

# MEMO: CODES UPDATE

## NUMBER 10, April 2002

### Why a “Codes Update” memo?

*This periodic memo is circulated in Spanish to groups in Latin America in an effort to share information on developments and resources circulating in English about codes of conduct and monitoring. In response to a number of requests, we are also sharing the English version. Comments, criticisms and suggestions are always welcome.*

### In this issue:

#### A. Big Changes at the FLA

#### B. News from the Multi-stakeholder Initiatives

- **List of WRAP-Certified Factories Grows**
- **WRC Releases New Report**

#### C. China: Unique Health and Safety Project

#### D. Canadian Companies Move on Monitoring

#### E. NGOs and Unions Debate Codes

#### F. New Resources

### A. BIG CHANGES AT THE FLA

On April 9, the Fair Labor Association (FLA) Board of Directors approved significant changes in its code of conduct monitoring program that could shift much of the control over external monitoring from individual corporate members to the association itself. The changes would appear to bring the FLA external monitoring program more in line with the European foundation model.

The FLA is a US-based multi-stakeholder code initiative that includes major apparel and sports shoe brand merchandisers, including Nike, Reebok, adidas-Salomon, Levi Strauss, Liz Claiborne, Phillips-Van Heusen, Polo Ralph Lauren, GEAR for Sports, and

Patagonia, as well as over 170 universities. It emerged from the Apparel Industry Partnership (AIP), a Clinton Administration-initiated forum to address sweatshop abuses in the apparel industry.

In November 1998, US unions and faith organizations walked out of the AIP, charging that NGOs and companies had reached a separate agreement on a code and monitoring principles that included weak provisions on wages and hours of work, and left control of monitoring in the hands of companies.

Current non-corporate members of the FLA Board include representatives of the National Council of Churches, the National Consumers League, and the Lawyers Committee on Human Rights. Pharis Harvey, the former Executive Director of the International Labor Rights Fund (ILRF), sits on the Board as an individual.

### ***Monitoring Goes In-House***

Possibly the most far-reaching change in the FLA’s revised code monitoring program is that the Association itself will now select the factories to be audited, and choose and directly contract the accredited compliance verification organizations to carry out those audits. All verification audits will reportedly be unannounced.

Under the previous system, companies would develop a list of factories to be audited, which the FLA would then approve or modify. The companies would directly contract the accredited compliance verification organizations to audit those factories.

According to Shawn MacDonald, the FLA will determine how many of each company’s facilities will be subject to FLA

external monitoring by “conducting a statistical analysis to arrive at a randomly generated sample that is capable of authenticating the monitoring programs of the companies.” According to MacDonald, the FLA is working with statisticians from FLA-affiliated universities to determine “how to organize the sampling in order to be accurate and efficient.” It is not yet clear whether this will result in an increased or decreased number of facilities audited.

Under the new system, the FLA will also review each corporate member’s performance by conducting its own annual audit of the company’s compliance records and programs. It will also conduct field visits to observe the work of the companies’ local compliance staff and assess factory conditions.

Under the new system, member companies will still be expected to carry out internal monitoring of all supply facilities conducted by company personnel.

The FLA will also require external monitors to complete a training program, conduct a trial audit with FLA observers, and pass an annual evaluation (or more frequently if needed), which will reportedly take place at the FLA head office and in the field.

### ***Increased Transparency***

The April 9 Board meeting also approved changes in reporting requirements that should make the monitoring process more transparent. It adopted a proposal, reportedly developed by the Lawyers Committee for Human Rights, under which the FLA website will publicly disclose the following information:

- name of the FLA member company whose supply factory is being audited;
- nature, size, and country/region of the facility;

- identity of the external monitoring organization;
- date and length of the external monitoring visit;
- summaries of areas of compliance and non-compliance with the Code; and
- summaries of remediation instituted and the status of the remediation.

As under the previous system, the FLA website will not include the name or address of the facility being audited.

The FLA’s first annual public reports will appear this fall after the companies that were the original members of the FLA complete the first year of their monitoring programs.

According to Bama Athreya of the International Labor Rights Fund, the decision to release information on auditors’ reports is a significant step forward. “The lack of transparency and the right of companies to choose and hire auditors were two of our major criticisms of the FLA,” says Athreya. “We are very encouraged by these changes.” The ILRF no longer formally sits on the FLA Board, but continues to be a member of the Advisory Committee.

### ***Pilot Project Initiated***

Another indication of the FLA’s intention to bring code compliance verification in house is its decision to develop, on a pilot project basis, a “network of field specialists” in selected countries.

