

Maquila Solidarity Network

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In this issue:

- A. FLA Releases First Annual Report**
- B. Multi-stakeholder Initiatives Seek Common Ground**
- C. FLA/WRC Collaborate at BJ&B**
- D. WRC Releases Primo Report**
- E. Governments Reinforce CSR**
- F. Canadian Report Dismisses Factory Disclosure Proposal**
- G. New Resources:**
 - **Comparing Labour Practices in China and Vietnam**
 - **Training Activists in Indonesia**
 - **Workers' Tool or PR Ploy**
 - **Report on Swiss China Pilot**
 - **Reflections on Beijing Conference**

A. FLA Releases First Annual Report

On June 4, the Fair Labor Association (FLA) published its first annual public report on FLA Participating Companies' implementation of their code compliance programs. Also released were reports of factory audits carried out by FLA-accredited "Independent External Monitors." These 46 "tracking charts"

detail code violations identified in the audits, as well as corrective action taken by FLA member companies. According to the FLA, a new audit report will be added each time an additional factory is externally monitored.

The annual report and tracking charts are accessible on the FLA website and include information from factory audits carried out between August 1, 2001 and July 31, 2002 in Asia, Latin America, and the United States for Nike, Reebok, adidas-Salomon, Liz Claiborne, Eddie Bauer, Levi Strauss, and Phillips-Van Heusen. They do not include information on compliance programs of companies that joined the FLA in 2001 or later. That information will be included in future annual reports.

While the tracking charts do not reveal the names or addresses of the

Why a "Codes Update" memo?

This periodic memo is sent 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. We also share the English version of the memo with our network. Comments, criticisms and suggestions are always welcome: info@maquilasolidarity.org.

factories audited, they do provide a great deal of useful information, including:

- FLA Participating Company(ies) using the factory;
- country where the factory is located;
- type of product manufactured and number of workers employed,
- name of the monitoring organization and duration of the audit;
- code violations identified by the monitor(s); and
- corrective actions taken to address those violations.

In comparison, few Canadian retailers or brand merchandisers provide any public reports on the results of company monitoring or third-party audits, and the few that do, such as the Hudson's Bay Company (HBC), only provide composite global statistics on the numbers of factories audited, and the number of facilities judged to be in compliance with the company's code before and after corrective action. When so little information is provided, it becomes difficult to assess the HBC's claim that while 89 percent of its supply factories audited in 2002 were not in compliance with its code of conduct, 85 percent of those same factories were in compliance after corrective action.

According to Ineke Zeldenrust of the International Secretariat of the Clean Clothes Campaign (CCC), with the possible exception of the CCC Swiss pilot project report (see below), the FLA's report goes further than those of the current European multi-stakeholder code initiatives in providing information on the results of factory audits and the actions brands and manufacturers have taken to remediate code violations. "We

hope this will raise the bar on transparency in public reporting of all the multi-stakeholder initiatives," says Zeldenrust.

One unanticipated benefit of the level of transparency in the FLA's report and tracking charts is that they allow interested parties to monitor the monitors, comparing the performance of various compliance verification firms and non-profit organizations and the problems they identify and overlook in various countries. Having said that, it takes a great deal of patience and determination to wade through the various charts and the FLA report to find and compare information. Simple design changes would make the charts more user friendly.

More importantly, the tracking charts make it possible to track and evaluate corrective action being taken by FLA member companies. For instance, based on corrective action information available on the charts, the New York-based National Labor Committee (NLC) recently criticized Reebok and adidas for promoting the creation of a worker/management communication group in response to reports from worker interviews of freedom of association violations. In a June 5 media release, the NLC charges the companies with setting up a "company union" as a substitute for authentic union representation.

While the FLA's implementation of its new public reporting program is a major step forward, the content of the auditors' reports raises serious questions about the quality and consistency of the audits being carried out by the various FLA-accredited auditing organizations, most of which are commercial compliance verification firms. Since most of those same auditing firms are also accredited

under the WRAP and SA8000 programs, and control a significant portion of the social auditing market for individual companies as well, the low quality of social audits being carried out in the industry as a whole must be seen as a fundamental problem that needs to be addressed.

