

University of Michigan

SWEAT FREE CAMPUS CAMPAIGN INFORMATION MANUAL



STUDENTS ORGANIZING FOR LABOR & ECONOMIC EQUALITY (SOLE)

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Schools Affiliated with the DSP:

Georgetown	CU - Boulder	The Entire UC system:
Duke	University of Iowa	UC San Diego
UW-Madison	Columbia	UC Riverside
Indiana U	Cornell	UC Irvine
U Connecticut	University of Maine	UCLA
Syracuse	Hamilton	UC Santa Barbara
Smith	Santa Clara U	UC Santa Cruz
SUNY Albany	Grand Valley State	UC Merced
Skidmore	Brandeis	UC Berkeley
		UC San Francisco
		UC Davis



The Sweat-Free Campus Campaign Frequently Asked Questions (FAQ) for the University Community

On September 28, 2005, United Students Against Sweatshops unveiled a proposal to improve the way in which colleges and universities enforce their anti-sweatshop policies. We recognize that members of the campus community may have questions regarding the meaning of different elements of the proposal and their implementation. This document seeks to address a number of potential questions, including:

- 1) Why is the Sweat-Free Campus Campaign necessary?
- 2) What are we proposing?
- 3) Are there enough factories that meet these standards to supply the university market?
- 4) Won't concentrating university apparel into a smaller number of factories decrease our impact on the industry at large?
- 5) Won't consolidating university apparel in a smaller number of factories cause job loss?
- 6) Won't increasing wages lead to higher retail prices?
- 7) Won't increasing wages lead to a loss of jobs?
- 8) Isn't it difficult to determine a living wage?
- 9) Isn't it difficult to ensure that brands pay sufficient prices to their suppliers?
- 10) Why must designated factories produce primarily or exclusively for the university market (or for other brands committed to equivalent standards)?
- 11) Will this proposal help workers win improvements in benefits and other areas besides wages?
- 12) Why do workers need a union or another representative organization for a factory to be good?
- 13) Isn't it difficult to determine whether a union or other worker organization is legitimate?
- 14) Will smaller licensees or companies that make specialty products have difficulty with the new requirement?
- 15) Wouldn't the proposed policy amount to just the type of "certification" program, carried out by organizations like the Fair Labor Association, that USAS has long opposed?
- 16) How do you know that my campus' apparel is still being made in sweatshops?
- 17) Aren't some elements of the proposed policy illegal?

1) Why is the Designated Suppliers Program necessary?

United Students Against Sweatshops was created to ensure that all workers making university apparel have dignified working conditions. Universities have been able to use codes of conduct successfully to support workers' efforts to achieve positive change in individual factories. But while we are very proud of these achievements, we also recognize that not nearly enough has changed in factories producing collegiate apparel. Apparel workers around the world too often face abusive treatment, excessive working hours, wages that are woefully inadequate to meet basic needs, unsafe and/or unhealthy working conditions, and the denial of universally acknowledged associational rights when they attempt to press for improvements. Apparel brands put tremendous pressure on their supplier factories to cut costs and these pressures make broad, deep and sustainable improvements in wages and working conditions effectively impossible. The gains we have seen at individual factories have been too limited and too fragile.

In short, large obstacles stand in the way of meaningful improvements in factory sites. In order to bring us to the day when students and others can purchase collegiate apparel knowing that these items are produced under dignified working conditions, we need stronger tools than current codes of conduct and code of conduct enforcement strategies provide. After extensive consultation with worker rights advocates and with experts on the apparel industry – in the U.S. and abroad – we have developed a proposal for a new approach to campus code of conduct enforcement. We call it the Designated Suppliers Program.

2) What are we proposing?

Our campaign proposes that university apparel be made in a set of designated sweat-free factories in which workers are able to enforce their rights through unionization and earn a living wage. Brands that are licensed to make



university apparel would be required to produce these garments in factories that meet the following criteria, as verified by the Worker Rights Consortium:

- The factories must demonstrate full respect for the worker rights standards in university codes of conduct.
- The factories' employees must be represented by a legitimate, representative labor union or other representative employee body.
- The factories, once they are receiving prices sufficient to make this feasible, must demonstrate that their employees are paid a living wage.
- The factories must produce primarily or exclusively for the university market, or for other buyers committed to equivalent standards (including payment of a living wage).

The meaning of these standards is discussed in this document, as well as in the Designated Supplier Program proposal. The requirement on licensees to source from factories that meet these standards will be phased-in over time; in the first year 25% of products must come from designated factories, with this number rising to 75% after three years as more factories are brought into this system.

3) Are there enough factories that meet these standards to supply the university market?

It is currently not possible for apparel factories around the world, particularly in developing countries, to meet all of the standards required in this program, including the payment of a living wage. This is because the prices that brands are willing to pay factories for goods are simply too low to enable a living wage to be paid – let alone for all other code of conduct standards to be fully respected. However, we are very confident that more than a sufficient number of factories could quickly achieve the standards of this program once it is implemented. Indeed, given the current crisis in the global apparel industry – in which factories in many countries are truly desperate for orders – there are surely more than enough factories that would be willing to offer superior labor standards in exchange for guaranteed access to steady orders at reasonable prices. When asked, some factory managers have privately expressed support for the idea.

There are, in fact, a large number of apparel factories around the world that already partially fulfill these standards, having recognized legitimate unions or other representative worker bodies. The WRC will provide a list of factories that have met this criterion and that could likely qualify with the rest of the standards if the program were implemented and steady orders at reasonable prices were provided. Licensees will be able to select factories from this list.

Universities and brands may be legitimately concerned that the factories that are currently unionized or have representative worker bodies do not produce the exact type of goods they sell at the quality or quantity they require. If licensees prefer, as we expect some will, they can work to bring factories in their existing supplier networks up to the program's standards. The WRC would assist in this process by helping to develop plans for what specific steps facilities must take in order to comply with the program (e.g. by demonstrating full respect for workers' associational rights and paying a living wage). The WRC would also recommend factories as candidates for the program where positive efforts by workers to establish representative employee bodies are underway. Note that factories will only ultimately qualify as designated suppliers if workers freely choose to associate in a union or another representative body, such as a cooperative. Great care will be taken to ensure no facilities with illegitimate unions are included. *It is important to emphasize that since brands are welcome to bring their existing factories into the program, there is no basis for concerns that there will not be a sufficient number of factories capable of producing the necessary products with adequate quality.*

4) Won't concentrating university apparel into a smaller number of factories decrease our impact on the industry at large?

The proposal will strengthen our positive impact on the industry at large by significantly raising standards in factories that can then become the baseline for the broader industry. Universities can take the lead in demonstrating to consumers, workers, and others that it is possible to manufacture clothing under sweat-free conditions.



The truth is, while collegiate apparel is currently produced in thousands of factories around the world, this does not translate into a situation in which we can help workers in each of these factories make improvements. The dispersion of university production across so many factories substantially undermines the ability of universities to have a positive impact on working conditions. First, this reality makes effective across-the-board monitoring on an on-going basis virtually impossible. Second, university apparel typically makes up only a small fraction (generally well under 5% annually) of the apparel produced in a given factory; the rest of the factory's production is usually for big box retailers like Wal-Mart and Target, and major brands like Nike, Reebok, the Gap and others. As a result, the leverage university licensees bring to factories – even when a licensee wants to press a factory hard – is often too little to make a difference. Universities are ultimately forced to rely on the good will or vulnerability of whatever non-collegiate brands are in the factory to press for improvements, brands that are not in any way accountable to universities. If these companies are not responsive, as many are not (e.g. Wal-Mart, J.C. Penney, etc), there is little that universities or their enforcement agents can do to press for meaningful change. The result is that violations of worker rights continue to be rampant in factories producing university apparel. And as mentioned earlier, when workers in alliance with universities succeed in making improvements at these factories, these changes are usually limited and fragile because there is no commitment on the part of any of the brands to sustain these improvements by continuing to order goods from the factories and pay a price sufficient to make sustainable improvements feasible.

How would the new proposal strengthen our ability to make change in the industry at large? In all factories where collegiate apparel is made, we will be able to directly support the rights of workers. There are two key ways in which this can happen. *First, we can demonstrate that a higher standard is possible in the apparel industry – a standard that non-collegiate brands can then be held to.* If universities succeeded in helping to establish a set of factories that were truly decent places to work – factories that adhere to a higher standard than the unacceptable industry norm – it would be difficult for non-collegiate brands concerned about their public images to justify maintaining the status quo. Second, the new program will help enable positive change in specific factories that are not currently producing collegiate apparel. The new program will establish a market that rewards factories that fully respect worker rights with stable orders at sufficient prices. *This will create a positive incentive for factories to stand-out for their respect of worker rights, something which currently does not exist in the apparel industry.* Workers at individual factories pressing for improvements can use the program as a carrot, by credibly indicating to management there are economic rewards for high labor standards.

By demonstrating that a truly decent standard is possible and by providing positive incentives for factories to fully respect worker rights, the new program will strengthen our ability to positively impact the industry at large.

5) Won't consolidating university apparel in a smaller number of factories cause job loss?

There is little reason to expect that any significant job loss at particular factories beyond that which is already occurring would result from consolidating university production in a smaller number of factories. The program will create far more stable employment for apparel workers.

It is important to understand that, at present, the apparel industry is dominated by extreme instability and volatility, with brands constantly shifting business from factory to factory in search of the cheapest price – causing frequent factory closures and a chronic lack of job security for workers. This sort of constant shifting of orders takes place among university licensees, so that there is little year-to-year or even month-to-month consistency in the thousands of factories that licensees use to produce logo goods. Since collegiate apparel currently represents a tiny portion of each factory's annual production (as just noted, usually well under 5%, with the rest of a typical factory's production occurring for big box retailers like Wal-Mart and Target), the one-time consolidation of university production into designated supplier factories would likely entail less redistribution of orders than is already occurring on an ongoing basis. In other words, some very small amount of job loss might result from implementation of the program. Yet, compared with the current situation of constantly shifting production and chronic job insecurity for workers, the shift in production that would result from this program would have little observable effect on production levels or workforce levels at factory sites from which production is shifted.

What the new program will enable, for the first time, is real, long-term stability for a substantial number of factories



and their employees. Under the designated supplier program, the chaotic system of constantly shifting orders will be replaced with a structured, rational system that offers real job security for workers.

6) **Won't increasing wages lead to higher retail prices?**

The economics of the industry are such that workers' wages could be raised by very substantial margins without large increases to retail prices. This is primarily because labor costs account for such a small portion of a product's total price: usually about 1-3% of the final retail price for garments produced in developing countries. For example, for a shirt sold on campus for \$20.00, workers are typically paid about 25 cents. Even if the entire cost of wage increases is passed directly on to consumers, wages could be doubled and the shirt's retail price would only increase to \$20.25. There is no reason to doubt that consumers would be willing to pay these nominal cost increases when they buy campus apparel products, which already have enormous cost mark-ups. If brands decide to absorb some of the increased costs, then price increases would be that much smaller. (The appendix to this document provides a breakdown of the costs of manufacturing and selling campus apparel, published by the Hartford Courant.)

Indeed, there is already more than enough money in the system for brands to pay higher wages. Nike's annual advertising budget is \$1.4 billion dollars. Less than 1% of this amount would be needed to double the wages of all of Nike's collegiate apparel workers.

7) **Won't increasing wages lead to a loss of jobs?**

This claim is based on the premise that brands would be forced to make fewer products, since consumers would not be willing to pay the higher prices that would result from wage increases. The claim makes little sense in the university context. There is no reason to expect that the proposal will have any observable effect on the overall amount of campus apparel that is sold. As discussed above, because labor is such a small portion of overall costs, large wage increases (resulting in double or triple current wage levels) would require only very small increases in retail costs, if brands choose to pass on the costs to consumers instead of absorbing the modest increases themselves. The collegiate apparel market is characterized by enormous mark-ups already: for example, the price of a sweatshirt with a university logo is often 150% of the price of the exact same sweatshirt without the logo. Since consumers are not buying collegiate apparel because of low prices, there is no reason to believe they will buy less of it if the price increases by one or two cents on the dollar.

It is also important to note that the requirement on licensees to pay fair prices to their suppliers would be imposed across-the-board on all licensees. *Since every company will be required to adhere to the standard, no company will be placed at a competitive disadvantage for paying fair wages and having modestly higher prices.* There are all kinds of factors affecting the apparel industry at large which cause minor fluctuations in the overall costs of making and distributing apparel – such as changes in the cost of electricity and fuel, etc. – but which have no observable effect on total apparel sales. Since there is no reason to expect that overall sales will decrease, there is no reason to conclude that any job loss would result.

8) **Isn't it difficult to determine a living wage?**

The primary strategy of many brands opposed to paying a living wage has been to claim it is a tremendously technical issue, too complex and too thorny, to figure out. Of course, this is an ironic position to be taken by multinational companies that have developed cutting edge supply networks for manufacturing clothing in the farthest corners of the globe. But this strategy has been successful in stalling meaningful progress on living wages.

