the proposal and its intent and fails to provide a balanced assessment of that proposal. But as we also stated in the same letter, ETAG is in agreement with the authors' general conclusion that "a combination of information, verification, and reporting initiatives on the issue of fair labour standards, combined with appropriate consequences when improper practices are uncovered, would likely be much more effective than any of the other initiatives currently suggested or implemented to address this issue."¹⁰

Rather than presenting a detailed critique of the Conference Board Report, we would reiterate our main objections to that report, as well as its assumptions and conclusions:

- First, it fails to examine how factory disclosure regulations could encourage and interact with other voluntary and/or regulatory compliance verification and CSR reporting initiatives.
- Second, it interprets ETAG's willingness to be flexible on how factory disclosure might be implemented as a lack of clarity on what we are proposing.
- Third, while not explicitly endorsing industry's argument that factory locations are proprietary information, the report gives a great deal of weight and attention to that argument, suggesting government consider protecting that information from "unauthorized use."
- Fourth, it reveals a disturbing bias against union representation, suggesting that use of supply chain information to organize workers would have only negative and disruptive consequences.
- Fifth, it criticizes the proposal because information provided to consumers would not offer "a balanced view of labour standards," despite the fact that factory disclosure is not intended to report on labour standards or labour standards compliance.

⁸ Conference Board of Canada, *Study of A Proposal (and its alternatives) to Amend the Textile Labelling and Advertising Regulations: Applying the Conference Board's Optimal Policy Mix Framework*, prepared for the Competition Bureau, February 2003. <http://cb-bc.gc.ca/epic/internet/incb-bc.nsf/vwGeneratedInterE/ct02546e.html>

⁹ See "National Consultation on Textile Labelling" on the Public Policy Forum website: http://www.ppforum.ca/textile_labelling/index.html

¹⁰ Letter on file at MSN.

- Sixth, it fails to comment on whether the proposal would encourage companies to better monitor their supply chains, establish longer-term business relationships with trusted suppliers, and provide more transparent public reports on labour standards compliance.

ETAG continues to believe that factory disclosure regulations would be an effective tool to encourage companies to improve monitoring of their supply chains and to provide more transparent reports on the findings of compliance verification and corrective action taken. Moreover, factory disclosure regulations in combination with voluntary or mandatory reporting on labour standards performance, similar to that currently provided by the Fair Labor Association, would provide consumers much of the information they need to make ethical choices.¹¹

How Would Disclosure Regulations Works?

Contrary to what is stated in the Conference Board report, ETAG is not asking for factory information to be included directly on labels. We are proposing that companies regularly report to Industry Canada the names and addresses of manufacturing facilities producing their apparel and other textile products that fall under the Textile Labelling Act. This requirement would apply to all apparel and textile products sold in Canada, whether they are private label or branded products of US, Canadian or European companies. In that sense, the policy does not discriminate against Canadian companies. These facilities would include the assembly steps in the production process, not the growing or manufacturing of materials to be assembled. Nor would they include the residences of homeworkers.

The CA registration number system could be used in one of two ways:

- In the most transparent option, an additional number could be included on the label identifying the specific factory(ies) where the specific product was manufactured. A consumer, researcher, worker or other interested party could access this information by typing in the CA number and the factory identification number on the Industry Canada website.
- A second option would be to require companies to provide factory location information to Industry Canada through the current CA number. In this case, typing in the CA number on the website would provide a list of apparel product types for a particular company and the current list of the factories where those products are being manufactured. For instance, Zellers “Truly” brand children’s short-sleeve T-shirts are made in the following factories.

The only issue to be considered in the enforcement of the regulations is whether a company knowingly provides false information or knowingly fails to provide information on the locations where its private label or branded products are made. If Industry Canada received convincing evidence that a company has provided false information or failed to provide information, the company would be requested to correct that information. If it fails to do so, an appropriate fine would be levied.

¹¹ See tracking charts on the Fair Labor Association (FLA) website:
<http://www.fairlabor.org/all/transparency/>

The Conference Board report discusses a third option – releasing factory information “confidentially” and “only by the appropriate agencies in cases when poor labour practices are documented.”¹² In ETAG’s view, this option would be of little use to consumers, researchers, workers or other interested parties, since it assumes that only industry should have access to information on factories with poor labour practices.

Factory Information: Public or Proprietary?

One of the central arguments industry representatives have made against factory disclosure regulations, and one that is given considerable attention in the Conference Board report, is that supply chain information is proprietary. In other words, Canadian companies work hard to find and develop relationships with good suppliers and those relationships are part of their competitive advantage. Disclosing supplier information would supposedly allow competitors to use the information to place orders with the same factories, to conduct industrial espionage in order to “steal designs,” or to set up direct relationships with offshore facilities and bypass Canadian manufacturers subcontracting to those facilities.¹³

The experience of ETAG member groups involved in campaigns about working conditions in supply factories of Canadian and US companies is that retailers and brand merchandisers often use some of the same manufacturing facilities as their competitors and that intermediaries are increasingly able and willing to share factory information with their clients.

When ETAG received reports of worker rights violations in three factories in Lesotho producing Zellers private label products for the Hudson’s Bay Company, we soon learned that the same factories were also producing for Sears Roebuck, Kmart and Gap.¹⁴ A factory in Bangkok, Thailand producing for La Senza was also found to be making similar products for some of its major competitors – Boutique Jacob, Victoria’s Secret (The Limited), Kmart and Gap.¹⁵ A factory in Tehuacan, Mexico producing jeans for Levi Strauss was also found to be producing similar products for The Limited, Wal-Mart, Federated Department Stores and Wet Seal (in which La Senza is a major investor).¹⁶

As industry analyst Michiel Scheffer of Noeton Knowledge Management in the Netherlands pointed out to participants attending a February 20, 2003 International

¹² Conference Board of Canada, 2003, op.cit., p. 53.

¹³ Conference Board of Canada, 2003, op.cit., p. 15.

¹⁴ Trade Union Research Project, *The Workers’ Story: Labour Rights Violations at Hudson’s Bay Supply Factories in Lesotho*, prepared for the Ethical Trading Action Group, March 2002. <http://www.maquillasolidarity.org/campaigns/hbc/pdf/HBCReport.pdf>; Clean Clothes Campaign, *Made in Southern Africa*, December 2002. <http://www.cb3rob.net/%7Emerijn89/ccc/Africa-report.pdf>

¹⁵ See La Senza and Jacob Campaign on the MSN website:

<http://www.maquillasolidarity.org/campaigns/jacob/>

¹⁶ Worker Rights Consortium, *Interim Report: Worker Rights Consortium Inquiry into Allegations of Labor Rights Violations at Tarrant Ajalpan*, September 15, 2003.