For instance, while some audit reports on Chinese factories from the commercial firm, Intertek Testing Services (ITS), are quite detailed on quantifiable issues such as health and safety practices, they include no mention of freedom of association in a country where that right is not permitted. Not surprisingly, a report from the US non-profit monitoring organization Verité on an adidas supply factory in Mexico provides considerably more information on rights issues identified in worker interviews, such as harassment and abuse and the lack of freedom of association. Audit reports on Salvadoran factories from another commercial firm, Cotecna Inspections, provide very little detail, but include worker comments indicating they are not free to join a union.

In general, the audit reports give much more prominence and detailed attention to health and safety issues than to wages, hours of work or freedom of association. This could reflect the current state of social auditing, in which much more progress has been made in addressing health and safety issues than in tackling the more difficult, but crucial, questions of hours of work, wages and the right to organize and bargain collectively. It may also reflect the weaknesses of the FLA Code provisions on wages, hours of work and freedom of association.

Most, though not all, of the information in the FLA report seems to

be based on reviews of factory records and assessments of management systems, rather than on worker interviews, which could reflect the bias and areas of expertise of commercial auditing firms. Nor does the report provide much information on auditing processes, such as how and under what circumstances worker interviews are carried out. Except for a few audit reports, the workers' perspective seems to be largely missing from the process.

While some of the FLA's critics may interpret the fact that none of the factories profiled in the FLA reports are fully in compliance with the FLA code of conduct as an indictment of the brand-name companies involved in the Association, others, including MSN, see it as an important admission by the leading brands that major and ongoing improvements are needed at a global scale before minimum labour standards and respect for fundamental worker rights can be achieved.

In the FLA code compliance system, Participating Companies are given three years to implement their compliance programs. According to FLA Executive Director Aret van Heerden, many of the violations identified in year one of the initial three-year implementation period will take at least that long to remediate.

Ironically, one of the most positive aspects of the FLA's new reporting initiative is that it implicitly recognizes that worker rights abuses in the globalized garment and footwear industries are a systemic problem that requires more than quick-fix solutions. "There has been an evolution in the thinking of FLA constituents," says van Heerden, "on one level, we are trying to make the program more rigorous, and on another, we are trying to find sustainable approaches to preventing,

rather than correcting abuses of labour rights.”

While the FLA’s new public reporting program does not represent full transparency, it is an important step in that direction. Public disclosure of factory locations would complete the picture.

- Common code standards, language and definitions;
- Complaint mechanisms;
- Good practice in remediation of violations and sustainable improvement in practices;
- Inefficiencies associated with multiple audits of supplier sites; and
- Engaging with government or identifying where there is leverage in other authorities.

B. Multi-stakeholder Initiatives Seek Common Ground

On May 21, the UK’s Ethical Trading Initiative (ETI) hosted the second Round Table Discussion Between Code Initiatives to explore possibilities for greater co-operation among the major multi-stakeholder code initiatives, convergence in code standards and implementation methods, and ways to eliminate duplication of efforts. The first meeting took place in February.

Roundtable participants included representatives of the ETI, Fair Labor Association, Fair Wear Foundation, Social Accountability International, Worker Rights Consortium, and the Clean Clothes Campaign.

Challenges and opportunities identified by the Round Table participants include:

- Limited experience and capacity of local civil society organizations;
- Variable quality of current workplace audits;
- Buying practices of northern companies, including the lack of long-term incentives for suppliers to improve practices;
- Management of information from audits, including reporting to stakeholders and the public;

Participants in the London meeting also discussed plans for a joint trial project, which will look at code implementation methods of the different initiatives in a specific garment-producing country and attempt to identify best practices.

On May 22-23, the Round Table participants fielded questions from delegates to the ETI’s Biennial Conference in London, which was attended by over 300 representatives of companies, suppliers, unions, NGOs, and auditing organizations from around the world. The dominant themes emerging from conference panel discussions and workshops were the need for local worker and civil society participation in the multi-stakeholder initiatives, transparency in monitoring and reporting, and better quality workplace audits.