The reality is that determining a living wage is a fairly simple task. It amounts to determining the cost of a basic basket of goods and services that workers and their families need for a decent standard of living in the region where they live. A basic market basket includes: nutrition, potable water, housing, energy, transportation, healthcare, childcare, education and savings. This is not rocket science to measure. Our solution is to simply commission local people with expertise on this subject to gather data on the cost of the market basket in the region in question and then calculate, transparently, the total amount of local currency that is necessary for a worker and family members who are dependent on her income to afford these items. This exercise has already been carried out successfully in



various countries, generally finding that current wages are between one half and one fourth of what a worker and her dependents need. The Worker Rights Consortium has agreed to calculate sample living wage figures for the university community as the new proposal is being considered. These figures will serve to both dispel the myth that calculating a living wage is a daunting task, and also to give a sense of the kind of wage increases that will be necessary to achieve living wages.

Because wage and compensation issues are best addressed through negotiation between worker representatives and employers, the implementation of the living wage at the factory level will take place through collective contract negotiations, supported by a complaint process if necessary. The WRC will respond to complaints regarding the alleged failure of supplier factories to pay a living wage. On the basis of an assessment by a team of experts regarding the cost of the basic basket of goods in the region, the WRC will make a determination as to whether the factory is in compliance or non-compliance with the living wage standard. If the factory is found in non-compliance, and it fails to address the issue adequately, the factory would lose its status as a designated university supplier.

9) Isn't it difficult to ensure that brands pay sufficient prices to their suppliers?

One aspect of the enforcement of this policy requires ensuring that licensees pay prices to factories that are sufficient for the factory to comply with each of the program's standards. In practice, universities will not need to become involved in the negotiation of each apparel contract. Rather, the licensees and factories will negotiate the terms of contracting agreements on their own to determine an appropriate price. The WRC would ensure that the prices paid are sufficient through a combination of spot checking and assessments triggered by complaints where disputes have arisen.

There are strong precedents for enforcement of a fair pricing standard. California law provides one example. The California Labor Code (Section 2673.5) requires apparel companies to ensure that the prices they pay to contractors are sufficient to enable compliance with labor laws. The law holds companies accountable as guarantors for unpaid wages owed to workers by contracted supplier factories if the companies have engaged in "... unreasonably reducing payment to its contractor where it is established that the guarantor knew or reasonably should have known that the price set for the work was insufficient to cover the minimum wage and overtime pay owed by the contractor." This legislation was enacted precisely out of concern that inadequate prices paid by brands to factories are frequently the driving force behind widespread violations of minimum wage and overtime laws. The Labor Commissioner has the authority to mediate disputes regarding pricing issues and defer disputes to arbitration or to the court system.

Similarly, the U.S. Department of Labor (DOL) has required apparel companies participating in a DOL-sponsored factory monitoring program to adhere to a fair pricing standard. The agreement underlying the program, the Augmented Compliance Program Agreement (ACPA), requires apparel companies to perform an evaluation before each apparel purchase to ensure the "economic feasibility of the price terms that are involved, in light of the compliance with the [Fair Labor Standards Act] and the [Employer Compliance Program] required of the Contractor and in light of the calculations and expectations of the parties to the purchase." An analysis of the DOL's program found that ability of supplier factories to renegotiate contracts with buyers when conditions change was the single most powerful predictor of a factory's compliance with minimum wage and overtime laws, more powerful even than whether the factory has been "effectively monitored" by compliance agents.

We have consulted with experts, including current and former government officials responsible for labor standards enforcement in the apparel sector, who have consistently agreed that the exercise of determining whether a price paid to an apparel contract is sufficient to enable compliance with labor standards is entirely doable, assuming that the factory is willing to make production data available to inspectors. In enforcing this standard – which, as noted, will occur only when concerns arise about the prices being paid – the WRC would commission a team of trained specialists with expertise on production costs in the apparel industry. The team would assess the factory's production costs for the product in question and make a determination as to whether the prices paid by the licensee to the factory for the logo products is sufficient to enable full compliance with the program's standards.



10) Why must designated factories produce primarily or exclusively for the university market (or for other buyers committed to equivalent standards, including payment of a living wage)?

This requirement is essential for the program to work. Factories must have orders in sufficient quantities if they are going to be able to fully adhere to program's standards, including payment of a living wage. It is clear, for example, that if a factory is receiving a price for orders commensurate with the costs of paying a living wage for only 10% of its garments, the factory will simply not be able to afford to pay a living wage to 100% of its workers. Similarly, we cannot count on factories to provide steady employment and job security for all workers if only a minority of their customers are committed to providing stable, long-term orders. Moreover, generally speaking, without access to a guaranteed market of committed brands, factories will not have a compelling incentive to take part in the program and thereby take on the extra costs required to provide exemplary labor standards – costs which would otherwise make them uncompetitive with factories that have lower standards. Universities must have a way of channeling substantial, steady business to factories willing to take on the costs of complying with university standards. We believe this is best accomplished through the proposed policy. The other option we have entertained to channel orders to these factories and prevent the excessive dispersion orders would be to limit the size of the list of eligible factories. However, this approach does not seem workable, as it would require a constant and tedious matching of overall supply with demand and would limit the program's flexibility to bring factories from brands' existing networks into the fold. For these reasons, the Designated Supplier Program requires that licensees ensure that those factories they intend to use toward fulfillment of their obligation under the program have sufficient orders to ensure that two thirds of annual sales are for the university logo goods market or for other buyers committed to equivalent standards (including payment of a living wage).

11) Will this proposal help workers win improvements in benefits and other areas besides wages?

If there appears to be a large focus on wages in discussions about the new proposal, it is simply because it is a “big ticket” item and it raises immediate questions about whether the proposal is economically viable. It is also a key area in which garment workers and their advocates have made little or no gains to date. But wages are only one part of the aims of this program. The goal is for workers to be able to win dignified working conditions in all aspects of employment, including working hours, health and safety, benefits, and other areas. The factories that will end up producing campus apparel will need to meet a comprehensive set of standards – including each standard included in our universities' codes of conduct, and the prices paid by brands will need to be sufficient for the factory to comply with these standards. Workers in each of these factories will be represented by a union or another organization and will address the issues of most importance to them through direct negotiations with factory management.

12) Why do workers need a union or another representative organization such as a cooperative for a factory to be good?

As a practical matter, there is no way for an outside organization to know workers' rights are being respected on a daily basis in apparel factories overseas, unless workers have a sustainable way to prevent abuses and advocate for their interests. Workers are the best monitors of their working conditions. Unlike outside auditors – which may visit a factory once every several months or years – workers are on the shop floor day-in and day-out and they know better than anyone else what problems exist. When workers have a voice on the job through a union or another representative organization, they have the power to advocate for their interests and correct abuses when they occur, without being forced to rely exclusively on outside entities. Without workers having the capacity to advocate for their own interests, there is no way to ensure that workers' rights are being respected. The combination of independent unions and independent monitoring will ensure that workers' rights are respected in all Designated Supplier factories.

Moreover, given the realities of the global apparel industry, it is impossible to be sure that the specific right of workers to associate freely – a right guaranteed by all codes of conduct – is being respected if workers are not represented by a union or other representative worker organization. From Bangladesh to Mexico to El Salvador, violations of the rights of workers to collectively press for improvements is so pervasive in the apparel industry as to be the rule, rather than the exception: in most factories in most apparel producing countries, workers have been convinced that if they choose to organize for improvements, they will be fired, demoted, and/or they will not be able



to find work elsewhere. Apparel brands have contributed to this situation by turning a blind eye to routine violations over a period of years and by refraining from pressing factories to take actions that would meaningfully address the problem. Given these realities, there is simply no way to have any certainty that associational rights are being meaningfully respected unless a factory has proactively demonstrated its commitments to worker rights in this area by engaging in good faith with an organization that represents workers.

It is important to note that the critical issue here is not that workers have unions *per se*, but that they are genuinely empowered to enforce their rights on an ongoing basis. The program's standards would enable a range of different types of workplaces to be included. In countries such as China where the law formally prohibits the free association and collective bargaining of workers, if factories nevertheless demonstrate that, in practical terms, workers are able to join together and freely negotiate the terms of their employment and address grievances with management, and the factories meets all other standards of the program, we see no reason why such factories should be excluded. (Bringing factories to this point will no doubt require more aggressive actions by brands than they have thus far been willing to take, but we believe it is possible.) In addition to traditional factories, cooperative workplaces, in which workers have meaningful representation in decision making bodies and a means of addressing grievances, would also be included.

Finally, we want to emphasize that the aim of this campaign is not "protectionist" in any way, as some may inaccurately assume. Our goal is for factories included in this program to come from a wide range of countries in all regions of the globe.

13) Isn't it difficult to determine whether a union or other worker organization is legitimate?

We do not believe this is a prohibitively difficult task. Indeed, during the past five years, the WRC has routinely done so in carrying out its assessments of individual factories. Factory reports are available online at www.workersrights.org. To our knowledge, in no case has the WRC's conclusion been seriously questioned. The process of determining whether a union or another organization is a legitimate representative of workers rests largely on a handful of questions. Has the organization demonstrated that it has been meaningfully elected and fulfilled other legal requirements to represent workers? Has the organization fought vigorously for the rights and interests of workers? These questions are answerable through factory level research and consultation with local experts and, once resolved, settle the great majority of questionable cases. Instances in which unions have been installed by management would be identified and disallowed. For the purposes of the designated suppliers program, we propose that this process be undertaken by the WRC, which would make a determination based on its own research and on consultation with relevant experts in this area.

14) Will smaller licensees or companies that make specialty products have difficulty with the new requirement?

As currently written, the policy only applies to licensees producing apparel and other textile products (backpacks, flags, etc), so companies selling highly specialized products such as university-inspired birdhouses or helmet-shaped chocolate would not be affected at this point. While it is certainly true that large companies like Nike are more able to absorb the tiny cost increases necessitated by the payment of a living wage, this increase is such a small percentage of the retail cost of a garment (1-3%) that there is no reason to believe that it will place an insurmountable burden on small licensees or local retailers of collegiate products. Furthermore, this requirement is being imposed on apparel licensees across-the-board: no one company will be placed at a competitive disadvantage because everyone will be required to pay the slightly increased prices for products from the good factories.

15) Wouldn't the proposed policy amount to just the type of "certification" program, carried out by organizations like the Fair Labor Association, that USAS has long opposed?

To answer this question, it is important to first understand *why* USAS and the anti-sweatshop movement opposes existing certification schemes (including both those that certify brands, like that of the Fair Labor Association, and those that certify factories, like that of Social Accountability International and the Worldwide Responsible Apparel Program). None of the current "certification" programs – FLA, SAI, or WRAP – are regarded as credible by the



mainstream anti-sweatshop movement – not because there is something wrong with directing business to factories that fully respect worker rights, but because none of these organizations actually do so.

First, under these programs, the “certification” process is controlled by multinational apparel companies or organizations funded and controlled by them. Our program does not let the industry define for itself whether a factory has made the grade – an approach that has failed miserably to curb sweatshop abuses. Instead, under our proposal, the program will be overseen by an organization that is truly independent of the apparel industry, has the trust of workers, and has a proven track-record of firmly insisting on full respect for worker rights – the Worker Rights Consortium. Factories will only be included if they are recommended by workers and worker allied organizations with accurate, ongoing knowledge of working conditions.

Second, each of the existing certification programs place a stamp of approval on working conditions without any reasonable assurance that the conditions are in fact decent. In each of the programs, the certification is based on corporate-sponsored monitors visiting a sampling of factories once per year, or in the FLA’s program once per decade – a process that has proven woefully ineffective at ensuring that conditions are truly decent. Instead of relying on sporadic visits by corporate monitors to check on conditions, under the designated suppliers program there will be ongoing monitoring and enforcement of rights by workers themselves through their unions or other representative organizations, supported by a strong and proven complaint process, backed up by independent verification.

Third, under the current certification schemes, the standards against which factories are held are themselves inadequate. Most notably, there is no requirement that a living wage be paid. Instead of relying on absurdly low minimum wage laws (which are themselves frequently not enforced), this program sets a decent standard – a living wage – to ensure workers and their dependents are able to make ends meet.

Fourth, under current certification schemes, no requirements are placed on brands to ensure it is possible for their supplier factories to offer decent conditions. Instead of pretending as though it is possible for factories to offer truly decent conditions while they are at the same time competing desperately for orders, in a buyer’s market, from brands intent on low-balling them, this program ensures it is possible for factories to offer stable, sweatshop-free employment. The program will establish university supplier factories, protected from the downward pressures of the industry at large, in which brands are required to provide stable orders at prices that are sufficient to enable compliance with the standard.