According to MacDonald, field specialists would likely have expertise on areas such as health and safety, freedom of association, and discrimination and harassment. Their role would be to provide advice on remediation programs, and, in some cases, verify whether compliance problems identified in third party audits have been successfully remediated.

### ***New FLA Players***

The FLA Board also approved two new categories for company participation – “Participating Agents” and “Participating Suppliers.” According to MacDonald, this means that other companies in the supply chain, “from small factory to sourcing agent to retailer,” can also become directly involved in the FLA. Whether participation of manufacturers in the FLA will lead to the certification of individual factories is still unclear. (Currently, the FLA certifies brands, not factories.)

### ***Relationship to Other Certification Systems***

The FLA and other US multi-stakeholder initiatives, such as SA8000, the Worker Rights Consortium (WRC), and the Worldwide Responsible Apparel Production Certification Program (WRAP), have recently been under pressure from US federal government officials and others to find ways of integrating, or at least mutually recognizing, their respective systems of code compliance verification. At its April 9 meeting, the FLA Board set up a task force to meet with other certification systems to “compare and possibly align monitoring protocols.”

### ***Staff Changes at the FLA***

In December 2001, the Fair Labor Association (FLA) appointed Auret van Heerden as interim FLA executive director, replacing Sam Brown. A former anti-apartheid activist in South Africa, van Heerden was recently the coordinator of Action Program on Social and Labour Issues in Export Processing Zones for the International Labour Organization (ILO).

In April, the FLA appointed Louis Vanegas, former district director of the US federal Wage and Hour Division in New York, as its Director of Monitoring. Vanegas has more than 14 years experience as an investigator of

working conditions in garment factories in New York, Los Angeles, and San Francisco.

### ***FLA Releases BJ&B Report***

On April 19, 2002 the Fair Labor Association (FLA) released a public report on its investigation into a third-party complaint on alleged violations of freedom of association at the BJ&B cap factory in the Dominican Republic.

Curiously enough, the complaint was filed by Nike, and joined by Reebok and adidas-Salomon. All three companies source from the factory. BJ&B also produces Nike baseball caps bearing the names and logos of a number of US universities, many of which have No-Sweat licensing policies and are members of the FLA and/or the Worker Rights Consortium (WRC).

In response to the complaint, on March 6-20, an FLA delegation conducted an onsite investigation. The delegation included Auret van Heerden, the new Executive Director of the FLA, and Louis Vanegas, the new Director of Monitoring. Scott Nova of the WRC accompanied the delegation as an observer.

The investigation focused on the company’s refusal to reinstate union supporters allegedly fired for their union sympathies, and on other forms of discrimination against union members. The delegation also investigated other company practices, including the use of weekly bonuses to compel workers to work overtime, the termination of employment contracts at the end of the year, and disciplinary procedures.

The report notes that on January 28, 2001, an agreement was signed to reinstate 13 of 20 workers who had either been terminated or pressured to resign after they filed a petition with the Department of Labour to form a union. The workers have since been reinstated.

Key recommendations listed in the FLA report include:

- Compliance staff from the FLA-member companies sourcing from the factory should continue to visit the BJ&B at “frequent intervals,” and should continue their practice of interviewing workers offsite.
- Letters from Nike, Reebok and adidas on their policies on freedom of association “should not only be posted on notice boards but read to the entire workforce.”
- The orientation of new employees should not involve anti-union statements, and the labour-management committee “should not be used as a forum to dissuade workers from joining the union.”
- In collaboration with the ILO, the FLA “should organize training on key code elements such as freedom of association, discipline, dismissal and retrenchment.”
- The company must adopt, and implement in a consistent manner, clear policies and procedures regarding discipline, grievances, the right to organize, and retrenchment.
- The FLA should appoint a local ombudsperson “to review and consider complaints from either party regarding compliance with the code of conduct and other agreements and policies.”

According to the report, the FLA member companies have since provided training to management personnel on code provisions, provided draft procedures on discipline and dismissals, and maintained regular contact with workers in the plant and with union members. Details of the remediation plans of the FLA member companies will apparently be released in a separate public report.

The BJ&B report will soon be available on the FLA website, in English and Spanish, at: [www.fairlabor.org](http://www.fairlabor.org).

## **B. NEWS FROM THE MULTI-STAKEHOLDER INITIATIVES**

### ***List of WRAP-Certificated Factories Grows***

The Worldwide Responsible Apparel Production Certification Program (WRAP) reports it has certified 115 garment factories in 15 countries as being in compliance with its code of conduct, known as the WRAP Principles, and that 615 factories in 65 countries have registered to be certified.