While increased co-operation among the competing multi-stakeholder initiatives, greater agreement on principles and standards for effective code implementation, and less duplication of factory audits would certainly be welcome, it is hoped that the Roundtable Discussions will identify what is best from each initiative rather than merely promoting mutual recognition of existing practices.

The decision to begin the exchange by examining practical experiences with code implementation in a particular country will hopefully keep the process rooted in realities experienced by local workers and civil society organizations.

C. FLA/WRC Collaborate at BJ&B

The Fair Labour Association (FLA) and the Worker Rights Consortium (WRC) have both released reports on the positive resolution of worker rights violations at the BJ&B factory in the Dominican Republic.

The reports indicate that despite their fundamental differences about code monitoring and certification issues, the FLA and WRC were able to cooperate in facilitating respect for freedom of association and the right to bargain collectively at the factory, which produces baseball caps for Nike, Reebok, Adidas and a number of US universities.

On March 26, 2003, a first collective bargaining agreement was signed between Sindicato de Trabajadores de BJ&B and management at the factory. The workers achieved a 10 percent wage increase, which will come into effect in January 2004, plus improved health and safety protections, a productivity bonus and other monetary incentives.

The WRC first became involved in the case in December 2001, when workers at BJ&B filed a complaint, charging their employer with illegally firing 20 union leaders. The FLA became involved in early 2002 when Nike, Reebok and Adidas filed a joint third party complaint with the FLA, charging their supplier with violating freedom of association provisions of the FLA code of conduct.

The intervention of the FLA, the WRC and brand and university buyers resulted in the reinstatement of fired union leaders, as well as some improvements in factory conditions. BJ&B finally recognized the union in October 2002.

In an update to WRC-affiliated universities, WRC Executive Director Scott Nova points to the important roles played by the FLA, Nike and Reebok, and United Students Against Sweatshops. He commends the FLA for assisting with the reinstatement of fired union leaders, retaining the DR labour lawyer and former Secretary of Labour Rafael Albuquerque as an Ombudsperson in the case, and for conducting training on associational rights with workers and supervisors.

According to Nova, “this case stands as a strong example of the potential for effective WRC-FLA cooperation on remediation efforts.”

D. WRC Releases Primo Report

The Worker Rights Consortium (WRC) has released a preliminary report on their investigation of alleged blacklisting of union members seeking employment at Primo, a US-owned garment factory in the San Bartolo free trade zone in San Salvador, El Salvador. Primo, owned by the US-based Perry Manufacturing, produces apparel for Lands End.

Based on interviews with 53 workers, and a number of supervisors, managers, government officials and officers of Salvadoran NGOs, the report provides compelling evidence that Primo discriminated against former employees of the Tainan maquila factory, who had been

involved in a union organizing drive at that factory when it was closed in April 2002.

The report also documents instances of discrimination in hiring against former Tainan union members at four other factories in the free trade zone. Based on worker interviews and information from US and Salvadoran government studies, the report suggests that blacklisting is a systemic problem in El Salvador's maquilas.

The WRC report concludes with recommendations for corrective action, addressed to Primo and Land's End. It notes that to date Land's End has not been willing to support corrective action, claiming that the WRC has not provided sufficient evidence of blacklisting to warrant action.

E. Governments Reinforce CSR

Retailers in Belgium can now apply for a social label certifying that some or all of their products are made under humane working conditions. In February 2002, the Belgian parliament adopted the world's first social labelling law. Under the legislation, a government-appointed committee of government officials and leaders of trade unions, businesses and consumer organizations will review and approve company applications to display the label on their products.

To win the right to use the label for certain products, a company must certify that the core labour rights conventions of the International Labour Organization (ILO) on forced labour, child labour, discrimination and freedom of association are being respected in the production of those products. The company must also agree to have the

production facilities for certified products audited by a government-accredited auditing firm.

The Belgian government's social labelling law includes fines of up to 2.5 million euros and jail terms for company officials of up to five years for companies found to be misusing the label by claiming it applies to products that have not been certified. A company's right to use the label can also be removed if an accredited auditor determines there are persistent worker rights violations in facilities where certified products are made.