[http://www.workersrights.org/Interim%20Report%20of%20WRC%20Inquiry%20-%20Tarrant%20Ajalpan%20\(Mexico\)%20%2009-15-03.pdf](http://www.workersrights.org/Interim%20Report%20of%20WRC%20Inquiry%20-%20Tarrant%20Ajalpan%20(Mexico)%20%2009-15-03.pdf)

Restructuring Education Network Europe (IRENE) conference in Germany on pricing and labour rights compliance, companies that don't know what factories their competitors are using are simply not competitive.¹⁷

A more plausible argument of some socially conscious retailers is that they invest considerable time, effort and money in assisting their long-term suppliers to bring their working conditions and labour practices up to the standards of their codes of conduct. Disclosing supplier information, they argue, would allow their competitors to place orders with the same factories and claim their products are made under humane conditions without making any investment in those facilities. While this “free-rider” argument may ring true for individual companies, ETAG would argue that anything that encourages companies to use factories with superior labour standards compliance records would be good for the industry as a whole. It's also worth noting that Social Accountability International (SAI) currently publishes on its website the names and locations of SA8000-certified factories, and this has not proved to be a problem for SAI member companies that have long-term business relationships with those factories.¹⁸

Another recent trend is that US retailers and brands are now more willing to discuss collaborating with competitors that are using the same factories to bring coordinated pressure on their common suppliers to address worker rights violations. In the Gina Form Bra case in Thailand, the Tarrant case in Tehuacan, Mexico, and the Nien Hsing case in Lesotho, US retailers and brands were willing to discuss possible cooperation with their US and Canadian competitors on how to bring appropriate pressure on the supplier to achieve code compliance. To date, Canadian companies have not shown the same willingness to collaborate with US competitors to resolve workplace problems in factories they share.

In ETAG's view, there is no firm definition of what is proprietary information, nor should government attempt to determine what is and is not proprietary, as is suggested in the Conference Board report. What is certain is that companies want to expand what is considered proprietary while civil society organizations want more information to be available to customers, shareholders, stakeholders and the public. The public opinion polls mentioned above indicate that Canadian consumers also want more transparent corporate reporting.

What is also clear is that companies are willing to share more information with their customers, shareholders, stakeholders and the public in situations and jurisdictions where either government regulations require and/or reward certain kinds of reporting and/or where pressures from unions, other civil society organizations and consumers compel companies to provide more transparent reporting.

¹⁷ Nina Ascoly, *Pricing in the Global Garment Industry*, Report of the International Seminar held on February 20, 2003. <http://www.cleanclothes.org/ftp/03-05-pricingreport.pdf>

¹⁸ See the list of SA8000 certified factories on the Social Accountability International (SAI) website: <http://www.sa-intl.org/Accreditation/CertifiedFacilities.htm>

For instance, Nike does not disclose supply chain information to Canadian consumers, nor has it declared its support for factory disclosure regulations in Canada. However, as a result of student campaigns in the US, a number of universities in that country now require Nike to publicly disclose factory locations producing their university-licensed products.¹⁹ Nike is not only complying with this requirement, it is now listing on its own website the names and addresses of factories producing clothing for those US universities that request that the information be made public.²⁰

In addition to Nike, other university suppliers in the US, including JanSport, Russell, GEAR for Sports, and Canada's Gildan Activewear are also cooperating with US university factory disclosure requirements. JanSport and GEAR for Sports also publish lists on their websites of factory locations making university-licensed apparel,²¹ though Gildan does not. JanSport has gone further, listing on its website the names and addresses of all manufacturing facilities making all of its products. All of these companies now market themselves as more transparent companies, based on their willingness to cooperate with requirements in university No Sweat policies.

In Australia, Nike has gone further than it or its competitors have in the US. In response to a campaign launched by the Fair Wear Coalition, Nike signed a "Deed" on June 25 agreeing to provide the Textile, Clothing and Footwear Union of Australia (TCFUA) with information on its Australian supply factories, including the names and addresses of all suppliers, as well as the price to be paid for each item to be made and the total price to be paid for all items in an order. The Deed also gives the TCFUA access to supplier workplaces to investigate company books, allowing the TCFUA to monitor whether subcontract workers, including homeworkers, are receiving their legal entitlements.²²

It is also worth noting that the recent out-of-court settlement of the five-year-old Kasky v. Nike law suit in the United States, in which Kasky alleged that in the mid-1990s Nike had been disseminating false information about labour practices in its supply factories, provides for Nike to contribute US\$1.5 million to the Fair Labor Association (FLA) to improve their monitoring, public reporting and worker training programs.²³ According to FLA Executive Director Aurret van Heerden, "in the mid-'90s Kathie Lee Gifford was saying she didn't know what the conditions were in supplier factories; she didn't own them. A company like Nike has moved beyond that and has agreed that even though it doesn't own the factories, it will be responsible for conditions in any supplier plant."²⁴

¹⁹ See the Factory Disclosure Database on the Worker Rights Consortium (WRC) website: http://www.workersrights.org/about_fdd.asp; See Factory Database on the FLA website: http://www.fairlabor.org/all/database/disclosure_db.asp

²⁰ See factory disclosure information on Nike website: <http://www.nike.com/nikebiz/nikebiz.jhtml?page=25&cat=collegiate>

²¹ See factory disclosure information on GEAR for Sports website: <http://www.gearosweat.com/>
See factory disclosure information on JanSport website: http://www.jansport.com/about_manufacturers.php

²² Maquila Solidarity Network, "Nike Signs Deed Down Under," *Maquila Network Update*, Vol. 8 No. 3, September 2003. <http://www.maquilasolidarity.org/resources/update/vol803.htm>

²³ Nike Inc., "Nike, Inc. and Kasky Announce Settlement of Kasky v. Nike First Amendment Case," press release, September 12, 2003.

<http://www.nike.com/nikebiz/news/pressrelease.jhtml?year=2003&month=09&letter=f>

²⁴ Lisa Girion, "Nike Settles Lawsuit Over Labor Claims," *Los Angeles Times*, September 13, 2003.

While Canadian companies and industry associations continue to rely upon the proprietary information argument to avoid responding to customer and public demands for greater transparency, the trend worldwide is toward increased disclosure and greater transparency. Unfortunately, it appears that many Canadian companies are still in the denial stage.