As of December 2001, the WRAP Board had certified a total of 99 factories in seven countries in the Americas alone. Specific information on certified factories is not publicly available under the WRAP program.

In February 2002, Otto Juan Reich, resigned as Vice-Chair of the WRAP Board after being appointed by US President Bush as Assistant Secretary of State for Western Hemispheric Affairs. Reich’s appointment has been controversial because of his past lobbying efforts in support of the anti-Sandinista “contras” while director of the US State Department’s Office of Public Diplomacy under the Reagan administration.

Reich has been replaced on the WRAP Board by former Inspector General of the US Department of Labor, Charles Masten. According to the WRAP website, Masten “began his law enforcement career in 1973 as a Special Agent of the Federal Bureau of Investigation (FBI).”

Not surprisingly, given the histories of many of its board members, WRAP is one of the most secretive among the US code monitoring initiatives. It is also unique in combining provisions on drug interdiction

and apparel transshipment with labour rights standards.

WRAP is an initiative of the American Apparel and Footwear Association, formerly known as the American Apparel Manufacturers' Association. It is endorsed by maquiladora and manufacturers' associations in Costa Rica, the Dominican Republic, El Salvador, Haiti, Honduras, Nicaragua, the Philippines, South Africa, Sri Lanka, and Turkey, and by the Guatemalan Non-traditional Agricultural Products Exporters' Association.

### ***WRC Releases New Report***

On March 26, the Worker Rights Consortium (WRC) released a preliminary report on its investigation into working conditions at PT Dada, a Korean-owned garment and stuffed toy factory in Indonesia. PT Dada produces licensed apparel for over 25 WRC-affiliated universities, and clothes for major retailers and brand merchandisers, including adidas, Disney, Old Navy and Gap.

The WRC was initiated by United Students Against Sweatshops (USAS) as an alternative to the Fair Labor Association. It includes students, teachers, university administrators, trade unionists and labour rights activists on its governance bodies, but excludes companies from those decision-making structures. It conducts investigations of labour practices in university supply factories, both pro-active and in response to complaints, but does not certify factories or brands.

The WRC investigation of the PT Dada factory was carried out by a six-person "Assessment Team" that included labour rights and health and safety experts from Indonesia, Australia, South Korea, and the US.

While the report focuses on areas of non-compliance, it acknowledges that PT Dada has recently made efforts to improve compliance on a number of

issues, including removal of a supervisor reportedly responsible for harassment and abuse of workers; improvements in health and safety practices, washroom cleanliness, and prayer facilities; and agreement to reinstate fired union leaders.

The report also acknowledges the company's willingness to cooperate with the WRC investigation, providing access to the plant and permitting the Assessment Team to interview management personnel.

Despite the positive steps taken by the company toward compliance with WRC-member university codes, the report points to substantial evidence of serious areas of non-compliance. These include:

- pressure on workers not to take sick leave, and "abusive punishment" of workers who take sick leave;
- structural health and safety hazards and excessively hot working conditions due to inadequate ventilation;
- requiring workers to complete work at home after working regular and overtime hours in the factory;
- failure to remedy past instances of harassment and retaliation against union members, and continuing interference with freedom of association.

In addition to making a series of recommendations on actions PT Dada should take to achieve compliance with university codes, the WRC Assessment Team also calls upon buyers and university licensees to "share the necessary costs that PT Dada incurs in bringing the factory into compliance with applicable Codes of Conduct" and "set production deadlines in a manner that accommodates the factory's efforts to implement the recommendations."

The report also calls on buyers and licensees to "continue their orders with

PT Dada and assist in implementing these Recommendations, rather than 'cutting and running' to factories elsewhere."

To date, the WRC has released reports on three university apparel suppliers – the PT Dada factory in Indonesia, the New Era Cap Company in the US, and the Mexmode factory (formerly Kukdong) in Mexico. In early May, the WRC will be releasing a fourth report on the BJ&B cap factory in the Dominican Republic. WRC reports are available on the WRC website: [www.workersrights.org](http://www.workersrights.org). (Also see FLA report on BJ&B above.)

### **C. CHINA: A UNIQUE HEALTH AND SAFETY PROJECT**

Plant-wide health and safety committees involving production workers as full, active committee members have been established and are beginning to function in three large sports shoe factories in the Pearl River Delta of southern China. These committees are the result of an innovative health and safety training project involving US health and safety experts, Hong Kong-based labour rights groups and US brands.