These elements make our proposal a drastic departure from any existing “certification scheme” or any other program that has been proposed by the apparel industry.

16) Five years after campus codes of conduct were implemented, are we certain that campus’ apparel is still being made under abusive conditions?

Among experts in the field, there is no doubt that most campus logo apparel is being made in sweatshops. Both the WRC and FLA acknowledge that logo goods are being produced in factories that routinely violate workers rights. One must only look at the public factory reports posted on the WRC website – <http://www.workersrights.org/freports.asp> – to confirm this reality.

It is not surprising, after five years of campus codes of conduct, that logo apparel is still being made in substandard conditions. First, it is important to recognize that conditions throughout the global apparel industry remain abysmal, and the subset of the industry that produces logo goods is not an exception. Indeed, as noted above, campus apparel is being produced in the same factories that produce for big box retailers like Wal-Mart and Target, and campus apparel is typically only a very small portion of each factory’s production. Brands place tremendous pressure on factories to cut costs by forcing factories to compete – in a race-to-the-bottom – to offer the lowest bid. These pressures are the driving force behind sweatshop abuses and poverty wages. It is precisely because logo goods are scattered across so many factories operating under these pressures and because logo goods make up such a small portion of each factory’s production that it has proven so difficult for our universities’ enforcement agents to effectively monitor each of these thousands of factories and to bring to bear the necessary leverage to compel



improvements.

Moreover, an additional key reason why conditions in factories that produce campus apparel remain poor is that licensees fail to reward factories that do respect worker rights. Complying with labor standards entails increased costs: it costs more to pay the minimum wage than to ignore it, and it costs more to buy necessary safety equipment than to avoid such purchases. Yet brands, including university licensees, rarely reward factories that take on the costs of respecting worker rights by taking into account these expenses when negotiating prices or by directing business to factories that stand out for their compliance with labor standards. As a result, factories that do opt to accept the added costs of compliance become *less* likely to succeed than factories that violate workers' rights. Indeed, there are a number of factories that have made dramatic improvements in response to intervention from universities and the WRC, but which have closed or are in grave jeopardy of closing because university licensees have failed to reward these dramatic improvements with business. These include factories that have already closed, such as PT Dae Joo Leports in Indonesia, and factories that are in danger of closing, such as BJ&B in the Dominican Republic, Sinolink in Kenya, Lian Thai in Thailand, Mexmode in Mexico, and many others. USAS is circulating a list of such factories within the university community.

Given these realities – the scattering of a relatively small amount of university apparel across thousands of factories, punishing price pressure from licensees and other brands, and the failure to reward factories that do respect worker rights – it is not surprising that campus apparel is still being made in sweatshops. Our proposal is designed specifically to address each of these problems.

17) Aren't some elements of the proposed policy illegal?

We have no reason to believe that any element of the policy we are proposing violates any law. There are two areas in which we have heard general concerns raised.

The first concern is that the requirement that university logo goods be produced in factories where workers are represented by a union or other representative body could be illegal, specifically on the ground that such a policy would be preempted by federal labor legislation. We have received legal advice on this question from Mark Barenberg, Professor of Law at Columbia University, a widely recognized expert on domestic and international labor law and trade law. According to Professor Barenberg, the policy proposed passes legal muster in this area. “*Private* universities can implement the proposed policy, without raising any legal questions at all under federal labor law. As to *public* universities, the proposed policy again raises no federal labor-law questions when the policy is applied to supplier *factories in foreign countries*. If *public* universities apply the proposed policy to supplier *factories in the United States*, a legal question does arise, and opponents may attempt to challenge this aspect of the policy. The question is whether such action is rendered illegal on the ground that it is preempted by federal labor legislation.” In this narrow area concerning unionized facilities in the United States, “while USAS’s proposed policy may face legal challenge, there are strong legal arguments in support of the policy, and the policy will, in all probability, survive the challenge.” Indeed, according to a ruling by the Second Circuit Court of Appeals, states and cities may choose to buy goods only from unionized suppliers, without running afoul of the National Labor Relations Act. In sum, Professor Barenberg writes, “My conclusion is that the universities and their licensees may implement the proposed policy without incurring significant additional risk of violating federal labor laws.” We are happy to provide Professor Barenberg’s complete legal opinion letter upon request.

The second concern is that the policy could in some way violate anti-trust laws. As in the case of the union-preference issue, we have no reason to believe the policy raises legal problems with anti-trust rules. It is important to bear in mind that each time during the past decade that a new campus anti-sweatshop policy has been proposed, someone has objected that the policy will cause anti-trust problems. In every one of these cases – from disclosure of factory locations to wage disclosure – the anti-trust issue has turned out to be a red herring: no concern in this area has ever been borne out or even seriously posited. *In the case of the new proposed policy, we are not in a position to respond to any specific concern about anti-trust issues because, to our knowledge, no one has yet made a concrete claim to the effect that any specific element of the proposal is illegal under anti-trust law.* Instead, as during each previous debate about codes of conduct, general complaints about potential anti-trust violations have



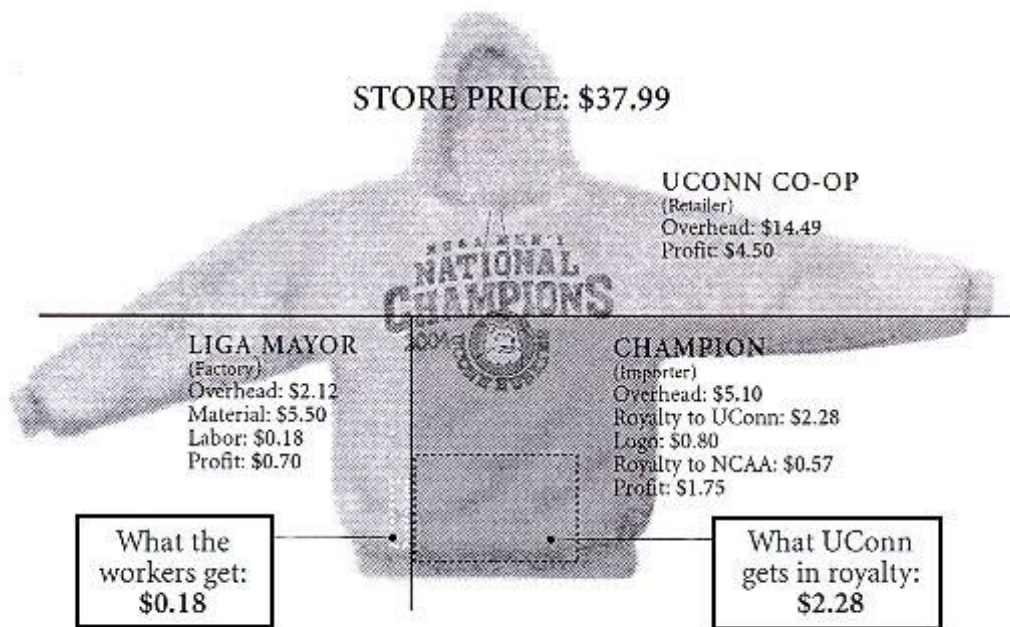
been raised without any specific arguments being made that could actually be tested by legal experts. The only area in which we can guess that serious objections may arise is the coordination among brands that would be necessary to implement the program. It is important to understand in this regard that brands already coordinate a great deal on code enforcement, including sharing information on supplier factories and, in some cases, actually coordinating how much production is placed in those factories (Gap and Limited Brands have a pilot program to do the latter). Another example: the U.S. government currently funds a program to develop a public database of factory audit information, which will be used by brands in their decisions about which suppliers to patronize. As far as we understand, there is nothing about these various types of coordination that violates anti-trust laws – if there is, the brands are apparently unaware of it. Indeed, in forums about corporate social responsibility, these approaches are touted by company representatives as “best practices”. A legitimate anti-trust concern would only arise if it leads to brands colluding on prices – i.e. price-fixing. However, requiring that prices be sufficient to allow factories to pay a living wage and meet other code obligations does not require brands to collude. It simply requires that each brand, separately, make sure it is factoring the true costs of production into price negotiations with each supplier. Similar requirements are already included in California law and in the Department of Labor’s apparel monitoring program, as discussed above in this document.

If anyone has any specific concern regarding anti-trust issues related to the proposal, we ask that he or she put forward these concerns, in detail, so that USAS can then respond.

Appendix

Breaking Down The Cost Of A Sweat Shirt

This UConn men’s championship sweat shirt, for sale at the UConn Co-op, was sewn by workers at the Liga Hayn factory in Mexico who earn 18 cents per garment — less than a tenth of what UConn makes in royalties. Profit, overhead and other expenses along the supply chain push the retail sales price up to \$37.99.



SOURCES: Adapted from single cost breakdown by GEAR for Spens, an apparel company that markets the Champion brand.

Source: Kauffman, Matthew and Lisa Chedekel. “As Colleges Profit, Sweatshops Worsen.” *Hartford Courant*. December 12, 2004.



Code of Conduct

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The University's Code of Conduct is the true birthplace of the Designated Supplier's Program. The Code, for what it has in heavy-handed rhetoric, it lacks in enforceability. The Designated Supplier's Program enumerates many of the same principles found in the Code of Conduct, but has the "gun to back up the kind word", as Al Capone would put it. The Code of Conduct was the end of a long and brutal campaign SOLE waged in 2000 and 2001 against then-University-President Lee Bollinger. After a 3-day sit in, Bollinger acquiesced to SOLE's demands and adopted the WRC's Code of Conduct.
.....

I. Introduction

A. The Universities participating in the Worker Rights Consortium are each committed to conducting their business affairs in a socially responsible and ethical manner consistent with their respective educational, research and/or service missions, and to protecting and preserving the global environment.

B. While the Consortium and the Member Institutions believe that Licensees share this commitment, the Consortium and the Member Institutions have adopted the following Code of Conduct (the "Code") which requires that all Licensees, at a minimum, adhere to the principles set forth in the Code.

C. Throughout the Code the term "Licensee" shall include all persons or entities which have entered into a written "License Agreement" with the University manufacture "Licensed Articles" (as that term is defined in the License Agreement) bearing the names, trademarks and/or images of one or more Member Institutions. The term "Licensee" shall for purposes of the Code, and unless otherwise specified in the Code, encompass all of Licensees' contractors, subcontractors or manufacturers which produce, assemble or package finished Licensed Articles for the consumer.

II. Notice

A. The principles set forth in the Code shall apply to all Licensees.

B. As a condition of being permitted to produce and/or sell Licensed Articles, Licensees must comply with the Code. Licensees are required to adhere to the Code within six (6) months of notification of the Code and as required in applicable license agreements.

III. Standards

A. Licensees agree to operate work places and contract with companies whose work places adhere to the standards and practices described below. The University prefers that Licensees exceed these standards.

B. Legal Compliance: Licensees must comply with all applicable legal requirements of the country(ies) of manufacture in conducting business related to or involving the production or sale of Licensed Articles. Where there are differences or conflicts with the Code and the laws of the country(ies) of manufacture, the higher standard shall prevail, subject to the considerations stated in Section VI.

C. Employment Standards: Licensees shall comply with the following standards:

1. Wages and Benefits: Licensees recognize that wages are essential to meeting employees' basic needs. Licensees shall pay employees, as a floor, wages and benefits which comply with all applicable laws and regulations, and which provide for essential needs and establish a dignified living wage for workers and their families. [A living wage is a "take home" or "net" wage, earned during a country's legal maximum work week, but not more than 48 hours. A living wage provides for the basic needs (housing, energy, nutrition, clothing, health care, education, potable water, childcare, transportation and savings) of an average family unit of employees in the garment manufacturing employment sector of the country divided



by the average number of adult wage earners in the family unit of employees in the garment manufacturing employment sector of the country.]

2. Working Hours: Hourly and/or quota-based wage employees shall (i) not be required to work more than the lesser of (a) 48 hours per week or (b) the limits on regular hours allowed by the law of the country of manufacture, and (ii) be entitled to at least one day off in every seven day period, as well as holidays and vacations.

3. Overtime Compensation: All overtime hours must be worked voluntarily by employees. In addition to their compensation for regular hours of work, hourly and/or quota-based wage employees shall be compensated for overtime hours at such a premium rate as is legally required in the country of manufacture or, in those countries where such laws do not exist, at a rate at least one and one-half their regular hourly compensation rate.

4. Child Labor: Licensees shall not employ any person at an age younger than 15 (or 14, where, consistent with International Labor Organization practices for developing countries, the law of the country of manufacture allows such exception). Where the age for completing compulsory education is higher than the standard for the minimum age of employment stated above, the higher age for completing compulsory education shall apply to this section. Licensees agree to consult with governmental, human rights, and nongovernmental organizations, and to take reasonable steps as evaluated by the University to minimize the negative impact on children released from employment as a result of implementation or enforcement of the Code.

5. Forced Labor: There shall not be any use of forced prison labor, indentured labor, bonded labor or other forced labor.