As a result of student campaigns in the US, over 175 universities and over 1,100 collegiate suppliers are now members of the FLA and over 115 universities are members of the Worker Rights Consortium (WRC). Many universities are members of both initiatives. Although the FLA doesn't require its member companies to publicly disclose production locations, its member universities do. As a result, information on factory locations where university apparel products are made, including Gildan Activewear factories, are accessible on both the WRC and FLA websites.²⁵

In addition, recent changes in the FLA's monitoring and reporting program now provide the public with summaries of all audit reports from FLA factory audits of supply factories of FLA Participating Companies.²⁶ These companies include Nike, Reebok, adidas-Salomon, Phillips-Van Heusen, Liz Claiborne, Polo Ralph Lauren, Patagonia, GEAR for Sports, Eddie Bauer, Nordstrom, Joy Athletic, and Zephyr Graf-X. Full reports from WRC investigations of factories producing university apparel are available on the WRC website.

In addition, Gap, which is not an FLA member company, and Liz Claiborne, which is an FLA member, have both contracted local non-profit independent monitoring groups in Central America to monitor code compliance in a number of their supply factories.²⁷ As a condition of working with these companies, the Central American monitoring groups in Nicaragua, Honduras, El Salvador and Guatemala reserve the right to publish their full monitoring reports, all of which are accessible to the public in English and Spanish on their websites.

Despite these advances in the US, to ETAG's knowledge, no US or Canadian apparel retailers or brand merchandisers are currently publicly disclosing factory locations for products sold in Canada, with the possible exception of a few suppliers of Canadian universities with ethical licensing and/or purchasing policies. This includes some of the same companies that are doing so in the US. Nor is Nike disclosing to UNITE the same supply chain information it is disclosing to the TCFUA in Australia. Nor is the Retail Council of Canada (RCC), or any of its members, disclosing the results of factory audits, as part of the RCC's Responsible Trading Guidelines initiative.²⁸

²⁵ See WRC Factory Disclosure Database: http://www.workersrights.org/about_fdd.asp;

See FLA Factory Database website: http://www.fairlabor.org/all/database/disclosure_db.asp

²⁶ See tracking charts on the FLA website: <http://www.fairlabor.org/all/transparency/>

²⁷ Gap currently works with independent NGO monitoring groups in El Salvador, Honduras, Guatemala and Nicaragua. Both COVERCO in Guatemala and the Independent Monitoring Group of El Salvador (GMIES) have monitored factories for Liz Claiborne.

²⁸ Retail Council of Canada, *Responsible Trading Guidelines*, 2001.

http://www.retailcouncil.org/govrelations/national/archive/trd_guidelines.asp

Wal-Mart, a company that vigorously opposes factory disclosure regulations in Canada, fully co-operates with a law in China requiring that factory information be included on clothing tags of apparel products sold in that country's domestic market.²⁹ This allows Chinese consumers to contact the factory if they have questions or problems concerning the quality of the product.

It appears that the willingness of companies to disclose factory locations, as well as other information concerning their practices, has more to do with the economic and political pressures and/or government requirements they face in particular countries than with any universally accepted definition of proprietary information. In the Australian case, Nike's willingness to sign an agreement to disclose to the Australian garment workers' union so-called supply chain "propriety information" also has something to do with the fact that Australian labour law recognizes the rights of homeworkers to minimum wages and benefits determined through its "awards" system, and the fact that the union has the legal right to bring legal action against companies in violation of these awards. Australia is also a good example of a country where a voluntary code of conduct – the Fair Wear Charter for Outworkers – is interacting with labour legislation to promote more transparent reporting by manufacturers and retailers.³⁰

Supposed Lack of Information on Supply Chains

A second industry argument that has been used to oppose factory disclosure regulations is that retailers, particularly smaller companies that use buying agents, cannot be expected to know where all their products are being made. But industry spokespeople can't have it both ways – either they currently have sufficient information about their supply chains to effectively monitor labour standards compliance, or they don't know where their private label products are being made, and therefore cannot provide customers assurance that they are not made in sweatshops.

In fact, more successful companies are now doing whatever they can to increase their knowledge of their supply chains, for quality control purposes and to ensure delivery deadlines are met. Many are also developing more direct relationships with suppliers. The more competitive companies are not only aware of where their products are being made, but how many additional items of a particular design and style need to be made in any given factory at any given moment in response to the volume of sales of those items.³¹

Even companies using buying agents (or supply chain management organizations) can find out where their products are made, if they want to. According to a major supply chain management firm based in Hong Kong, their company is willing to provide clients with information upon request on all factories where the client's products are being made.

²⁹ Bob Jeffcott, "Made in China: A Factory Walkabout," *Our Times*, January 2001.

³⁰ See the FairWear website: <http://fairwear.org.au>

³¹ For example, Canadian women's wear manufacturer Nygard is a pioneer in the field with its Automatic Reorder To Sales (ARTS2) continuous replenishing program. See a profile of ARTS2 in *Women's Wear Daily*, December 11, 2002, p 10. Also see Wal-Mart's introduction of radio-frequency identification (RFID) in its supply chain management system. "RFID, It's Here to Stay," *Apparel Magazine*, August 2003.

In fact, this company assigns numbers to all the factories it uses. Clients can also choose to do labour standards compliance monitoring of the factories themselves, contract a third party to do so, or depend upon the supply chain management company to carry out audits of the factories.³²

In ETAG's experience, Canadian retailers often react to reports of worker rights violations by first denying that they are currently using the factory in question or refusing to acknowledge whether they are using the factory, and second, cutting and running from the factory when their relationship with the factory is made public. In contrast, US and European companies with whom we have dealt are now far more willing to discuss whether and when they have placed orders with a factory, as well as what they are willing to do to verify whether violations are taking place in that factory and what corrective action, if any, they are willing to propose to the supplier.³³

This is not meant to suggest that Canadian retailers are more dishonest, secretive or irresponsible than their US or European competitors, merely that they have had less experience dealing with reports of worker rights violations in their supply chains, possibly because their brands are less well known around the world, and are therefore unprepared for how they could or should respond. In ETAG's experience, companies that have more experience responding to reports of worker rights abuses in their supply chains are generally less wedded to the notion that where their products are made, as well as the results of their audits, is proprietary information. Wal-Mart may be one major exception to that general rule.

In ETAG's view, factory disclosure regulations would be good for the Canadian apparel industry, as well as for garment workers that make its products, because it would encourage Canadian companies to become more knowledgeable about their supply chains, establish longer-term business relationships with trusted suppliers, and better monitor labour practices in their supply factories. Companies would also be less likely to cut and run from factories when worker rights violations are reported in one factory, since there would be no advantage to moving production to other factories with similar or worse problems.

Mandatory disclosure is also preferable to voluntary disclosure because it would create a level playing field in which no companies selling products in Canada have a competitive advantage. Significantly, companies contacted by ETAG on their views concerning voluntary or mandatory factory disclosure – Roots Canada, Mountain Equipment Co-op and American Apparel – have been more willing to support mandatory disclosure for all companies than to voluntarily disclose the locations of their own supply factories,

³² Interview with the former General Manager, Factory Evaluation of a major Hong Kong-based supply chain management company, November 2002, on file.