Project progress was evaluated in visits to each of the three facilities March 12 to 14, 2002 by members of the project coordinating committee which organized the health and safety training in Dongguan City in August 2001.

The evaluation team consisted of Dara O'Rourke of the Massachusetts Institute of Technology, Garrett Brown, Coordinator of the US-based Maquiladora Health and Safety Support Network, local project coordinator Juliana So of the Chinese Working Women's Network, and staff members of three of the four Hong Kong-based non-governmental organizations who participated in the August training in China.

The plants involved are the Kong Tai Shoe plant in Longgan, the Pegasus plant in Panyu, and the Yue Yuen II plant in Dongguan City, which produce shoes for Reebok, Nike and adidas respectively. The plants are all operated by Taiwanese companies.

The nascent committees consist of 30 members at the 5,000-worker Kong Tai factory, 60 members at the 11,000-worker Pegasus plant, and 100 members at the 30,000-worker Yue Yuen II facilities.

The biggest success of the committees, perhaps, is the fact that they have been established at all and are beginning to carry out key functions of providing training, identifying and correcting hazards with the direct involvement of production-line workers from various department in the three facilities. This is believed to be the first time in recent Chinese history that factory health and safety committees involving workers as active members have been established.

The Coordinating Committee will issue a final report on this phase of the project in May 2002. Once the final report has been released, the confidentiality agreement, which has governed all participants, will be lifted, and additional comments or perspectives may be forthcoming from individual participants.

*– Adapted from Border/Line Health & Safety, Newsletter of the Maquiladora Health & Safety Support Network, March 2002.*

### **D. CANADIAN COMPANIES MOVE ON MONITORING**

Three Canadian companies appear to be taking steps to make their code compliance processes more credible and transparent, while a fourth company is refusing to disclose the results of third-party audits and remediation plans.

### ***Gildan Activewear***

In March, the Montreal-based T-shirt manufacturer Gildan Activewear announced it was adopting the SA8000 standard and would have its manufacturing facilities audited by SA8000-accredited auditing organizations. Gildan owns factories in Canada, Honduras and Mexico, and has also contracted production to non-Gildan assembly factories in other countries in the Caribbean Basin region.

While Gildan's commitment to the SA8000 standard was announced after the company was the subject of an exposé on alleged labour rights abuses that appeared on the CBC television program "Disclosure," Gildan insists the decision was in the works months before the program was aired.

The Solidarity Fund of the Quebec Federation of Labour (FTQ), a major shareholder in the company, has been instrumental in encouraging Gildan to commit to SA8000. At the same time, Gildan continues to also seek factory certifications under the WRAP program (see above article).

While acknowledging the positive steps Gildan is taking, the Maquila Solidarity Network (MSN) is urging the company to make its code monitoring program more transparent, and to allow local labour and non-governmental organizations and the workers themselves to play a more active role in the code compliance process.

### ***Mountain Equipment Co-op***

Mountain Equipment Co-op (MEC), a Canadian sportswear retailer with an environmentalist ethos, has agreed to contract the US not-for-profit monitoring organization, Verité, to carry out third-party audits of working conditions in its private label supply factories. MEC has also promised the Ethical Trading Action

Group (ETAG) and MSN that it will make public summaries of all Verité audit reports.

### ***Roots Canada***

At a March meeting involving MSN and members of Students Against Sweatshops (Toronto), Roots Canada agreed to support proposals for changes in the Textile Labelling Act being proposed by the Ethical Trade Action Group (ETAG). The changes would require apparel companies to disclose their manufacturing sites to a publicly-accessible federal government data base.

At the meeting Roots also agreed to voluntarily disclose current factory locations. Roots is one of the "hottest" Canadian brands on the market, operating 140 locations in Canada as well as outlets in US, Taiwan, Korea and – soon – China. Roots outfitted the Canadian and US Olympics team in Salt Lake City and currently has bids pending to provide Olympic uniforms for the 2008 Summer Olympics in China.

### ***Hudson's Bay Company***

Meanwhile, Canada's oldest and now second largest department store chain, the Hudson's Bay Company (HBC), is refusing to disclose any information on a recent audit of working conditions in a Lesotho supply factory.

The HBC had earlier promised to provide ETAG a summary of the auditor's report and information on its remediation plan.

Hudson's Bay is also refusing to confirm whether it will continue to place orders with the Sun Textiles factory and two other Lesotho supply factories where labour rights abuses have also been reported.