6. Health and Safety: Licensees shall provide a safe and healthy working environment to prevent accidents and injury to health arising out of, linked with, or occurring in the course of work or as a result of the operation of Licensee facilities. In addition, Licensees must comply with the following provisions:

a. The Licensee shall ensure that its direct operations and those of any subcontractors comply with all workplace safety and health regulations established by the national government where the production facility is located, or with Title 29 CFR of the Federal Code of Regulations, enforced by Federal OSHA (Occupational Safety and Health Administration), whichever regulation is more health protective for a given hazard.

b. The Licensee shall ensure that its direct operations and subcontractors comply with all health and safety conventions of the International Labor Organization (ILO) ratified and adopted by the country in which the production facility is located.

7. Nondiscrimination: No person shall be subject to any discrimination in employment, including hiring, salary, benefits, advancement, discipline, termination or retirement, on the basis of gender, race, religion, age, disability, sexual orientation, nationality, political opinion, or social or ethnic origin.

8. Harassment or Abuse: Every employee shall be treated with dignity and respect. No employee shall be subject to any physical, sexual, psychological, or verbal harassment or abuse. Licensees will not use or tolerate any form of corporal punishment.

9. Freedom of Association and Collective Bargaining: Licensees shall recognize and respect the right of employees to freedom of association and collective bargaining. No employee shall be subject to harassment, intimidation or retaliation in their efforts to freely associate or bargain collectively. Licensees shall not cooperate with governmental agencies and other organizations that use the power of the State to prevent workers from organizing a union of their choice. Licensees shall allow union organizers free access to employees. Licensees shall recognize the union of the employees' choice.



10. Women's Rights

- a. Women workers will receive equal remuneration, including benefits; equal treatment; equal evaluation of the quality of their work; and equal opportunity to fill all positions open to male workers.
- b. Pregnancy tests will not be a condition of employment, nor will they be demanded of employees.
- c. Workers who take maternity leave will not face dismissal nor threat of dismissal, loss of seniority or deduction of wages, and will be able to return to their former employment at the same rate of pay and benefits.
- d. Workers will not be forced or pressured to use contraception.
- e. Workers will not be exposed to hazards, including glues and solvents, that may endanger their safety, including their reproductive health.
- f. Licensees shall provide appropriate services and accommodation to women workers in connection with pregnancy.

IV. Compliance and Disclosure: Licensees (for themselves and on behalf of their contractors, subcontractors, or manufacturers) shall disclose to the Worker Rights Consortium, the University, and the public the information set forth in Sections A, B, and C below.

A. Upon execution and renewal of the License Agreement and upon the selection of any new manufacturing facility which produces Licensed Articles, the company names, contacts, addresses, phone numbers, e-mail addresses, and nature of the business association for all such facilities which produce Licensed Articles;

B. at least sixty (60) days prior to the end of each contract year of the License Agreement, written assurance that (i) Licensees are in compliance with the Code and/or (ii) licensees are taking reasonable steps to remedy non-compliance in facilities found not to be in compliance with the code;

C. at least sixty (60) days prior to the end of each contract year of the License Agreement, a summary of those steps taken to remedy material violations, and/or difficulties encountered, during the preceding year in implementing and enforcing the Code at all of Licensees' facilities which produce Licensed Articles.

V. Verification: It shall be the responsibility of Licensees (for themselves and on behalf of their contractors, subcontractors, or manufacturers) to ensure their compliance with the Code. The WRC and its Member Institutions will undertake efforts to determine and clearly define the obligations associated with the development of adequate methods and training for independent external monitoring, as guided by the principles in the founding document of the Consortium.

VI. Labor Standards Environment: In countries where law or practice conflicts with these labor standards, Licensees agree to consult with governmental, human rights, labor and business organizations and to take effective actions as evaluated by the University to achieve full compliance with each of these standards. Licensees further agree to refrain from any actions that would diminish the protections of these labor standards. In addition to all other rights under the Licensing Agreement, the University reserves the right to refuse renewal of Licensing Agreements for goods made in countries where:

- A. progress toward implementation of the employment standards in the Code is no longer being made; and
- B. compliance with the employment standards in the Code is deemed impossible. The University shall make such



determinations based upon examination of reports from governmental, human rights, labor and business organizations and after consultation with the relevant Licensees.

VII. Remediation: Remedies herein apply to violations which occur after the Effective Date of the Code.

A. If a Licensee has failed to self-correct a violation of the Code, the University will consult with the Licensee (for itself and on behalf of its contractors, subcontractors, or manufacturers) to determine appropriate corrective action.

B. The remedy will, at a minimum, include requiring the licensee to take all steps necessary to correct such violations including, without limitation:

1. Paying all applicable back wages found due to workers who manufactured the licensed articles.
2. Reinstatement of any worker found to have been unlawfully dismissed.

C. If agreement on corrective action is not reached, and/or the action does not result in correction of the violation within a specified reasonable time period, the University reserves the right to

1. Require that the Licensee terminate its relationship with any contractor, subcontractor, or manufacturer that continues to conduct its business in violation of the Code, and/or
2. Terminate its relationship with any Licensee that continues to conduct its business in violation of the Code.

D. In either event, the University will provide the Licensee with thirty (30) days written notice of termination. In order to ensure the reasonable and consistent application of this provision, the University will seek advice from the Worker Rights Consortium regarding possible corrective measures and invocation of options 1 and 2 above.



Designated Suppliers Program

The Designated Supplier's Program, put forth by United Students Against Sweatshops (USAS) is the plan of enforcement for the Codes of Conduct that had been adopted by several hundred Universities. After the Codes were implemented, it became painfully apparent that they were grossly inadequate, and true structural change had to take place, rather than a change in the bylaws of the Universities. The Designated Supplier's Program is the plan endorsed by the Worker's Right's Consortium to achieve that end.

Overview

University logo apparel goods will be sourced from a set of designated supplier factories that have been determined by universities to have affirmatively demonstrated full and consistent respect for the rights of their employees. In addition to respect for the standards currently embodied in university codes of conduct, these factories will also be required to meet two additional standards: demonstrable respect for rights of association – as evidenced by the presence of a legitimate, representative union or other representative employee body – and the payment of a livable wage. University licensees will pay these factories prices for their products sufficient to allow factories to achieve these standards, prices which will represent modest increases over industry norms, and will be expected to maintain the kind of long-term relationships with these factories necessary to allow for a reasonable degree of financial stability and job security. These factories will produce primarily or exclusively for the university logo goods market.

Sourcing Requirement and Workplace Standards

The purpose of this proposal is to ensure to an extent not possible through current codes of conduct and code of conduct enforcement strategies that university logo apparel products are not made under sweatshop conditions. Upon implementation of the Designated Suppliers Program, licensees will be required to source most of their university apparel logo goods from factories that have been designated by the Worker Rights Consortium (WRC). In order to qualify as a designated university supplier, a factory will be required to meet the following criteria:

- The factory must demonstrate full compliance with internationally recognized labor standards, as embodied in university codes of conduct
- The factory's employees must be represented by a legitimate, representative labor union or other representative employee body
- The factory must demonstrate that its employees are paid a living wage, once it is receiving prices for its products sufficient to make this feasible
- The factory must produce primarily or exclusively for the university logo goods market, or for other buyers committed to equivalent standards (including payment of a living wage)

Implementation of the Program will be phased-in over time, with the percentage of goods that licensees are required to source from designated supplier factories increasing each year. After the first year of implementation, licensees will be required to source 25% of their logo goods in this manner. After two years, the requirement will be 50%. After three years, the requirement will be 75%. Once the 75% level is reached, the university community will review the effectiveness of the Program and evaluate the desirability of applying the system to 100% of university production, bearing in mind that there may be value in some university production occurring outside of the sphere of the Designated Supplier Program in order to maintain a broader influence on the apparel industry at large.

Licensees are responsible for ensuring that the required amount of goods is manufactured in designated factories. Subcontracting by designated suppliers will not count towards a licensee's obligation unless those subcontractor factories are also qualified as designated suppliers.

These standards apply only to university licensed apparel and textile products and only to production facilities in which products are sewn and assembled. Upon full implementation of the Program, the university community will



assess whether the Program can be applied to facilities beyond those engaged in sewing and assembly operations and to products beyond apparel and textile goods.

Explanation of Key Standards

Freedom of Association

To qualify as a designated supplier, a factory must be found to fully respect employees' associational rights, as evidenced by the existence of a legitimate labor union or other representative employee body. The union or employee body must have a leadership freely elected by the workforce, without interference from management, and have standing to bargain over wages and working conditions on behalf of the majority of workers. The factory must negotiate in good faith a collective bargaining agreement with the union or employee body. The factory must not curtail associational rights of employees by engaging in terms of employment, such as temporary contract labor arrangements, that have the effect of hindering the exercise of these rights.

Living Wage

Factories will be obligated to pay employees, as a floor, a living wage. A living wage is a "take home" or "net" wage, earned during a country's legal maximum work week, but not more than 48 hours, that provides for the basic needs (housing, energy, nutrition, clothing, health care, education, potable water, childcare, transportation and savings) of workers and their families.

Producing primarily for the university logo goods market

In order for compliance with the above standards to be achievable, university licensees will need to account for a substantial majority of production at each participating supplier factory. The burden will therefore be on licensees to ensure that those factories they intend to use toward fulfillment of their obligation have sufficient orders to ensure that two thirds of annual sales are for the university logo goods market. At the end of its first twelve months as a designated supplier, each factory will be assessed to verify that this standard was met during those twelve months. If it is determined that the standard was not met, the factory will lose its status as a designated supplier and licensees will not be able to count goods sourced from that factory over that twelve month period toward fulfillment of their sourcing obligations under the Program. The purpose of this requirement is twofold: to ensure that designated suppliers receive sufficient orders at prices adequate to allow for compliance with Program standards, and to ensure that these orders are sufficient in volume, and in consistency over time, to enable suppliers to provide stable employment to their workers.

Monitoring

Ongoing compliance with the standards by designated suppliers will be assessed by the WRC through a combination of complaint-based investigations and spot investigations (see Appendix for further explanation of the implementation and monitoring processes).

Fair Pricing Requirement

Licensees and/or their agents will be required to order goods from the designated factories at prices that are sufficient for the factory to pay a living wage and to comply with all other code of conduct standards. The failure of a licensee to purchase goods at prices that meet this standard will represent a violation of its obligations under the Program. It is the responsibility of each licensee, in negotiation with each supplier factory on each order, to determine the appropriate price. The WRC will provide technical assistance, as needed. If the WRC determines that the price being paid for a particular order is insufficient to allow a factory to meet the living wage standard, the licensee will be deemed to be in violation of its obligations under the Program.

Licensees are encouraged to assist factories in enhancing productivity and to improve their own ordering practices in ways that lower suppliers' costs. To the extent that a supplier derives cost savings from such efforts, it is expected that the price premium required to allow that supplier to achieve the workplace standards will be reduced. However, it is the responsibility of the licensees to ensure, in the case of each order, that the price paid to the supplier is sufficient, in view of actual production costs, to allow all of the standards to be met.



Transparency and Disclosure

Licensees and designated suppliers must be fully committed to transparency in order for the WRC to effectively verify their compliance with this program. Factories must allow the WRC and its representatives unobstructed access to the factory when requested.

In order to demonstrate compliance with the sourcing requirement, licensees must publicly disclose, on a quarterly basis, the raw number of goods procured from each supplier factory for each product type during the preceding quarter. The WRC will review this disclosure on an ongoing basis and annually assess each licensee's compliance with the Program.

In order to demonstrate compliance with the fair pricing requirement, in the case of a dispute over appropriate price levels the licensee and the factory must provide the WRC, on a confidential basis, access to relevant financial records and production data.

Appendix - Implementation Process, Schedule and Monitoring

Program Phase-in and Sourcing Requirements

Because of the nature of apparel industry sourcing practices, it is not presently feasible for any factory to fully meet the standards necessary to qualify as a designated supplier. Only when, as a result of the Program, stable orders are available to factories at appropriate price levels will full compliance be possible. Therefore, the Program will involve a start-up phase in which the WRC will work with licensees and factories in order to identify potential designated suppliers, direct orders to these suppliers, and bring them into full compliance with the standards of the Program.

This process will work as follows:

Upon adoption of the Program by licensor universities, the WRC will provide licensees with a list of factories that possess the capacity to achieve designated supplier status, but have not yet done so. This determination will be based on the level of overall code compliance demonstrated by particular factories, including manifested respect for rights of association. Licensees may choose factories from this list and/or factories from their existing supply chains that they believe can be brought into full compliance under the standards of the Program. The WRC will advise licensees on which of their existing suppliers may be likely to achieve compliance and will work with licensees to map out plans for remediating deficiencies and achieving full compliance at a sufficient number of facilities.