In the Spring issue of *ILO Focus*, a member of the Belgian labelling committee is quoted as saying, "We're moving from a self-regulatory context, in which multinationals set their own rules, to a context in which regulation by the public authorities becomes possible."

However, the European Clean Clothes Campaign has some concerns about the implementation of the new labelling law, including the fact that monitoring will be carried out exclusively by commercial auditing firms, that companies can decide which of their products should be certified and choose from among accredited auditors, and that the auditing firms can determine what levels of the company's supply chain should be audited.

Meanwhile, the Region of Umbria in central Italy has introduced a law giving preference for government contracts with companies that have been certified as being in compliance with the SA8000 Standard. 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. As is the case with the new Belgian labelling law, companies can determine which of its products or services are certified, and can choose from among the SA8000-accredited compliance verification firms to audit facilities producing or providing those products or services.

While these new initiatives by European governments to promote greater corporate social responsibility are certainly a welcome trend, it is hoped they will not undercut standards already established through sectoral labour/management negotiations or the standards and innovative code implementation methods developed by Clean Clothes Campaign groups throughout Europe.

F. Canadian Report Dismisses Factory Disclosure Proposal

On May 30, the Competition Bureau of Industry Canada, a department of the Canadian government, released a long-awaited report on a proposal from the Ethical Trading Action Group (ETAG), calling on the federal government to adopt factory disclosure regulations for the Canadian apparel industry. ETAG is a national coalition of faith, labour, teacher and non-governmental organizations, for which MSN acts as the secretariat.

Under ETAG's proposal, apparel retailers and manufacturers would be required to publicly disclose, through the Industry Canada website, the names and addresses of production facilities

making clothes and other textile products sold in Canada.

Prepared by the Conference Board of Canada and based on interviews and focus group discussions with various industry and civil society stakeholders, the report is generally critical of ETAG's proposal, calling it impractical, potentially harmful to the Canadian industry, and of little use to consumers. The authors of the report also seem to share industry's fear that factory disclosure would be used by unions to "systematically attempt to organize all the workers of a particular manufacturer or retailer at multiple locations around the world," which could "disrupt product flow."

Among other recommendations, the report calls on the Canadian government to determine whether supply chain information is propriety, and if so, to create mechanisms to "protect that information from unauthorized use."

In contrast, a January 2002 report of the Canadian Democracy and Corporate Accountability Commission endorsed ETAG's proposal for factory disclosure regulations, stating, "To criticize disclosure because it may air the company's dirty laundry is to refuse consumers, investors, and other market players the opportunity to make fully informed choices about the companies with which they wish to deal."

While dismissing factory disclosure regulations as unworkable and "a very blunt tool," the Conference Board report offers few concrete alternatives. It lists a number of voluntary and regulatory options, some of which ETAG members are already promoting, including university ethical purchasing policies, company codes of conduct, multi-stakeholder code compliance initiatives, factory certification initiatives, bilateral trade agreements with labour rights

provisions, and social reporting by specific companies. It states that such alternatives “have not been effective at achieving the desired policy objective.”

The report concludes by calling for a combination of disclosure requirements and voluntary code compliance verification processes, but advocates disclosure of company code standards and verification processes rather than the results of factory inspections or corrective action taken. This proposal is particularly disappointing given recent progress made in other countries toward greater transparency in corporate reporting on compliance with labour standards. (See other articles above.)

Despite the Conference Board’s negative assessment of ETAG’s proposal, the government has not yet determined what policies and/or regulations it might consider adopting to require or encourage corporate accountability on labour practices in the garment industry.

The fact that the study was commissioned at all indicates that the Canadian government is aware of public concern about labour practices in the apparel industry and the lack of information available to consumers that would allow them to make ethical choices. A 2002 Vector public opinion poll found that 8 of 10 Canadians support factory disclosure regulations.

However, if the Canadian government fails to go beyond the recommendations in the Conference Board report, Canada will continue to lag far behind other countries both in government policy on corporate accountability and voluntary initiatives promoting compliance with international labour standards.

The Competition Bureau is now inviting submissions on the report from industry and civil society organizations, which will part of multi-stakeholder

roundtable discussions tentatively planned for late September or early October of this year.