³³ For responses of different Canadian companies (Hudson's Bay Company, La Senza, Jacob, Gildan Activewear) to reports of worker rights violations in their supply chains, see articles on the MSN website: <http://www.maquilasolidarity.org>

claiming that voluntarily disclosing where their products are made when their competitors are not doing the same, would put them at a competitive disadvantage.³⁴

Policy Options that Would Complement Factory Disclosure Regulations

ETAG would agree with the authors of the Conference Board report that no one policy, voluntary or regulatory, will adequately address the problem of worker rights violations in the global garment industry or the lack of information available to consumers to make ethical choices. A combination of governmental regulations and incentives and voluntary initiatives will be needed to adequately address what is now widely recognized as a systemic problem.

There are a number of policy options that would complement and reinforce ETAG's proposal for factory disclosure regulations. Below we look at some of those options and how they could interact with ETAG's proposal to provide consumers, shareholders, stakeholders, workers and governments with sufficient information and policy tools to seriously address the global problem of sweatshop abuses in the apparel industry.

Voluntary Codes of Conduct

In ETAG's view, voluntary codes of conduct should supplement and not substitute for government regulation. At the same time, while voluntary codes should not be viewed as the whole solution to the systemic problem of sweatshop abuses, they can be useful tools to help ensure respect for workers' rights and provide consumers information that will help them make ethical choices. To be useful tools for workers and consumers, voluntary codes must include the following elements:

- Code provisions based on internationally recognized minimum labour standards;
- Adequate mechanisms for internal monitoring and external verification;
- Transparency, not only concerning the processes for monitoring and verification, but also the findings and corrective action taken;
- Awareness of workers and management personnel of the code provisions and how they are enforced; and
- Participation of civil society and workers in the ongoing monitoring of code compliance and secure and effective mechanisms for workers and interested third parties to register complaints if provisions of the code or local law are violated.

According to Nigel Twose of the World Bank's Foreign Investment Advisory Service, a soon-to-be-released study by the Bank of approximately 100 codes of conduct found that there is an emerging convergence in code provisions around ILO core labour rights conventions.³⁵ Unfortunately, that is not yet the case in Canada. To date, few Canadian companies have codes of conduct that meet the internationally accepted minimum labour standards contained in ILO Conventions. Of the Canadian company codes in the retail and apparel manufacturing sectors with which ETAG is familiar, only those of Mountain

³⁴ From discussions with senior executives of each of the three companies, 2002; Letter from Marshall Myles, CEO, Roots Canada to Industry Minister Allan Rock, August 2002, on file; Letter from Mountain Equipment Co-op to Industry Minister Allan Rock, June 14, 2002, on file.

³⁵ E-mail correspondence on file, September 15, 2003.

Equipment Co-op,³⁶ the Hudson's Bay Company,³⁷ and La Senza³⁸ contain provisions close to language of ILO Conventions. In La Senza's case, its new code of conduct was suddenly posted on the company's website at a moment when the company was facing criticism for worker rights abuses at a supply factory in Thailand. It is therefore not yet clear to what degree the company is committed to putting its hastily prepared code into practice.

According to Twose, a second study by the Bank found that while voluntary codes have made a substantial contribution to improved conditions, the current system is not sufficient to bring sustainable improvements.³⁹ The study, which will be released in early October, together with the study on code provisions mentioned above, concludes that future success of voluntary codes depends on a more coherent framework with greater collaboration at the country level and greater involvement of local governments and civil society organizations, including trade unions.

The proliferation of voluntary codes of conduct with varying standards and monitoring and verification requirements and procedures has caused a great deal of confusion for local suppliers, workers and governments, as well as for northern consumers. Suppliers subjected to multiple factory visits by various buyers, buying agents and third-party auditors increasingly complain of audit fatigue. For this and other reasons, including cost factors involved in monitoring code compliance and the risk involved in taking the lead among competitors on corporate social responsibility issues, companies have decided to co-operate, often through industry associations, in the development of sector-wide codes of conduct and monitoring systems. Two examples of this form of industry self-regulation are the Worldwide Responsible Apparel Production Certification Program (WRAP)⁴⁰ and the Retail Council of Canada's Responsible Trading Guidelines.⁴¹

While there are obvious advantages to companies working together on a sectoral basis on the implementation of a common set of standards, there are also negative aspects to these industry association-led code initiatives, including their tendency to adopt lowest common denominator standards that are acceptable to all their members and "closed

³⁶ Mountain Equipment Co-op, *MEC Supplier Code of Conduct*:
http://www.mec.ca/Main/content_text.jsp?FOLDER%3C%3Efolder_id=619145&bmUID=1064866324017

³⁷ Hudson's Bay Company, *HBC Code of Vendor Conduct*:
<http://www.hbc.com/hbc/socialresponsibility/intro.asp>

³⁸ La Senza Corp., *La Senza Ethical Trade Code of Conduct*:
<http://www.lasenzacorporation.com/en/pdfs/Ethical%20Trade%20Code%20of%20Conduct.pdf>

³⁹ E-mail correspondence on file, September 15, 2003.

⁴⁰ See the Worldwide Responsible Apparel Production (WRAP) Certification Program website:
<http://www.wrapapparel.org> For a critique of the WRAP system, see MSN's "Are Apparel Manufacturers Getting a Bad WRAP?" from *Codes Memo*, Number 12, November 2002.
<http://www.maquillasolidarity.org/resources/codes/memo12.htm>

⁴¹ Retail Council of Canada, 2001, op. cit. For a critique of RCC Guidelines, see MSN's "What's Wrong with the Retail Council's Guidelines?" <http://www.maquillasolidarity.org/resources/codes/rccguidelines.htm>

door” monitoring systems that provide little information to stakeholders or customers outside the industry.⁴²

Some companies – usually those with an historical commitment to corporate social responsibility and/or merchandisers of brands that are particularly vulnerable to public criticism – have felt the need to work together in multi-stakeholder initiatives with likeminded firms, as well as with civil society organizations that bring credibility and expertise to the development of code monitoring and verification systems. Those initiatives that are most relevant to the apparel sector include Social Accountability International (SAI),⁴³ the Fair Labor Association (FLA),⁴⁴ the Ethical Trading Initiative (ETI),⁴⁵ the Fair Wear Foundation (FWF),⁴⁶ and the various multi-stakeholder pilot projects initiated by Clean Clothes Campaign groups in various European countries.⁴⁷

One of the biggest challenges facing companies, industry associations and multi-stakeholder initiatives attempting to implement codes of conduct is the need for credible, effective and affordable systems and methods of monitoring and verifying compliance with code provisions. A closely related issue is what organizations, private firms and/or individuals are best qualified, trusted by both workers and employers, and sufficiently independent and objective to carry out external verification of code compliance. The Conference Board report suggests that there is a deep division between companies and NGOs on this issue, with companies favouring private sector auditing firms and NGOs believing fellow NGOs are best qualified. In fact, the issue is more complex.