For further information, visit: [www.maquilasolidarity.org](http://www.maquilasolidarity.org).

## **E. NGO'S AND UNIONS DEBATE CODES**

On February 6-8, representatives of labour, non-governmental, and women's organizations and independent monitoring groups from Central America, the Dominican Republic, Mexico, the US and Canada gathered in Puebla, Mexico to discuss and debate issues concerning codes of conduct, monitoring and worker organizing. The workshop was sponsored by the Maquila Solidarity Network and funded by the Rockefeller Foundation.

Workshop participants discussed two case studies in which the existence of codes and monitoring has impacted, positively or negatively, on workers' ability to organize to improve working conditions. Special attention was given to the experiences with independent monitoring in Central America, and local experiences at Mexmode (formerly Kukdong) in Mexico, and Choi and Shin in Guatemala.

While there continue to be areas of disagreement among workshop participants, areas of agreement included the following:

- Codes and monitoring are not in themselves a solution to worker rights abuses, but can be a tool to increase space for workers to organize and improve conditions.
- Monitoring groups have a useful role to play in documenting and publicizing worker rights violations, but shouldn't substitute for unions or ministries of labour. Monitoring groups can also help motivate and strengthen the capacity of labour ministries to carry out their intended role.
- Ownership and the right to publish the results of monitoring are essential conditions for NGO participation in monitoring.

- Workers themselves are the best workplace monitors, and monitoring groups should facilitate workers' ability to carry out this role. Worker rights training and secure mechanisms for workers to register complaints are essential.
- Despite the involvement of some NGOs in external monitoring, social auditing by commercial firms is the dominant form of code verification. We need to demand a stronger role for Southern labour and civil society organizations, and the workers themselves, in these Northern-initiated, private sector-dominated systems.
- Traditional union organizing strategies are not adequate to address the specific characteristics of the maquila sector or the gender specific problems and issues of a predominantly young, female workforce. Alliances are needed among unions and the new players in the sector, including women's groups, NGOs, local monitoring groups, as well as with labour and campaign groups in the North. Trust and mutual respect among the various players are essential.
- Despite the adversarial nature of labour / management relations, working relationships with brand merchandisers and local contractors are possible under the specific circumstances. We need to encourage best practices.
- Research is needed into the impact of changes in the global structure of the garment industry in 2005, as well as possible strategies to deal with these changes.



## F. NEW RESOURCES

*The Workers' Story: Labour Rights Violations at Hudson's Bay Supply Factories in Lesotho*, Trade Union Research Project (TURP) and Ethical Trading Action Group (ETAG), March 2002, 41 pages.

Based on interviews with workers at three factories producing private label apparel for Canada's oldest and second largest retailer, the Hudson's Bay Company (HBC), the report documents worker rights abuses, including verbal and physical abuse and sexual harassment, forced overtime that stretches the workweek to seven days and up to 75 hours, poverty wages of US\$50 per month, emergency exits locked during working hours, pregnant women forced to stand for the entire workday, harassment, discrimination and unjust firings of union members, and child labour.

The report also includes a chronology of events leading up to the release of the report, including attempts by the ETAG to engage with the HBC and encourage the company to take steps to investigate and eliminate the reported abuses.

For a copy of the report, available only in English, visit:  
[www.maquilasolidarity.org](http://www.maquilasolidarity.org).

*We Are Not Machines*, Oxfam Community Aid Abroad (Australia), March 2002, 36 pages. Report on working conditions in sports shoe factories producing for Nike and adidas in Indonesia.

Based on interviews with 35 workers in four sports shoe factories, the report concludes that although some improvements have been made in working conditions, the measures taken fall well short of ensuring that workers are able to live with dignity.

Specific findings include:

- With full time wages as low as US\$2 a day, workers live in extreme poverty and those with children must either send them to distant villages to be looked after by relatives or else go into debt to meet their basic needs.
- Workers have reason to fear that active union involvement could lead them to be dismissed, jailed or physically assaulted.
- Workers report that although there has been some reduction in the physical and psychological pressure under which they work, they continue to be shouted at and humiliated, and work in dangerous conditions.

For a copy of the report, visit:

[www.maquilasolidarity.org](http://www.maquilasolidarity.org).

Both Nike and the Global Alliance have commented critically on the report. Their critiques are available at:

[www.nikebiz.com/media/n\\_indstatement.shtml](http://www.nikebiz.com/media/n_indstatement.shtml) and

[www.theglobalalliance.org/main.cfm](http://www.theglobalalliance.org/main.cfm).