G. New Resources

Raising Labor Standards, Corporate Social Responsibility and Missing Links – Vietnam and China Compared, Anita Chan and Hong-zen Wang, paper presented at the conference “The Labor Reform: Employment, Workers’ Rights and Labor Law in China”, University of Michigan, March 21-22, 2003

The authors argue that the focus of the anti-sweatshop movement on Western brand-name TNCs underestimates the power of large Asian-based manufacturers over labour practices and the need to use additional leverage points to improve those practices.

They compare labour practices of Taiwanese garment factory managers in China and Vietnam, concluding that the managers tend to use “soft” management methods in Vietnam, while using more militaristic methods in China. They attribute the difference in approaches to a number of factors, including:

- the relatively more independent role and more aggressive stance of unions in Vietnam;
- the Chinese migrant labour and household registration systems, which recruit workers who are less familiar with their rights, limit their mobility between jobs, and isolate them from the community in dormitories on company property; and
- the willingness of the Vietnamese government to address labour rights issues and “engage in a dialogue on the

international norms set for labour standards.”

The authors conclude that in addition to the current focus on Western brand-name TNCs, the anti-sweatshop movement should pay more attention to the role of Asian-based manufacturers, as well as other important actors, including Chinese and Vietnamese union federations, local government institutions, and importer states.

Available in English only from MSN: info@maquilasolidarity.org.

The Asian Health and Safety Training Project – Training Activists in Indonesia, Final Report, Maquiladora Health and Safety Support Network, the Labor Occupational Health Program of the University of California at Berkeley, and Dara O’Rourke, Massachusetts Institute of Technology, March 19, 2003

The report describes a health and safety training project carried out by US and Australian health and safety experts and an Indonesian labour information centre with local unions and NGOs in Indonesia beginning in late 1999. Training sessions held in June 2000 and February 2002 were designed to build the capacity of workers and local organizations to monitor compliance with local law and codes of conduct on health and safety issues.

The training program also included a factory inspection of the Korean-owned Pratama sports shoe factory in Tangerang, Indonesia, which produces 600,000 pairs of shoes a month for Nike. Fifteen managers from Pratama and four other Nike supply factories also participated in the field exercise.

According to the authors, evaluations by project participants showed “a significant increase in knowledge and

problem-solving skills.” One concrete result is an 80-page health and safety booklet in Indonesian that was produced and distributed to union members by the SBSI union.

Available in English only at: www.igc.org/mhssn.

Workers’ Tool or PR Ploy: A Guide to Codes of International Labour Practice, Third Revised Edition, by Ingeborg Wick, Friedrich Ebert Stiftung and SÜDWIND Institut für Ökonomie und Ökumene, 127 pp.

This updated resource examines codes of conduct from a workers’ point of view, asking the following questions:

- What are the pros and cons of codes of conduct?
- How can they be useful instruments for trade unions?
- How can unions and NGOs cooperate in regards to codes of conduct?
- What are the main features of current code initiatives and how do they compare?

The author profiles and compares a number of multi-stakeholder code initiatives, including the Ethical Trading Initiative, the Fair Labor Association, Social Accountability International, the Worker Rights Consortium, the Fair Wear Foundation, and pilot projects involving European Clean Clothes Campaign groups.

Wick concludes, “Codes of conduct enable workers to strengthen their power in factories where globalization pressures have caused them to lose ground during the past 30 years, but only if they know their advantages and limitations. Codes of conduct can be useful tools to implement social standards if they fulfil certain conditions

and are part and parcel of broader political activities.”

The publication also includes an analysis of the trade union perspective on codes of conduct by representatives of the International Confederation of Free Trade Unions and the International Textile, Garment & Leather Workers’ Federation.

Available in English only at:
<http://www.suedwind-institut.de/>

Working Conditions: Results of the Monitoring of Chinese Garments Suppliers, Swiss Clean Clothes Campaign, March 2003.

The report makes public the findings of a code monitoring pilot project initiated by the Swiss Clean Clothes Campaign (CCC) in collaboration with three Swiss companies, Migros, Switcher and Veillon.