While private sector auditing firms continue to dominate the rapidly growing field of social compliance verification, there is increasing concern about the limitations of commercial auditing firms as verifiers of code compliance, particularly their ability to assess compliance with rights-based issues, and the quality of labour standards audits currently being carried out.⁴⁸ At the same time, there is also a general recognition that most local non-governmental organizations do not currently have the capacity, or in many cases the desire, to carry out certain more technical aspects of the monitoring and compliance verification processes, such as book audits or health and safety inspections.

In response to the monitoring dilemma, the major multi-stakeholder code initiatives, as well as some leading companies implementing codes outside of those initiatives, are examining ways to improve the quality of audits, develop more rigorous procedures and

⁴² Michael Posner and Justine Nolan, Lawyers Committee for Human Rights, “Can Codes of Conduct Play a Role in Promoting Workers’ Rights,” International Labor Standards Conference, Stanford Law School, June 2002.

⁴³ See SAI website: <http://www.sa-intl.org>

⁴⁴ See FLA website: <http://www.fairlabor.org>

⁴⁵ See Ethical Trading Initiative website: <http://www.ethicaltrade.org>

⁴⁶ See Fair Wear Foundation website: <http://www.fairwear.nl>

⁴⁷ See the Clean Clothes Campaign website: <http://www.cleanclothes.org>

⁴⁸ Dara O’Rourke provides an excellent case study and analysis of the limitations of commercial auditing. See “Monitoring the monitors: a critique of corporate third-party labour monitoring,” pp. 196 – 208, in *Corporate Responsibility & Labour Rights, Codes of Conduct in the Global Economy*, Rhys Jenkins, Ruth Person & Gill Seyfang (eds.), Earthscan, 2002.

protocols for those audits, involve local workers and civil society actors in the monitoring and verification processes, and increase the transparency of those processes.⁴⁹

For SAI, which relies heavily on commercial auditors to verify compliance with the SA8000 Standard, the emphasis has been on improving training of auditors, assessing certifications in particular countries, and strengthening its complaints system in which workers and interested third parties can register complaints when there is evidence that workers' rights are violated in SA8000-certified facilities. For the FLA, the response has been to bring control of auditor selection in house, to reassess the question of certifying brands, and to publish summaries of audit reports. For the ETI, the FWF and the Clean Clothes Campaign-initiated pilot projects, the focus is learning by doing and the development of local tripartite (labour, NGO, supplier) organizations and partner networks to ensure southern involvement in code implementation.⁵⁰

For all these competing initiatives, there is an increased commitment to labour rights training for workers and local management personnel, so that workers can play an ongoing role in the monitoring process. NGO participants in these initiatives have also put increasing resources into capacity building projects to facilitate local civil society participation in codes monitoring and verification. With the exception of SAI, there is also increased questioning among the initiatives as to whether factory and/or brand certifications are the appropriate means of measuring progress towards code compliance. As we have seen above, in all these initiatives increased transparency in reporting has become a major theme.

It is also worth noting that the major multi-stakeholder initiatives – SAI, FLA, ETI, FWF, as well as the Clean Clothes Campaign and Worker Rights Consortium – have developed a joint project to assess best practices in monitoring, verification, reporting, and response to complaints. Significantly, WRAP and other industry initiatives have not been invited to participate in the project.⁵¹

Unlike the multi-stakeholder initiatives, WRAP has not released any information that would indicate that quality of audits is seen as an issue. Nor has WRAP made changes to its monitoring and factory certification program to provide consumers, workers or interested third parties information on its factory certification process, such as a list of the factories that have been certified, the procedures carried out as part of factory audits, or the results of audits. Nor has WRAP created a process for interested third parties to register complaints if there are reports of worker rights violations in WRAP-certified factories.

⁴⁹ MSN, "Multi-stakeholder Initiatives Seek Common Ground," in *Codes Memo*, Number 14, June 2003. <http://www.maquilasolidarity.org/resources/codes/memo14.htm>

⁵⁰ MSN, "Year End Review: Emerging Trends in Codes, Monitoring and Verification," in *Codes Memo*, Number 13, January 2003. <http://www.maquilasolidarity.org/resources/codes/memo13.htm>

⁵¹ "Multi-stakeholder Organizations Decide on Trial Collaboration," ETI Communique, March 2003. <http://www.ethicaltrade.org>

In February 2003, ETAG wrote to WRAP Executive Director Lawrence Doherty, raising concerns about reported violations of freedom of association at two WRAP-certified factories – a Gildan-owned factory in Honduras and the Gina Form Bra factory in Thailand. Without naming the Gildan factory, ETAG requested information on whether WRAP had a process for receiving and investigating complaints, and, if so, whether complainants have access to the results of a WRAP investigation. To date, ETAG has not received a response to those questions.⁵² Instead, the Maquila Solidarity Network received a letter from WRAP, dated July 28, 2003, criticizing MSN for its “attacks on Gildan Activewear’s WRAP certified factories.”⁵³

In March 2003, the European Clean Clothes Campaign (CCC) sent an open letter to WRAP, raising concerns about “serious violations of internationally-recognized labour rights” at the Gina Form Bra factory and other WRAP-certified facilities. The letter criticizes WRAP for “shortcomings in the standards outlined” in the WRAP Principles and a “lack of transparency regarding WRAP’s monitoring methods.” It questions the “quality of the ‘independent monitoring’ service which WRAP provides.” The open letter was co-signed by the CCC, the International Labor Rights Fund, Campaign for Labor Rights, Global Exchange, and UNITE.⁵⁴

In Canada, there has been far less progress toward the creation of a multi-stakeholder code implementation system than there has in Europe or the US. After the breakdown in the CPET process, the Retail Council launched its Responsible Trading Guidelines, which are based on the WRAP Principles. To ETAG’s knowledge, the RCC has not yet articulated how compliance with its Guidelines would be monitored and verified, though we suspect that system will also be modeled on WRAP’s “closed door” factory certification system.