The first six months after the inception of the program will be a grace period; licensees will not be required to demonstrate that they are sourcing from designated suppliers until this period has ended. During the grace period, the WRC will advise licensees on an ongoing basis as to whether sufficient progress is being made at a given factory such that it will be feasible for compliance to be achieved in a timely fashion. Assessment of factories to identify designated suppliers will occur at the end of the grace period, and will be initiated in response to requests from workers and their representatives at each factory.

After the grace period concludes, licensees will incur the obligation to demonstrate that they are sourcing the appropriate percentage of their university logo goods from designated suppliers. Compliance will be measured annually, starting from the end of the grace period – meaning that the first compliance assessment will occur 18 months after the inception of the program and will cover the period from the 7th through the 18th month.

Enforcement of Living Wage Standard

Compliance with the living wage standard will be assessed through a combination of complaint-based investigations and spot investigations.

Since in most or all cases, suppliers will need to receive increased prices from buyers before a living wage can be



paid, compliance with this standard will be measured only after a factory has been in receipt of steady orders from licensees under the Program for at least six months, including a commitment from the licensees to pay prices sufficient to enable a living wage.

Because wages at each factory will be set through contract negotiation between worker representatives and management, a factory's compliance with the living wage standard will not be assessed until there has been sufficient opportunity for these negotiations to occur.

A living wage will be established on a worksite-by-worksite basis. The process for establishing a living wage will work as follows. For each facility or facility cluster, the WRC will assemble a committee of experts from the region in question. The committee shall be comprised of individuals from non-governmental organizations, academia, and other civil society institutions with expertise in the local cost of living and workers' issues in the region. The committee will, with assistance from WRC staff, develop a living wage minimum threshold based on a review of data on the cost of living (including both data gathered for the committee and any credible, pre-existing data). The living wage standard will reflect the minimum necessary income in the region in question to provide for the basic needs of housing, energy, nutrition, clothing, health care, education, potable water, childcare, transportation, and savings for a family of average size.

If, as a result of an assessment of wage levels carried out in response to a complaint from workers or their representatives, the WRC determines that the wage offered by factory management falls below this living wage threshold, and the factory refuses to remedy this non-compliance, the factory will lose its designated supplier status.

Enforcement of Fair Pricing Requirement

The fair pricing requirement will be assessed through complaint-based investigations and spot-investigations.

Licensees and supplier factories will freely negotiate prices for licensed apparel orders that enable full compliance with each of the Program's standards. If, at any time, the WRC receives a complaint regarding the alleged failure of a licensee to pay prices sufficient for the factory to comply with Program's standards and the complaint is deemed credible, or if other evidence indicates violations of the fair pricing requirement, the WRC will initiate a review of the prices paid by the licensee to the facility in question. This review will be carried out by a team of trained specialists with expertise on production costs in the apparel industry. The team of specialists will assess the factory's production costs for the product in question and make a determination as to whether the prices paid by the licensee for purchase of licensed goods is sufficient to enable full compliance with the Program's standards. If the licensee is found to be in non-compliance with the fair pricing requirement, and the licensee fails to remedy the non-compliance, the WRC will report this failure to adhere to the Program's requirements to affiliate universities.



Designated Suppliers Program Revision - September, 2006

The following summarizes modifications that the Designated Suppliers Program (DSP) Working Group has made to the DSP. These modifications are designed to address key concerns that have been raised about the program and to enhance its effectiveness and administrative efficiency.

Freedom of Association/Union Requirement

The problem: Objections have been raised to the union requirement on the grounds that 1) it will unfairly exclude factories that respect associational rights but where workers have freely chosen not to unionize; 2) it will in effect require workers to join unions.

Original plan: In order to qualify for the DSP, there must be a union or other representative employee body in the factory.

New approach: DSP factories are not required to have a union or other representative employee body. In order to qualify for the DSP, a factory that does not have a union may demonstrate compliance by taking the steps necessary to ensure that workers at the factory can freely exercise their associational rights.

Additional details: Factories will be required not just to respect associational rights in a passive manner, but to take proactive steps to create an environment in the factory within which workers can make a genuinely free choice about unionization. These steps include communicating clearly to workers the factory's willingness to bargain in good faith with any duly constituted union and maintaining scrupulous neutrality with respect to workers' choice about unionization – making no attempt to influence this choice, whether through coercion or persuasion, and training all supervisors and managers to ensure that this obligation is understood and followed.

Advantages of this approach:

- 1) Addresses the concern that the DSP would exclude a factory where management respects the right of workers to unionize but where workers have nonetheless freely chosen not to do so.
- 2) Includes stringent requirements to ensure that factory managers take the steps necessary to undo the effects of any past anti-union coercion

Enforcement of the Fair Price Standard

The problem: Objections have been raised to the idea of the WRC determining what is and is not a fair price.

Original plan: In the event of a dispute as to whether the price offered by the licensee meets the standard, a complaint is made to the WRC and the WRC investigates and determines whether the price is fair.

New approach: In the event of a dispute, the matter will be resolved through binding arbitration between the licensee and the factory, with the two parties choosing a neutral arbitrator possessing the requisite expertise. The arbitrator's decision will be binding on both parties. The WRC will have the ability to observe and provide input to the arbitrator, but will not have decision-making power.

Additional details: Either side may trigger arbitration. The cost of the process (compensation, travel and other expenses for the arbitrator) will be borne by the two parties, with the licensee covering the majority of the costs. In all cases, the arbitrator will issue a brief public report on the outcome, which will not include any proprietary data from either party or any specific price information. The WRC may also trigger arbitration if it identifies evidence, through a union or worker complaint, or from another source, that a violation of the fair price standard has taken place (in an arbitration triggered by the WRC, the process will remain the same: the licensee and the factory will choose the arbitrator and the WRC will not be involved in the arbitration).



The WRC will have the right to observe arbitrations, review documentation, and provide input to the arbitrator – which the arbitrator may consider at his or her discretion. The WRC will also report periodically to universities on whether the arbitration process is functioning effectively.

Advantages of this approach:

- 1) The power to determine whether a price is fair no longer resides with the WRC. This will make licensees more comfortable. It reduces the WRC's administrative and enforcement burden. It addresses the concern that the WRC has too much overall power in the enforcement of the DSP.
- 2) The cost associated with the arbitration process will give both the licensee and the factory an incentive to settle disputes without arbitration.
- 3) Allowing the WRC to trigger arbitration will serve as a safeguard against a factory choosing to accept an unfair price, rather than initiate arbitration, out of concern for angering a licensee.
- 4) Allowing the WRC to observe ensures that universities have a window into the process and will be informed, in a timely fashion, if the process is failing to ensure adequate prices. Allowing the WRC to provide input to the arbitrator ensures that the worker rights implications of the price dispute are given consideration.

Disputes Concerning Compliance Assessments

The problem: The concern has been raised that the DSP implementation plan does not provide any recourse for licensees if they believe the WRC has mistakenly or unfairly deemed a factory not to be in compliance with the labor standards.

Original Plan: The WRC is the sole authority on compliance matters.

New Approach: Licensees and factories may appeal a WRC compliance decision to an expert appeals panel.

Additional Details: The panel will be comprised of independent labor rights experts, chosen through a multi-stakeholder process in which licensees will participate. In order to access the appeals process, the licensees will have to demonstrate to the panel that they possess substantial evidence that the WRC's decision was erroneous. Panel members will be free of any financial conflict of interest (i.e. they will be individuals who are not employed by an apparel brand, a factory, a union, etc.).

Advantages of this approach:

- 1) The appeals process will reassure licensees about the fairness of the program.
- 2) The process will ensure that if factual errors are committed in the compliance assessment process, there will be a means to correct them.
- 3) The process will increase the overall transparency of DSP enforcement.

Obligations of Small Licensees

The problem: The concern has been raised that the DSP might prove very burdensome to small licensees (and to licensees who sell highly specialized apparel products).

Original Plan: The DSP applies to all apparel licensees, regardless of their size or specific product types.

New Approach: The DSP will apply only to licensees whose annual wholesale sales of university logo goods are in excess of a specific dollar amount, as reported by the Collegiate Licensing Company and the Licensing Resource Group. Small licensees will thereby be exempted from the program. In addition, exemptions will be granted to licensees that can demonstrate that the majority of their university logo apparel production consists of products so highly specialized that they cannot be produced alongside other, more common apparel products and are not sufficient in volume to constitute the majority of any factory's production.



Additional Details: In order for the Working Group to determine the best cut-off point for this small licensee exemption, additional consultation is needed with CLC and LRG to determine the level of sales of different licensees. The goal is to ensure that licensees that have neither the production volume necessary to influence any factory substantially, nor the financial resources to participate actively in the compliance process, are exempted. If the sales of a licensee that is initially exempt subsequently exceed the threshold, the licensee will lose its exemption.

Advantages of this approach:

- 1) Exempts from the DSP small and local licensees that do not have the resources to be active participants in the implementation and enforcement of the DSP.
- 2) Simplifies the administration of the program by exempting a large number of companies without substantially reducing the impact of the DSP (because small licensees, while numerous, account for only a small percentage of collegiate apparel sales).
- 3) Does not expose larger licensees to unfair competition from exempted licensees, because, as noted, any licensee whose sales rise above the cut-off will lose its exemption.
- 4) Small licensees will still be obligated to comply with existing university codes of conduct and enforcement programs.

Factory Selection Process

The problem: The concern has been raised that the DSP's multi-stage factory selection process is too restrictive and cumbersome for licensees.

Original plan: Licensees, factories themselves, universities, and worker advocates are invited to nominate factories. Nominated factories, or the licensees on their behalf, must then provide the WRC with substantial documentation of the factory's labor rights performance. From this large pool of nominees, the WRC first eliminates facially unqualified candidates based on a review of the application data. The WRC then conducts initial compliance assessments at all remaining facilities and, based on these initial assessments, further narrows the pool of nominees to a list of "candidate" designated suppliers – factories the WRC believes have the capacity to meet the program's standards. From this list of candidate factories, licensees then select those they intend to use for DSP production. Following these selections, a remediation plan is developed for each factory, addressing outstanding compliance issues. When remediation efforts are complete, a full assessment is conducted by the WRC, covering all issues except living wage, and, if the factory is deemed to be in compliance, "provisional" designated supplier status is granted. Full designated supplier status is granted when both the union at the factory, and factory management, have reported that they have agreed to a contract including wage levels consistent with the DSP's living wage standard.

New approach: Licensees select the candidate factories, without any pre-screening process. Licensees are free to choose any facility they intend to use for DSP production and which they believe can meet the program's standards. The WRC consults with each selected factory to ensure that management is fully aware of its obligations under the DSP. The licensee works with the factory to address any outstanding compliance issues; the WRC assists as requested. At a time of the licensee's and/or factory's choosing, but no later than six months into the first program year, the WRC conducts a full compliance assessment, covering all code standards. Designated supplier status is granted to the factory if it is determined to be in compliance.

Additional Provision: There have been a small number of factories that have achieved and maintained substantial labor rights improvements, due in significant part to intervention under university codes of conduct, undertaken in response to worker complaints. Because of the long-standing relationship of between many universities and these facilities, and because of the principle that demonstrated compliance should be rewarded, it is important to ensure that these factories are supported universities transition to the DSP. For this reason, in the first year of the DSP, any licensee that used one of these factories for collegiate production at any time between June 30, 2001 and July 1, 2006 will be required to contract with that factory as one of its DSP facilities, provided the factory wishes to participate in the DSP and is able to meet the labor standards. Licensees with small supply chains will be exempted from this requirement, in order to ensure that the requirement does not unreasonably restrict licensee's sourcing options. Only licensees that have twenty or more collegiate production facilities (prior to the implementation of the



DSP) will be subject to this requirement. The list of factories, as determined by the WRC, is as follows:

- BJ&B (Dominican Republic)
- Lian Thai (Thailand)
- Mexmode (Mexico)
- New Era (Derby, New York, USA)
- PT Dada (Indonesia)
- PT Kolon Langgeng (Indonesia)
- Rebound/VF India (India)
- PT Panca Brothers Swakarsa (Indonesia)

Advantages of this approach:

- 1) The factories preferred by licensees are not required to go undergo an extensive pre-screening process before they can become candidate designated suppliers. This increases the freedom of licensees to choose whichever factories they wish and streamlines the selection process.
- 2) It is not necessary under this approach for the WRC to assess a long list of nominated factories and application materials, and conduct multiple initial reviews, in order to identify the candidate factories. This stage is removed. Only those factories that licensees identify, and actually intend to use for DSP production, will be assessed. This means that far fewer factories will need to be reviewed.
- 3) Because the WRC is no longer providing a list of candidate factories from which licensees must choose, the WRC is not responsible for ensuring that the available factories are capable of meeting licensees' production needs. Licensees will be free to select factories that meet their production needs.
- 4) The provision concerning the eight factories will ensure that the removal of the union requirement, which would have made these factories a logical option for licensees, does not result in these factories being excluded from the program. At the same time, it is a narrowly-drawn provision that will have only a modest impact on a small number of licensees

Two-Thirds Requirement

The Problem: Licensees have stated that some collegiate products are so seasonal (in terms of sales and therefore production) that it is difficult or impossible for a factory to devote two-thirds of its annual production to these products – that this would leave a factory idle much of the year and overtaxed during production peaks. Licensees have also stated that this requirement unduly limits their flexibility in making production decisions.