According to the Swiss CCC, the pilot project was one outcome of a major campaign it had launched calling on garment retailers to respect the rights of workers who make their products. The three companies reacted positively to the campaign by adopting codes of conduct and agreeing to cooperate with independent monitoring of the supply factories in India and China.

The China pilot project monitored working conditions and labour practices at two supply factories, the first located near Shanghai and producing for Switcher, and the second located in Dongguan, Guangdong province and producing for both Migros and Veillon.

Factory visits by two freelance social auditors were preceded by worker interviews carried out by Hong Kong-based NGOs and researchers. According to the CCC, the two and a half day factory visits were unannounced and consisted of “extensive discussions with

management, inspection of the factory and dormitory, examination of written evidence and a closing meeting.”

Follow-up visits verified the degree to which the suppliers were complying with the codes and assessed progress in correcting problems identified in the initial worker interviews and factory visits. The pilot project also included a series of training sessions on the Code for workers at one of the factories, with the collaboration of a local NGO.

The follow-up visit to the Switcher supply factory found improvements in compliance with hours of work provisions and payment of minimum wage, statutory holidays and overtime pay, as well as health and safety practices and health services. The report also points to improvements in management systems and procedures needed to implement the Code. It calls for more transparent calculation of wages so workers know what they are paid for, the elimination of salary deductions for disciplinary purposes, and the use of one consistent and accurate version of the Code summary that is distributed to workers.

While the follow-up visit to the Migros and Veillon supply factory also found improvements in health and safety practices, it identified major problems with a lack of transparency and unreliability of evidence provided to auditors concerning wages and hours of work. The report notes that recommendations made in the initial visit concerning wage slips, payment of overtime, statutory holiday pay, social insurance contributions, and deductions for disciplinary reasons were not acted upon. It recommends “in-depth discussions” between the retailers and factory management “to dispel the latter’s mistrust towards the pilot

project's visits, to acknowledge the non-conformities and to ensure in the future full transparency in order to start solving these breaches."

Available in English only at:
www.cleanclothes.ch/d/Reports.htm

"Corporate Responsibility and Labour Issues in China: Reflections on a Beijing Conference," Peter Utting, *The Journal of Corporate Citizenship*, Vol. 10, Summer 2003.

In this article, Utting reflects on issues discussed at a November 2002 Beijing conference on "Labour Relations and Corporate Social Responsibility under Globalization," which brought together representatives of major brands, Hong Kong-based NGOs, Chinese organizations and academics, multi-stakeholder code initiatives, and campaign organizations (including MSN).

On the positive side, Utting points to a shift in the Corporate Social Responsibility (CSR) agenda from corporate self-regulation, in which companies "unilaterally design and implement codes of conduct," to co-regulation, in which two or more actors come together to "design and implement norms and instruments that attempt to improve the social and environmental performance of firms."

On the negative side, he argues that while the multi-stakeholder code initiatives have put the monitoring and verification firmly on the agenda, "monitoring methods and techniques remain woefully inadequate." He also points to the limits of collaboration, partnership and dialogue between business and activists, suggesting that "ongoing tension, activism and regulation are just as important in moving the CSR agenda forward."

The author concludes by calling for an exploration of the possible linkages between CSR and regulatory action, including:

- Using the new emphasis on transparency to encourage the adoption and implementation of laws on freedom of information, public disclosure and reporting;
- Expanding the notion of corporate accountability to include accountability to workers' organizations and local and national governments;
- Using CSR initiatives to build capacity among local NGOs, workers' organizations and local governments;
- Attaching a higher priority in the CSR agenda to labour rights and worker's empowerment through training, education, organization, complaints procedures and bargaining; and
- Including in the CSR agenda the need to raise awareness of international conventions and agreements related to labour, environmental and human rights, as well as socially-responsible marketing practices, and of the need for national ratification and compliance.

According to Utting, "CSR needs to shed its image as part of the process associated with de-regulation, to one associated with 're-regulation'. The recent attention to 'corporate accountability', rather than 'corporate responsibility', may be a step in this direction."

The paper will be available soon in English only on the UNRISD website, under "News and Views", at:
www.unrisd.org.