At the same time, a few individual Canadian companies have taken steps to bring the provisions of their codes of conduct more in line with ILO Conventions, to improve their code monitoring and third-party verification programs, and to provide some information to consumers on their monitoring and verification processes. As stated earlier, the Hudson’s Bay Company (HBC), Mountain Equipment Co-op (MEC) and La Senza now have codes that are fairly consistent with ILO core conventions. In addition, MEC has carried out an assessment of its monitoring and verification program, with the assistance of the US not-for-profit monitoring organization, Verité.⁵⁵ HBC has had third-party audits by commercial audit firms of 12-20 percent of its supply factories worldwide. HBC has also joined the UN Global Compact. Both HBC and MEC have released public reports on their code implementation. However, HBC’s report only provides global statistics on the number of suppliers audited and the number deemed to be in compliance with its code.⁵⁶ MEC’s report goes further, providing information on the countries of origin of MEC

⁵² Letter on file.

⁵³ Letter on file.

⁵⁴ Letter on file.

⁵⁵ Mountain Equipment Co-op, *MEC Supplier Team Evaluation Program (STEP) Report*, April 2003. http://www.mec.ca/media/Images/pdf/2003_step_brochure.pdf

⁵⁶ Hudson’s Bay Company, *Corporate Social Responsibility Report*, April 2003.

products, a description of its monitoring and verification processes, and key problems found in supply factories by country.

Another Canadian company that has indicated its willingness to improve its code implementation program is the Montreal-based T-shirt manufacturer Gildan Activewear. In response to pressure from stakeholders and key shareholders, Gildan has stated its intention to join the Fair Labor Association, which would commit the company to the FLA code and public reporting on the results of FLA audits. Gildan facilities in Honduras and one of its facilities in Mexico are currently WRAP-certified.⁵⁷ At the same time, Gildan has threatened legal action against the Maquila Solidarity Network if it continues to circulate a report jointly authored by MSN and the Honduran Independent Monitoring Team (EMIH) that documents worker allegations of worker rights violations and other workplace problems at Gildan factories in Honduras and Mexico and a Gildan contract facility in El Salvador.⁵⁸ Gildan's resistance to acknowledging that there might be problems in its offshore factories raises serious questions about its willingness to cooperate with a transparent monitoring and reporting system.

The only other Canadian involvement in multi-stakeholder code initiatives, of which ETAG is aware, is that of three Canadian universities that have adopted ethical licensing and/or purchasing policies – the University of Toronto, the University of Alberta and McMaster University. The University of Alberta is a member of the FLA, McMaster University is a member of the Worker Rights Consortium, and the University of Toronto has indicated its intention to join both the FLA and the WRC. As a result, U of T and University of Alberta suppliers may be compelled to become FLA Participating Companies.

While a few Canadian retailers and manufacturers that make or sell apparel products have adopted credible codes of conduct and a few of those are developing monitoring and verification programs or joining US initiatives, the vast majority of Canadian companies still lag behind their US and European competitors. During the CPET process, ETAG requested that the Retail Council provide it copies of RCC members' codes of conduct. While the RCC did provide ETAG some examples of member codes, it also reported that some members do not make their codes of conduct public. MSN has also found that when confronted with reports of labour rights violations in supply factories, some Canadian retailers refuse to disclose their codes of conduct. Apparently, some Canadian retailers believe voluntary codes of conduct are proprietary information.

Given the lack of involvement of Canadian companies in multi-stakeholder initiatives or new efforts to create a Canadian initiative, ETAG believes it would be a mistake for the federal government to selectively support or endorse one or more multi-stakeholder or industry code implementation initiatives. If, sometime in the future, a group of leading Canadian companies were to join with labour and non-governmental organizations in

⁵⁷ See the Gildan Activewear website: <http://www.gildan.com>

⁵⁸ MSN, "Gildan Attempts to Discredit MSN Report on its Labour Practices," August 2003. <http://www.maquilasolidarity.org/campaigns/gildan/index.htm>

forming a “coalition of the willing” to discuss and pilot different options for code implementation, the government should consider supporting such an initiative.

A more fruitful policy might be for the federal government to provide incentives to encourage companies to adopt codes of conduct that include provisions in line with ILO core conventions and provide consumers transparent reports on the methods they are employing to ensure compliance with the core conventions in their supply chains, the findings of third party audits, and the corrective action taken when code violations are discovered.

In ETAG’s view, reporting on processes and procedures involved in code implementation is not sufficient to provide consumers the information they need to make ethical choices. What is needed is public reporting on labour standards performance at least equivalent to that currently being provided through the FLA, plus disclosure of factory locations so that workers and interested third parties can register complaints if there are reports of worker rights violations in any supply factories.

It is worth noting that when the FLA released its first annual report, including tracking charts containing summaries of all FLA audit reports, a number of business publications praised this new level of disclosure, but called for more transparency and a broadening of its application. A June 12 feature article in the online industry publication *Juststyle* comments:

If there are any serious flaws in the report then the main one must be that the names and locations of the factories surveyed has not been disclosed. The reason: some companies argued that doing so would penalize those factories that were inspected and found to be lacking, and effectively reward those outside the programme. But surely releasing such information would increase the pressure on factories to comply.⁵⁹

A June 23 article in *Business Week* comments that “one depressing result of seeing them [summaries of FLA audit reports] for the first time is the realization of just how little has changed after all these years,” but then goes on to state the following:

Airing dirty linen is always painful. If critics respond solely by focusing on all the problems the companies have voluntarily exposed, the Disneys and Wal-Marts of the world are sure to keep their own labor conditions under wraps. The better approach: to praise the FLA’s openness while insisting that more be done – and holding other companies to the same standard.⁶⁰

ETAG would agree with both these comments from the business press, and would suggest that the Canadian government could play an important role in helping to hold Canadian companies to the same standard by introducing a combination of regulations requiring the disclosure of production sites and reporting requirements and/or incentives

⁵⁹ Leonie Barrie, editorial feature, *Juststyle*, June 12, 2003. <http://www.just-style.com>

⁶⁰ Aaron Bernstein, “Commentary: Sweatshops: Finally, Airing the Dirty Linen,” *Business Week*, June 23, 2003

encouraging companies to report their performance in achieving compliance with the internationally accepted minimum labour standards of the ILO.

Another voice from the private sector supporting increased transparency in the apparel and related consumer products industries is the founder and former CEO of the Body Shop, Anita Roddick. In a recent article in the UK *Guardian* newspaper, Roddick states the following:

One thing is certain in the new global economy: workers struggling for their rights cannot succeed if there is not also simultaneous pressure on the corporations in their marketplaces. I am not talking about a boycott. It must be the opposite: what we need are campaigns to keep jobs in the developing world while at the same time working to guarantee respect for worker rights. That's where the consumer comes in.

We in the developed world hold the key to ending child labour and sweatshop abuses. If enough of us care, and if enough of us act, the squeaky wheel gets the grease.