Original Plan: In order to qualify for the DSP, two-thirds of a factory's production must be for the university market and/or for other buyers willing to honor the DSP's labor and price standards.

New Approach: In order to qualify for the DSP, a majority of a factory's production (i.e. 50% plus one) must be for the university market and/or for other buyers willing to honor the DSP's labor and price standards. In addition, licensees can obtain an exemption from the DSP if they can demonstrate that the majority of their university logo production is of a product or products subject to such extreme seasonal sales fluctuations that it is not feasible for a factory to devote the majority of its annual production to such a product or products.

Advantages of this approach:

- 1) Increases the freedom of maneuver of both factories and licensees.
- 2) Reduces the production scheduling challenges for factories and licensees created by the seasonality of some products.



Length of Licensee-Supplier Relationships

The Problem: The concern has been raised within the Working Group that the problem of licensees jumping between factories could still continue, even when the DSP is in place, because licensees could still jump from year-to-year from one DSP factory to another.

Original Plan: The DSP assumes long-term relationships between licensees and suppliers, but contains no specific mechanism to ensure that this goal is achieved.

New Approach: A licensee will be required to have a long-term contract with each DSP factory it selects.

Additional Details: The contract, which will be for a minimum of three years, will not include specific orders, products, or prices; it will only commit the licensee to place at least enough orders at the factory, each year of the contract, to fill a specific percentage of the factory's production capacity (at least 50%, unless multiple licensees are using the facility). The contract, which the licensee and the factory will negotiate, will incorporate the fair price standard and will also include "out" clauses – allowing the licensee to withdraw from the contract if the factory fails to meet agreed upon quality standards (despite a good faith effort on the part of the licensee to help correct the problem); if the licensee loses its university license (or suffers some other setback that prevents the licensee from continuing to purchase the relevant products), or if the factory loses its DSP status. Any dispute between the licensee and the factory – over the fairness of the price for an order, over an effort by the licensee to exercise one of the "out" clauses – will be resolved through binding arbitration (by a neutral arbitrator selected by the two parties).

If the licensee decides not to renew its contract with a factory and to leave at the end of the three-year term, the licensee will be required to offer the factory a transition year: a renewal of the contract, under the same terms, for one year, but at a reduced level of order volume (50% of the level stipulated in the expiring contract). The purpose of this mechanism is to give the factory the ability to make an orderly transition back to the non-university market. (Concern has been expressed within the Working Group that there is a risk of DSP factories losing business when their three year contracts expire, that the greatest risk will be borne by unionized factories with higher cost structures, and that this could have the effect of undermining associational rights. The Working Group intends to discuss this issue further.)

Advantages of this approach:

- 1) The stability of the system is greatly enhanced; licensees are prevented from jumping between factories year by year.
- 2) This makes the program significantly more attractive from the factory perspective and will therefore increase the incentive of factory managers both to enter the program and to maintain compliance with the labor standards on an ongoing basis.
- 3) An up-front commitment of long-term orders will reassure factories, for whom the DSP will be a very new concept, that the promise of stable orders at fair prices is a serious one. This will reduce the chance that factories will hedge their bets, particularly on the issue of associational rights – dragging their feet on full compliance while waiting to see whether stable orders really materialize.
- 4) The longer time horizon will make it easier for the factory to schedule production efficiently, reducing any complications that may be created by the move to majority collegiate production (e.g. seasonality of production).
- 5) Job security for workers will be increased, an essential goal of the DSP.
- 6) Licensees will still be able to leave a factory in the event of major quality (or other production) problems or adverse business circumstances that preclude the continuation of orders.



Living wage

The Problem: The concern has been raised that granting the WRC sole authority to determine living wage levels places too much power in the hands of one organization.

Original Plan: The specific living wage level for a given location is determined by local experts, identified by the WRC, who construct a culturally appropriate market basket of goods and services and determine the price for each of these goods and services in local markets. There is no process for appeal if the accuracy of the WRC's determination is disputed.

New Approach: If a licensee, a factory, or a union believes that a wage level determined by the WRC is inaccurate, an appeal may be made to an expert panel.

Additional Details: Appeals will be heard by an international panel of experts, chosen through a multi-stakeholder process (as with appeals of compliance decisions). Decisions of the panel will be final and binding on all parties.

Advantages of this approach:

- 1) The appeals process will reassure licensees about the fairness of the program.
- 2) The process will ensure that if factual errors are committed in the calculation of living wages, there will be a mechanism to correct the error.

Note on legal issues: A Business Review Letter will be requested from Department of Justice, to ensure that the DSP, in its modified form, is consistent with U.S. Anti-Trust law.



DSP Operational Structure and Implementation Process

This document addresses key issues regarding implementation of the Designated Suppliers Program (DSP). The document reviews the central elements of the implementation process as outlined in the DSP policy proposal circulated by United Students Against Sweatshops (USAS) as well as the procedures by which the program's key elements will be enforced. It also identifies the main steps that universities will take as they move to implement the program.

In the debate over the DSP, some have expressed concern that the DSP is a concept, rather than a fully formed program, and that it lacks the structural details necessary for it to be properly evaluated or effectively implemented by universities. It is important to understand that this is not the case; the DSP policy circulated by USAS contains both an implementation timeline and a description of the specific steps that will be taken to put the program into place in its first year. The major features of the DSP and the key procedures through which it will be carried out have been outlined in the proposal outline and in subsequent documents prepared by USAS and the WRC. While there are details that must be worked out as universities move towards implementation of the program, there is sufficient clarity at this point about what the DSP is, and how it will work, for universities to evaluate the proposed policy. The purpose of this memo is to identify and clarify those basic details in order to assist universities as they make decisions about the program.

This document includes the following:

- A brief overview of the DSP
- Key elements of the process by which the DSP will be implemented and maintained, as outlined in the USAS proposal and subsequent materials, in a question and answer format
- A brief discussion of the additional details that must be addressed by universities as they move towards implementation, and initial steps that universities can take to aid the transition towards a designated supplier system

Overview of the Designated Suppliers Program

Before addressing issues of how the program will function in practice, it is useful to review the basic elements of the DSP.

The Designated Suppliers Program requires licensees to source an increasing percentage of their university logo apparel from factories that have affirmatively demonstrated a high level of respect for worker rights. In effect, the program will entail a consolidation of the production of university logo apparel – now spread across thousands of factories, each of which produce primarily non-university goods – into a smaller set of factories, which will produce primarily for the logo goods market. Through the program, universities will ask their licensees to strike a bargain with a subset of their suppliers: stable orders at fair prices in exchange for a lasting, enforceable commitment to high labor standards. By making code compliance a winning proposition for factories, the program is designed to enable a much higher level of respect for university labor standards than is currently possible under existing code enforcement strategies.

In order to qualify as a designated university supplier, a factory will be required to meet the following criteria:

- The factory must demonstrate full compliance with internationally recognized labor standards, as embodied in university codes of conduct
- The factory's employees must be represented by a legitimate, representative labor union or other representative employee body
- The factory must demonstrate that its employees are paid a living wage, once it is receiving prices for its products sufficient to make this feasible
- The factory must produce primarily or exclusively for the university logo goods market, or for other buyers committed to equivalent standards (including payment of a living wage)

The program includes two key features designed to ensure that licensees' purchasing practices enable factories to meet the designated supplier standards. First, licensees are required to order goods from the designated suppliers at prices that are sufficient to allow each factory to comply with all code of conduct standards, including the payment



of a living wage. Second, the program requires that licensees ensure that two-thirds of each designated supplier's business is dedicated to university licensees or other buyers committed to the program's standards. In tandem, these requirements are designed to ensure that each designated supplier factory receives a sufficient volume of orders at adequate prices to adhere to university standards.

The DSP proposal also includes an implementation timeline, premised on the reality that few if any factories currently meet the program's standards in full. In order to allow time for factories to reach compliance with the new requirements, as well to allow licensees time to make the necessary changes in their sourcing operations, the requirement that licensees source products from designated factories is phased in over time: licensees will be required to source 25% of their university logo goods from designated suppliers in the first year of the program, increasing to 50% in the second year, and 75% in the third year. In addition, the program outline provides for a six month grace period prior to imposition of the program's requirements during which licensees and factories will work to transition to the program. This implementation timeline, as well as the role that licensees will play in the transition to the program, are explained in detail in the following section.

Key Elements of DSP Implementation

This section articulates a range of key implementation issues, organized into a series of questions and answers. These issues concern the means through which the program will be put into place and how compliance with the standards will be implemented and evaluated. The information presented here has been previously presented in the initial DSP proposal document, in further materials circulated by USAS and the WRC, and in a variety of discussions and forums.

1. What will be the role of licensees in making production sourcing decisions under the program?

When discussing the implementation process, it is critical to understand one of the key elements of the DSP's design: the changes in supply chain operations that are integral to the program will not be managed by universities or factory monitors, but by licensees themselves. The DSP is *not* a system in which universities and their monitoring agent will make the decisions about where each order will be placed by each licensee or how much the licensee will pay for it. These are decisions licensees will make, in almost all cases. Thus, DSP implementation does not require universities or their monitoring agents to possess sophisticated knowledge of sourcing systems or factory production capacity, but instead relies on the expertise of licensees on these issues to organize their production in accordance with the requirements of the program.

In order to meet their obligations to licensor universities, licensees will have to make changes in their sourcing operations: consolidating production into fewer factories and adjusting factory prices. However, while universities will set the new rules, licensees will have both the obligation and the right to determine the specific changes in their sourcing operations that will be needed in order to comply with these rules. The DSP will modify the way licensees behave, and will substantially alter the labor rights outcomes, but universities will not have to take over the management of licensees' supply chains to achieve these ends. The primary expansion of the university and WRC role under the DSP is in the extension of the standard setting and enforcement function to the realm of pricing and sourcing practices. While this *will* serve, by design, to limit licensees' range of maneuver – which is necessary to curb destructive practices – the university and WRC intervention is intended to reshape licensee sourcing practices, not micro-manage them.

2. Which products and factories will be covered by the policy?

The DSP proposal indicates that the program will apply only to university logo apparel and textile products and only to facilities where these products are sewn and assembled, rather than the full range of logo goods and production processes. This gives the university community an opportunity to test the program on a manageable segment of the industry before evaluating whether it should be applied to a broader range of products and facilities.



3. How will designated supplier factories be identified?

Perhaps the most frequently asked question about the DSP is concerns how factories will become designated under the program. As noted above, the implementation process set out by the DSP proposal accounts for the fact that no factory currently meets the program's standards. The program's schedule includes a six-month grace period during which the WRC will work with licensees and factories in order to identify potential designated suppliers, direct orders to these suppliers, and bring them into full compliance with the standards of the program. This process can be divided into four primary steps.

Step 1: Nomination of factories: Under the DSP proposal, factories may be nominated by either the WRC or by licensees themselves. At the outset of implementation of the program, the WRC will provide licensees with a list of factories that possess the capacity to achieve designated supplier status, based upon overall code of conduct compliance and progress in the key area of associational rights. Licensees may nominate factories from within their existing supply chains that they believe can be brought into full compliance under the standards of the program. It will also be appropriate for factories to nominate themselves or be nominated by unions or worker advocate organizations. In order to ensure that the nominated facilities are credible candidates, a range of self-disclosed documentation regarding each facility's track record with and commitment to code compliance will be required at the time of their nomination.

Step 2: Initial assessment of factories and identification of facilities likely to achieve designated supplier status: The DSP implementation process calls for the WRC to advise licensees on which of the nominated suppliers may be likely to achieve compliance with the program's standards. The WRC will conduct initial assessments of each credible nominated factory in order to determine whether the factory is likely to achieve designated supplier status. This determination will be based on the facility's overall level of code of conduct compliance and, if workers at the facility do not have legitimate collective representation, whether there is a reasonable prospect of workers gaining such representation.

Step 3: Remediation of deficiencies in order to bring factories into compliance the program's standards: The DSP proposal next indicates that the WRC will work with licensees to map out plans for remediating code of conduct violations and achieving full compliance with the program's standards at a sufficient number of facilities for the initial stage of program's implementation to take place. Licensees will choose from among the list of factories identified as likely to meet the program's standards those facilities which they wish to use to meet their 25% sourcing requirement in the first year. Based on the initial compliance assessments, the WRC will develop remediation plans for each of these factories to correct any outstanding violations of worker rights identified in each candidate factory. The programs will be similar to those the WRC has implemented successfully at a number of factories over the past five years. With respect to associational rights at factories where workers do not have the necessary representation at the time of nomination, the remediation plans will require that factories take necessary measures to allow workers to freely exercise their associational rights and demonstrate a favorable attitude toward unionization; factories will not be allowed to impose collective representation on workers or influence their decisions in any way.

Step 4: Full factory assessment and awarding of provisional designated supplier status: As remedial action plans are completed during and after the six-month grace period, the WRC will conduct compliance verification to determine whether facilities have achieved compliance with all university code standards (including whether workers have achieved collective representation), with the exception of the living wage standard. As noted in the DSP policy, because factories will need to receive increased prices before they will be able to comply with the living wage standard, and because wages will be set through contract negotiations between worker representatives and management, compliance with the living wage standard will not be assessed until factories have been in receipt of orders under the program for at least six months and until there has been sufficient opportunity for collective negotiations to occur. (Note that the issue of implementation of and compliance with the living wage standard is addressed in the following section).

From the point at which the grace period ends, licensees will incur the obligation to demonstrate that they are sourcing the appropriate percentage of their university logo goods from designated suppliers (25% during the first



year, 50% during the second year, and 75% during the third year). During the first and second years of program implementation, the above process will be repeated in order to bring additional factories into the program as licensees' sourcing obligations increase.

4. How will the program ensure that there is sufficient time for licensees to make the necessary changes in their sourcing practices and for the program to be evaluated and fine tuned if needed?

One key feature of the DSP's implementation design is the way in which the program's requirements are phased in gradually over time. This phased in schedule serves three purposes: 1) providing licensees with sufficient time and flexibility to alter their sourcing operations in ways that will not be excessively burdensome nor force them to renege on existing contractual obligations, 2) providing factories the time to remediate worker rights violations and improve compliance to the level required of designated suppliers, with the understanding that no factory currently meets the program's requirements and the changes in licensees' sourcing practices required by the program are necessary before this compliance can be achieved, and 3) allowing universities to evaluate the program at each stage of implementation and make any changes that are necessary.

As outlined briefly above, there are two key phase in mechanisms – an initial grace period and a graduated increase in the percentage of logo apparel that licensees will be required to purchase from designated suppliers. The grace period will run for six months beginning on the date universities enact the program. During this six month period, licensees will have no formal obligation to source from designated supplier factories. Licensees will be expected to use this time to plan the reorganization of production that will be necessary to achieve compliance when the new rules go into effect and to work with factories to bring them up to the standards of the program.

At the end of the grace period, licensees will incur the obligation to source 25% of their university logo apparel from designated suppliers. Compliance will be measured annually, on a retrospective basis – meaning that at the end of each twelve month period, licensees will be obligated to show that during those twelve months, 25% of their logo goods were sourced from designated suppliers. Annual measurement will allow licensees significant flexibility during the phase in period; for example, even if a licensee does not make a single purchase from a designated supplier factory in the three months after the grace period ends, the licensee can still achieve the standard by purchasing one third of its logo goods from designated suppliers during the remaining nine months of the year. The requirement will increase to 50% in year two and to 75% in year three. At that point, universities will make a determination as to whether it is desirable to move to a 100% requirement.

Together, the grace period and gradual schedule for implementation of the sourcing requirements will enable a realistic timeline, multiple opportunities for evaluation, and a manageable set of tasks for licensees, factories and monitors.

5. How will the WRC determine whether a union or other worker body is a legitimate representative of workers?

An important aspect of the implementation and ongoing enforcement of the DSP will be assessments and findings by the WRC as to whether a union or representative employee body in a given factory was legitimately constituted and is legitimately representative of workers. Concerns have been raised that this is will take monitoring into new and dangerous territory. In fact, the process of assessing the legitimacy of a union present in an apparel factory is a commonplace feature of code of conduct monitoring and has been for many years. Given the prevalence of company-controlled and government or political party-controlled unions in apparel exporting factories in the developing world, monitors cannot meaningfully assess the degree of respect for rights of association without making determinations about the legitimacy of standing unions.

Such determinations have been a routine aspect of the WRC's work, featuring prominently in our investigation and remediation efforts at Mexmode (Kukdong) and Monclova I in Mexico; PT Dae Joo Leports, PT Kolon Langgeng, PT Dada and PT Panarub in Indonesia; and Easy Group in the Philippines; among others. In all of these cases, WRC investigators reached definitive conclusions as to the legitimacy of the extant union or unions in the factory in question. In none of these cases has the veracity of these conclusions been called into question.



Making such determinations is a straightforward investigatory exercise. It requires 1) a comparison of the internal structure, procedures, and actions of a union to clear criteria as to what constitutes legitimate worker representation – standards which, in the WRC’s work, are derived from international conventions and from principles enumerated by global union bodies; and 2) a review of the process through which the union was originally constituted, through the lens of the domestic laws of the country in question, to determine whether the process was lawful and free from undue interference by management, government or political party actors. In most instances, the evidence points to a very clear conclusion; in the WRC’s experience, it has never been a close call.

Verification of the presence of legitimate unions in factories seeking to achieve or maintain designated supplier status will be an extension of the work the WRC is already doing in this sphere. If, in the course of DSP implementation, a case arises where the WRC’s findings on this issue are disputed, a panel of labor rights experts familiar with the set of international standards regarding legitimate worker representation can be assembled to review the situation.

The one element that will be a departure is the effort to determine whether workers in countries where independent unions are formally banned have been able to achieve meaningful collective representation in a given workplace. However, the difficulty here is not the investigative process, which is comparable to the same work in other countries, but the need to establish clear standards.

The DSP incorporates a very clear standard: the employee body must be able to represent workers in meaningful collective bargaining, including negotiations over wages and working conditions. Given that simple criterion, the process of assessing compliance is straightforward.

6. Will factories in countries that bar independent unions be prohibited from participating in the program?

As alluded to in the previous question, factories in locales such as China, Vietnam, and the export processing zones of Bangladesh – where the law bars the formation of independent trade unions – will not be ruled out of the DSP. The DSP proposal document states that, in order to qualify as a designated supplier, “the factory’s employees must be represented by a legitimate, representative labor union *or other representative employee body*” (emphasis added). The language “other representative employee body” was specifically included in the DSP to make it possible for factories in such locales to participate in the program.

China is, of course, the key issue here. Chinese law effectively bars independent unions. However, Chinese law allows for worker committees to be formed that may be able to carry out many of the functions of a union, including collective bargaining. NGOs and multi-stakeholder initiatives are engaged in a variety of efforts to help workers in some Chinese apparel factories create such committees – this is the most important code enforcement work now going on in China on the issue of associational rights. If workers succeed in achieving representation through such committees at individual workplaces, the DSP will allow those factories to be designated suppliers, provided the committees are able to represent workers in a meaningful way through collective bargaining and other means. Indeed, the DSP will actually create strong incentives for factories to work in good faith with such committees, as this will be the key to gaining designated supplier status – thus helping to advance real efforts in China to create space for workers to exercise their associational rights. With respect to Vietnam (which has restrictions on associational rights similar to those in China) and the Bangladesh export processing zones (where recent legal reforms have made some improvements on this issue) the same standard will apply. If workers are able to achieve the formation of worker committees, or other bodies, that can carry out key collective representation functions (including bargaining) these factories will be eligible to be designated suppliers.

7. How will the living wage standard be implemented?

The implementation of the living wage standard will be undertaken in two stages.

A) Initial Living Wage Research

As noted above, enforcement of the living wage standard will not occur until designated factories are in receipt of



orders from licensees under the program and there has been sufficient time for wage negotiations to take place. During the period leading up to this juncture, the WRC will ask local experts in countries and regions where prospective DSP factories are located to conduct initial living wage research. The data generated through this research will provide guidance to factories as they begin to enter wage negotiations with worker representatives. Once this initial research is complete, living wage calculations will be conducted only where disputes arise. This research involves two essential steps: 1) Determining a basic, culturally appropriate market basket of the goods and services necessary to support a family in a given country; and 2) Determining the market price of each good and service that would be locally available to a garment worker, in appropriate quantities, and generating a monthly figure for living costs from this data. For detailed information on how this research will be undertaken, please review the sample living wage studies conducted by the WRC for two countries, El Salvador and Indonesia, available on the WRC website.

B) Implementation of Living Wage through Contract Negotiations

The means by which implementation of living wages will occur in worksites is through contract negotiations between management and worker representatives. The WRC will only conduct an assessment of wage levels at a particular factory if worker representatives make a complaint alleging that management has refused to negotiate a living wage.

The process will proceed as follows. Management and worker representatives will set wage levels either during the course of regular union contract negotiations or during special negotiations arranged to specifically address wage levels. Following contract negotiations, the WRC will receive either a report from management and worker representatives indicating that a living wage has been achieved or a complaint from worker representatives that the factory has refused to negotiate a living wage.

(Complaints can be lodged during the course of negotiations as well.) In cases where there is a dispute, the WRC will assemble a committee of experts from non-governmental organizations, academia, and other civil society institutions with relevant expertise. The committee will conduct research on the local cost of living, using the research methodology demonstrated in the WRC's sample living wage estimates, to make a determination as to the minimum salary required to meet basic living expenses in the locale in question and compare this to the highest wage offered by management during collective bargaining. If the proposed wage is inadequate, the factory will be asked to renew negotiations with the factory's union. Failure of the factory to successfully negotiate a wage that meets or exceeds the basic living wage threshold will represent noncompliance with the living wage standard.

Once living wage levels are implemented, ongoing enforcement of the living wage standard will take place through the same mechanism outlined above. Wages will continue to be set freely between management and worker representatives through collective contract negotiations. The WRC will only intervene and conduct a living wage compliance assessment in response to complaints.

8. How will the fair pricing requirement standard be implemented?

As noted above, the DSP would require licensees to pay a price to each factory sufficient to enable the factory to meet the program's code of conduct standards, including payment of a living wage. The fair pricing standard will be implemented through traditional price negotiations between licensees and designated supplier factories, with intervention by the WRC only in response to a complaint that the standard has been violated.

The actual prices will be set, as they are now, through price negotiations between licensees and the designated supplier factories where they choose to place production. This will be the case for the initial orders licensees place and for all subsequent orders. These price negotiations will differ from current practice in one crucial respect: the licensee and the factory will enter each negotiation with the understanding that the agreed price cannot be lower than the floor defined by the fair price standard. This will ensure that licensees base their price demands on an accurate assessment of what it will actually cost the factory to make the product under the applicable labor standards – a process that is vital to labor rights compliance but rare in today's apparel industry. Most licensees (or, where applicable, their buying agents) possess the capacity to make these calculations.



Enforcement of this standard will *not* require that prices be set *a priori* for any given apparel product. In other words, there will be no public list of prices set by the WRC, or any other entity.

The WRC's role will be limited to enforcement action in cases where complaints arise that a licensee is paying a price for a particular order that violates the standard. This may happen, for example, when a union complains that a factory has refused to negotiate a living wage and the factory, in turn, blames the price being paid by the licensee. In such cases, the WRC will assemble an assessment team, comprised of individuals with relevant expertise, who will review data supplied both by the licensee and the factory and make a determination as to whether the price being paid for the order in question meets the standard. This assessment will be made based on the assessors' expert knowledge of production costs and processes, and review of the relevant cost factors in both a local and temporal context, not on reference to prices being paid by the factory's other customers. If the assessment team concludes that the price does not meet the standard, the licensee will be asked to renegotiate with the factory. The assessment team may also, in some cases, conclude that the price is inadequate only because of the failure of the factory to operate in a reasonably efficient manner, in which case the licensee will not be found in violation of the standard but will be expected to work with the factory to improve efficiency while maintaining compliance with the program's labor rights standards.

It is important to bear in mind that, while factories will be expected to operate at a reasonable standard of efficiency, the fair pricing requirement creates a strong incentive for licensees to work with designated supplier factories to achieve deeper efficiency gains. Under current circumstances, a licensee can achieve reductions in price without any improvements in efficiency, either on the part of the factory or in the licensee's sourcing procedures. This is possible because price is often determined by market pressures unrelated to actual production costs, which can compel factories to accept prices for some orders that are below actual production costs (or below what the costs would be if the factory complied with applicable labor standards). When licensees can obtain lower prices without improved efficiency, there is limited incentive to focus on improvements in efficiency. Under the DSP, licensees will not be able to pay a price below the legitimate cost of production. The only way licensees will be able to reduce prices will be to reduce costs through efficiency gains. Thus, the DSP fair pricing requirement does not set prices, nor mandate a price increase of any particular size; it only requires that price reflect production costs. If licensees can improve their own practices and/or those of their supplier factories while allowing factories to maintain the high level of respect for labor rights required by the DSP, they may in some cases be able to comply with the fair price standard by reducing costs, rather than increasing price.