Corporations continue to hide the factories they use around the world to make the goods we purchase. Wal-Mart, for example, uses 4,400 factories in one Chinese province alone. As a first step, we need full public disclosure of all factory names and locations. Such transparency will make it much harder to hide abuses...

We need to draw up a "preferred companies" list made up of corporations which may not be perfect but are far better than average and moving in the right direction. We need to reward companies that are doing the right thing.

I would suggest the following standards for companies on the preferred list: full public disclosure of factory names and addresses; adoption of a code of conduct which calls for strict adherence to all local laws and core International Labor Organization-recognized rights; release at least once a year of monitoring reports regarding the conditions in their factories; an agreement to respond to allegations of worker rights' violations.⁶¹

Government Reporting Requirements and Incentives

ETAG agrees with Roddick and believes government has a crucial role to play in promoting greater transparency, greater access to information for consumers, and greater respect for the rights of the young women who labour behind the labels making our clothes and other consumer products in factories and workshops around the world.

In addition to factory disclosure regulations, the Canadian government should also consider adopting policies that would require and/or encourage greater and more transparent reporting on company performance in ensuring respect for ILO core labour rights conventions. Together with factory disclosure regulations, this policy mix would provide consumers much of the information they need to make ethical choice, and provide civil society organizations sufficient information to put forward complaints if and when corporate reports on labour standards performance are inaccurate. Some of these proposals are similar to ones that have already been put forward by the Canadian

⁶¹ Anita Roddick, "The Price of Dignity," *The Guardian*, September 22, 2003

Democracy and Corporate Accountability Commission (CDCAC) co-chaired by Ed Broadbent and Avie Bennett, which also endorsed ETAG's proposal for factory disclosure regulations.⁶² Others are being considered or implemented by governments in other countries.

Legal Reporting Requirements:

The Conference Board report refers positively to the Government of France's new law, "Nouvelles Régulation Économiques" (NRE), that requires all nationally listed corporations "to report to shareholders and stakeholders on a range of sustainability issues – including the environment, employees, the local community, and international labour issues."⁶³

The CDCAC's Recommendation 8 proposes that large public and private companies be required, "as part of their corporate-law reporting requirements, to produce annual social audits." Under the CDCAC's recommendation, smaller companies would be encouraged to provide these audit reports on a voluntary basis. We would add that audit reports should include both information on the processes for ensuring compliance with ILO core conventions, as well as other appropriate standards, and the findings of those audits and corrective action taken.

In this regard, it is worth noting the United Nations (UN) Sub-Commission on the Promotion and Protection of Human Rights' recent approval of a set of corporate social accountability norms for multinational corporations. The "UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises" gather together in one document the relevant international human rights, labour, gender, indigenous, environmental and anti-corruption treaties and standards applicable to global companies.⁶⁴

The significance of the draft norms is that they recognize that multinational corporations, and not just nation states, are responsible for respecting, promoting and ensuring compliance with human rights and labour and environmental standards. If approved, the Norms could form the basis for corporate reporting requirements adopted by the Canadian government.

Procurement Policy:

The government should adopt a procurement policy for all federal government departments, institutions and agencies that gives preference in the purchase of apparel and other relevant products to companies that provide transparent annual public reports, or participate in multi-stakeholder code initiatives that provide such reports, on their

⁶² Canadian Democracy and Corporate Accountability Commission, 2002, op. cit.

⁶³ Conference Board of Canada, 2003, op. cit., p. 34.

⁶⁴ UN Sub-Commission on the Promotion and Protection of Human Rights, *Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights*, (UN Doc. E/CN.4/Sub.2/2003/12/Rev.2 (2003)). <http://www1.umn.edu/links/norms-Aug2003.html>. For further discussion on the norms, see MSN's *Codes Memo*, Number 15, September 2003. <http://www.maquilasolidarity.org/resources/codes/memo15.htm>

processes and performance in ensuring compliance with ILO core conventions throughout their supply chains.

One example of such a procurement policy is a law adopted by the Region of Umbria in central Italy, giving preference for government contracts to companies that have been certified as being in compliance with the SA8000 Standard. The SA8000 Standard is based on ILO Conventions and includes provisions for payment of a basic needs wage by local standards. The regional government is creating a dedicated registry of SA8000-certified companies, and those companies will be given priority for tenders for public works or for supplying goods and services as long as they meet cost and quality specifications. Under the law, companies are required to give notice to the Regional Government within ten days of losing SA8000 certification, at which time they will be removed from the registry and no longer enjoy preferential treatment.⁶⁵

Labour Rights Criteria:

The government should adopt labour standards performance and reporting criteria for the granting of government loans, grants, overseas investment insurance or other benefits tied to overseas investment by Canadian companies. Companies that provide annual transparent public reports on their processes and performance in ensuring compliance with ILO core conventions in their wholly owned facilities and supply chains should be given preference for trade and investment support, including support from the Export Development Corporation (EDC), Program for Export Market Development (PEMD) or the Canadian International Development Agency (CIDA). The government should also provide public access to information on all forms of public support to Canadian companies related to foreign investment or offshore sourcing.

Capacity Building:

Through CIDA and CIDA support channelled through Canadian non-governmental organizations, the government should provide increased support for capacity building for southern civil society organizations, labour organizations and ministry of labour inspectors, so they can more effectively engage with code monitoring and verification initiatives, as well as for worker rights training for local workers and management personnel by reputable southern human rights, women's and labour organizations.

Trade Agreements:

In the negotiation of bilateral and regional trade agreements with developing countries producing apparel and textile products for export to Canada, the government should adopt proposals that link the reduction or elimination of tariffs with progress in achieving compliance with ILO core conventions. Such proposals could also include provisions for development assistance to increase the capacity of ministries of labour to monitor and enforce national labour law, and for local non-governmental and labour organizations to monitor compliance with ILO core conventions. It could also include provisions for ILO-led monitoring of compliance with core conventions and public annual reports on progress in achieving compliance

⁶⁵ SAI, "Italian Region Gives Priority to SA8000-Certified Firms," *Social Accountability International e-Update*, February 2003. <http://www.sa-intl.org/AboutSAI/February2003.htm>

A good example of such a trade agreement is the US-Cambodia Textile Agreement. That agreement offered increased market access for Cambodian textile products in exchange for efforts to comply with international labour standards. Compliance has been monitored by the International Labour Organization (ILO), and its annual progress reports are available to the public.⁶⁶

A number of US-based NGOs are currently lobbying the US government to consider proposing the inclusion of similar provisions in the Central America Free Trade Agreement (CAFTA). Michael Posner, Executive Director of the Lawyers Committee for Human Rights, points to the Cambodia agreement as a positive alternative to the Bush administration's current proposals for labour provisions in the CAFTA, which are reportedly based on that government's trade agreements with Chile and Singapore, and calls for the establishment of "permanent monitoring bodies" as a provision of CAFTA "to determine whether or not CAFTA governments and employers are in compliance with international labor standards. The degree to which they make progress towards compliance would be rewarded with a corresponding reduction in tariffs." According to Posner, "these efforts ought to be undertaken in a fully transparent manner where buyers and consumers, as well as state actors and parties to the agreement, can have access to the information."⁶⁷

In a recent article in the *Washington Post*, Carol Pier of Human Rights Watch calls for labour provisions in CAFTA in which the ILO would have "a key monitoring role, as it does with the US-Cambodia agreement."⁶⁸ Sandra Polaski of the Carnegie Endowment for International Peace has put forward a similar proposal. She notes that since a number of independent monitoring groups already exist in Central America, "it is easy to envision a rapid start-up of monitoring led by the ILO, which could then engage these existing groups, provided they met ILO-determined standards and procedures."⁶⁹

Conclusion

The Ethical Trading Action Group (ETAG) is calling on the federal government to make changes in the regulations under the Textile Labelling Act to provide consumers, researchers, workers and other interested parties information on the names and addresses of factories making apparel and other textile products sold in Canada.

Such regulations would encourage companies to improve monitoring of their supply chains and provide more transparent reports on the findings of compliance verification efforts and corrective action taken. Moreover, factory disclosure regulations in

⁶⁶ "ILO's mixed report on working conditions in Cambodian garment industry," ILO press release, April 2002.

⁶⁷ Letter to The Hon. Robert Zoellick, US Trade Representative, August 7, 2003.
http://www.lchr.org/workers_rights/wr_traderights/wr_traderights.htm

⁶⁸ Carol Pier, "The Right Way to Trade," *Washington Post*, August 1, 2003.

⁶⁹ Sandra Polaski, "How to Build a Better Trade Pact with Central America," Carnegie Endowment for International Peace, July 2003.

combination with voluntary or mandatory reporting on labour standards performance would provide consumers much of the information they need to make ethical choices.

The Conference Board report misinterprets the ETAG proposal and its objectives and fails to assess how it could interact with other hard and soft regulatory options to help improve conditions for garment workers and provide consumers, stakeholders, shareholders and the public with information on where their clothes are made and under what conditions.

In this brief, ETAG has outlined two options for providing Canadians access to factory location information through the Industry Canada website. Under either option, companies responsible for apparel products sold in Canada would be required to report factory locations where those products are assembled, and that information would be publicly available on the Industry Canada website. Factory disclosure regulations are preferable to voluntary disclosure, since leading Canadian companies are reluctant to voluntarily disclose factory locations, fearing it would put them at a competitive disadvantage.

Industry arguments that factory locations are proprietary information and/or that Canadian companies cannot be expected to know where their products are made are contradicted by experiences and trends in other countries where an increasing number of companies are cooperating with factory disclosure and other reporting requirements. The willingness of companies to report on factory locations and labour practices appears to have more to do with market, civil society and/or government pressures on companies in different countries and jurisdictions than with any universally accepted definition of “proprietary information.”

For that reason, the Canadian government should reject the Conference Board’s suggestion that it attempt to “help define whether supply chain information is proprietary for the apparel industry and, if so, help devise mechanisms to protect such information from unauthorized use.”

ETAG believes a combination of regulation at the national and multilateral levels and voluntary initiatives targeting global supply chains is needed to address the systemic problem of worker rights abuses in the globalized garment industry. In addition to factory disclosure regulations, the Canadian government should also adopt regulations and policies that require and reward more transparent reporting by companies on compliance with the core labour rights conventions of the International Labour Organization (ILO) in their wholly owned facilities and global supply chains.

Voluntary codes of conduct could be one element in this policy mix, however, they should be seen as supplementing and not substituting for government regulation. To be credible and effective, voluntary codes must include:

- Provisions based on internationally recognized minimum labour standards;
- Adequate mechanisms for internal monitoring and external verification;
- Transparency concerning processes, performance and corrective action; and

- Awareness and participation of workers, labour organizations and civil society.

Two important global trends in voluntary codes of conduct are greater transparency in monitoring and verification and convergence in code provisions on ILO core conventions. At the same time, the proliferation of codes with varying standards and requirements continues to cause confusion among suppliers, governments and consumers.

Multi-stakeholder code initiatives, in which leading companies join with civil society organizations in the development and implementation of code compliance verification systems, represent a step forward over corporate self-regulation. However, multi-stakeholder initiatives face the same dilemma as do all code initiatives – how and by whom can compliance with code standards be effectively monitored and verified. In seeking solutions to this dilemma, these initiatives are putting more emphasis on transparent reporting on processes and performance, improving complaints mechanisms, and providing training to auditors, workers and management personnel.

Unfortunately, Canadian companies are lagging far behind their US and European competitors in the development of credible codes of conduct and transparent and effective monitoring and verification systems. Very few Canadian companies are currently participating in or considering joining credible multi-stakeholder initiatives.

For the above reasons, the Canadian government should avoid supporting or endorsing one or more of the current industry or multi-stakeholder code initiatives. Instead, the government should encourage more transparent reporting on labour standards compliance through regulations and incentives.

In addition to adopting factory disclosure regulations, the government should also consider adopting a number of other complementary regulations and policies that, together with factory disclosure regulations, would encourage more transparent reporting on labour standards performance and help improve labour practices throughout global supply chains. These include the following:

1. Requiring annual reports on compliance with international standards, including ILO core labour rights conventions;
2. Procurement policies that reward transparent reporting on processes and performance in achieving compliance with ILO core conventions;
3. Labour rights criteria for the granting of government loans, grants, overseas investment insurance or other benefits tied to overseas investment or sourcing, giving preference to companies that provide transparent annual reports on labour standards performance;
4. Increased support for capacity-building projects for southern civil society and labour organizations and labour ministry inspectors, and for worker rights training for workers and management personnel;

5. Inclusion of labour rights provisions in bilateral and regional trade agreements with garment producing countries that link market access to compliance with ILO core conventions and provide for transparent monitoring of compliance.

Canada has an international reputation as a country committed to social justice and the realization of internationally recognized rights and standards, not only in our own country, but also around the world. At the same time, Canadian companies and the Canadian government lag far behind other companies and governments in the concrete application of these values and principles, particularly on the question of worker rights. ETAG would urge Canadian companies and the Canadian government to move beyond the denial stage and engage with faith, labour, student and nongovernmental organizations in seeking practical solutions to these systemic problems. If we fail to act, Canada's brand reputation could be tarnished by its poor performance.