Like other aspects of the DSP, the fair pricing requirement is intended to be largely self-regulating. In the initial year of the program, we anticipate a modest number of complaints, as a result of the failure of some licensees to understand the requirement properly, the decision of others to test the system's limits, and the mistaken belief of some factories that the fair price requirement absolves them of the need to operate in an efficient manner. However, as these complaints are investigated and violations are identified and remediated, the system's participants will gain a clear sense of what the requirement means and a clear understanding that violations will be not be tolerated. Armed with full knowledge of the parameters within which they must operate, licensees and designated suppliers will arrive at fair prices through the traditional price negotiation process, without the need for intervention by monitors.

9. How will the requirement that designated suppliers produce primarily for the university logo goods market be implemented?

A key provision of the DSP is that participating factories must produce primarily for the university logo goods market. Specifically, the DSP requires university apparel (or apparel for other buyers committed to equivalent standards) constitute at least two-thirds of the annual sales of designated supplier factories. The purpose of this requirement (in combination with the fair pricing requirement) is to ensure that designated supplier facilities receive orders from licensees that are sufficient in volume, consistent over time, and at a price level that gives suppliers the financial wherewithal to comply with all of the program's standards, including the living wage standard, and to provide stable employment to their workers. Participating factories would simply not be able to adhere to all of the program's standards, including the living wage standard, without receiving adequate prices for most orders produced in a year. If a university licensee accounted for only 15%, for example, of a supplier's sales, the price premium paid



by the licensee would not allow the supplier to meet the wage and other standards for 100% of the workforce – as the DSP requires.

At the end of its first twelve months as a designated supplier, each factory will be assessed to verify that this standard was met during those twelve months. The evaluation will be based upon an evaluation of self-disclosed data on production volumes at individual factories, spot checked for accuracy. If it is determined that the standard was not met, the factory will lose its status as a designated supplier and licensees will not be able to count goods sourced from that factory over that twelve month period toward fulfillment of their sourcing obligations under the program. Because this could place licensees that used that factory in serious breach of the codes of all participating universities, licensees will have a strong incentive to ensure that the factories they intend to use toward fulfillment of their obligation have sufficient orders to ensure that two thirds of annual sales are for the university logo goods market.

10. How will licensees' obligation to source a required percentage of goods from designated suppliers be assessed?

Licensee's central obligation under the DSP will be to comply with the requirement that an established percentage of their total production of logo goods occur at designated factories; the requirement will be 25% of goods in the first year of implementation, 50% during the second year, and 75% during the third year.

The DSP calls for licensees to publicly disclose, on a quarterly basis, the raw number of goods procured from each supplier factory for each product type during the preceding quarter. (The specific disclosure protocol and reporting requirement may be revisited upon formulation of a detailed implementation plan.) The WRC will spot check this data for accuracy.

Licensee compliance with the sourcing requirement will be assessed retrospectively, at the end of each year of the DSP's implementation. At the end of the first year, the WRC will review each licensee's disclosed data to determine whether the licensee complied with the requirement to source 25% of its university logo apparel from designated supplier factories.

Throughout the year, the WRC will also conduct spot reviews of licensees' quarterly volume disclosure information on an ongoing basis to ensure that licensees are making sufficient progress toward fulfillment of the sourcing requirement by the end of the year.

11. How will the program ensure that licensees are able to obtain the products they need with the necessary quality, volume, and delivery time?

The concern that there will not be enough factories to serve licensees' needs under the DSP arises from a misunderstanding of the means through which factories will become designated suppliers. It is important to understand that the purpose of the DSP is not to affect a wholesale shift of university production to some pre-existing set of factories that are already fully-qualified for designated supplier status. Under the DSP, licensees will have the option of choosing from among factories that have been identified by the WRC as possessing the capacity to achieve designated supplier status, based upon the factories' overall level of code compliance. However, as explained clearly in the DSP proposal document, licensees will *also* have the option of bringing any of their existing suppliers into the system by helping those suppliers to meet the qualifications for designated supplier status, provided that those factories do achieve full compliance with the standards as assessed by the WRC. Indeed, by *requiring* licensees to purchase from factories where there is legitimate worker representation, where workers can negotiate a living wage, and where all other university standards are met, the DSP will give licensees a powerful incentive to bring factories *already* in their supply chains up to these standards. Some factories not now producing university logo apparel will become designated suppliers, but, because we assume many licensees will prefer to stay with existing suppliers, we expect that many designated suppliers will come from existing licensee supply chains. *Since licensees will be able to nominate designated suppliers from among their current supplier factories, it is hard to understand why they would be concerned that there would not be sufficient production capacity.*

Concerns have been raised that the program will excessively restrict licensee business decisions, such as choice of



factories. It is necessary to bear in mind that existing codes of conduct already preclude licensees from sourcing from any factory that does not meet university standards. If restricting production options in this manner were either unreasonable or impractical, universities would not have imposed such requirements in the first place. The only difference under the DSP is that factories will have to affirmatively demonstrate compliance before they can produce university logo goods, as opposed to the current system, where compliance is assumed until evidence shows otherwise. The standards will be higher than those in some university codes, in terms of wages and freedom of association, but the requirement that licensees produce only in factories that meet university standards already exists. What will be different is more explicit and effective enforcement.

12. Will the transition to the designated suppliers model cause massive job loss as licensees are forced to “cut and run” from their existing suppliers?

It is encouraging to see attention given to the serious problem of brands and licensees “cutting and running” from factories. Unfortunately, what we have learned through five years of enforcing codes of conduct is that cutting and running is rampant in the industry – with licensees and other brands routinely leaving factories in search of lower prices and for a variety of related reasons. As a result, under the *present* sourcing practices of brands and licensees, job loss is endemic in the apparel industry – and is accelerating as a result of the phase-out of the Multi-Fibre Arrangement. Workers have minimal job security; large-scale layoffs and factory closures are routine.

One of the central purposes of the DSP is to do something about this epidemic of job loss and insecurity. At present, university apparel is sourced from thousands of factories, with university licensees often representing only a minor and fleeting presence at a given facility. The DSP envisions a much more stable system, in which university production is concentrated in a smaller number of factories where the licensees are the bulk of the customer base and where they stick around for the long term. Under the DSP, workers would have far greater job security than they can find at present in factories producing for the collegiate market. Those concerned about job loss should welcome the kind of change in industry sourcing practices that is essential if job security is going to be a reality for apparel workers.

Participants in the DSP debate have sometimes for asked an analysis of the impact of the proposal at factories that will lose collegiate production. At the WRC, we have looked carefully at this question. Our conclusion is that, because university licensees generally represent a very small portion of the customer base of a given factory, the impact on workers of the production shifts the DSP requires would be minimal. There are also factories where a university licensee *does* account for a large portion of sales – but these are factories that will be prime candidates for designated supplier status, because they are factories the licensees have already identified as key suppliers. Licensees will be able to nominate these factories as designated suppliers and then work with them to ensure that they achieve the applicable code standards, thereby maintaining – and indeed, increasing – orders in these facilities.

In view of the widespread job loss and insecurity that plague apparel workers under *current* industry sourcing practices, the transition to the DSP, if it causes any job loss, will be like turning on an electric fan in a hurricane. Meanwhile, the lasting impact of the DSP will be to *reduce* job loss and achieve a far higher level of job security for the workers who sew collegiate apparel.

Implementation Steps for Universities

The DSP outline presents a structured implementation plan and a description of the mechanisms for enforcement. As with any new initiative, there are a number of implementation details and questions that must be worked out before universities proceed in implementing the program. These tasks include the determination of specific operational details necessary to guide the transition to a designated supplier system and other decisions that can only be made collectively by those universities implementing the DSP. Universities may also wish to explore immediate steps that can be taken to support factories where progress has been made before full DSP implementation begins. Each of these issues is discussed below.



Implementation Decisions

Once universities make the decision to implement the DSP, these institutions, in consultation with USAS as the authors of the program, will need to determine a number of the details of program implementation. At present, those colleges and universities that have announced their support for the DSP have formed a working group to begin addressing these issues. The work of this group will include consultation with worker advocates and licensees, among other stakeholders. It is important to stress that these are practical implementation details, not fundamental questions that speak to the feasibility or merits of the program or how it will function. These include operational details such as the specific application requirements for those factories nominated for designated supplier status, the exact protocols for factory and licensee disclosures needed to assess compliance with the program, and uniform terminology for various stages of implementation.

It makes sense for these types of details to be worked out amongst those schools committed to DSP implementation for two reasons: 1) given that these are practical details necessary only upon actual implementation of the program, there is little reason to undertake the work of formulating a technical implementation guide unless universities are ready to move forward with the program, and 2) because these specific implementation protocols must be agreed upon by all universities implementing the program in order to allow for effective implementation. Accordingly, as mentioned above, this work is presently being undertaken by the DSP Working Group.

In addition to addressing many of these implementation details, there are several other key decisions that must be made by this group of universities that decide to implement the DSP. These are decisions that can only be made collectively as implementation approaches, such as agreement on uniform language that universities will integrate into their existing codes of conduct to reflect the DSP requirements, and determining a start date for the program once a sufficient number of universities is ready to move forward. As additional universities join the effort and other implementation details are finalized, the group of universities will address these final questions.

Interim Policy Measures

One important step that those universities who have announced support for the DSP could take immediately to achieve some of the program's goals is to encourage licensees to place additional orders at several of the factories where substantial progress has been made as a result of university codes but where the factory is currently under pressure to terminate workers or close entirely due to a lack of orders. These are the types of factories that will be prime candidates for designated supplier status but also, because of the industry dynamics that have given rise to the need for the DSP, face the risk of being forced to shut down before they can see the benefits of this new policy.

An infusion of additional orders at these factories would have an immediate impact on the job security of those workers who have achieved substantial improvements as a result of university code enforcement as well as ensuring that these factories remain in business until the point when they have an opportunity to become designated suppliers. Placing additional orders at these factories would also be a way for licensees to demonstrate a good faith commitment to the principles of the DSP and to take initial steps towards organizing their supply chains in ways that will be consistent with the program.

The WRC can provide universities and licensees with a list of factories where such improvements have been made and which are currently suffering from reduced orders.

Conclusion

Implementation of the Designated Suppliers Program will allow for sustainable compliance with codes of conduct in a way that has not been possible to date. While implementation will require a great deal of work, the path forward is clear. Relying on the ability of licensees to organize their production in accordance with the program's requirements and the experience of the WRC in evaluating compliance with its standards, implementation will be a feasible undertaking. Most importantly, the DSP will result in improvements in the lives of thousands of workers producing university apparel and will serve to demonstrate that decent working conditions can be a reality in the global apparel industry.



USAS' response to the Fair Labor Association's Questions

On November 9, the FLA distributed the following questions to “assist” university administrators as they meet with students to evaluate USAS' Designated Suppliers Program. USAS welcomes dialogue about our proposed policy. At the same time, we have serious doubts about the motives of the FLA in putting out a list that includes a number of leading questions and many questions that have already been answered in detail in our FAQ of October 12 (available at www.studentsagainstsweatshops.org/docs/Sweat-Free_Campus_Campaign_FAQ.doc). It appears to us that these questions were presented not in the spirit of dialogue but mainly to serve as ammunition (however ineffective) to undermine the growing support for our Program in the university community. It is not surprising that the major apparel corporations that fund and control the FLA would be opposed to the Designated Suppliers Program, which will require them to make the fundamental changes in their sourcing practices that are necessary if worker rights are to be respected in factories producing collegiate apparel. These brands have not been willing to make these changes up to now and most of them will resist doing so, which is exactly why a mandate from universities is necessary. Nonetheless, whatever the motives behind the FLA's questions, we'll answer them in the spirit of open debate. Below are some responses that we hope will help frame the ongoing campus debates over the policy.

Considerations to Help Frame Campus Dialogue Regarding Compliance Programs

General Questions

- Should your school's approach to its participation in influencing working standards in factories be broadly or narrowly focused?

Of course we all agree that universities' impact on working conditions should be as broad and effective as possible. The real question is how this goal is best achieved.

This question seems to suggest that, by consolidating university production in a smaller set of factories, our proposal would have a more “narrow” (read “less effective”) impact on conditions. We strongly disagree. As we have explained at length in our FAQ, we believe the Designated Supplier approach strengthens universities' positive impact on the industry at large by significantly raising standards in factories that can then become the baseline for the broader industry. Universities must take the lead in demonstrating that it is possible to manufacture clothing under sweat-free conditions. Rest assured, once the standard is created, USAS and the rest of the anti-sweatshop movement will press noncollegiate brands to meet it as well.

One thing is certain: despite the best efforts of USAS, the WRC, universities, and workers, the current approach is not yielding the broad, positive impact we desire because our licensees' sourcing practices ensure maintenance of the sweatshop status quo. While the production of collegiate apparel is now spread across many thousands of factories, most of these factories routinely abuse worker rights. This is because there are too many factories to monitor, our licensees represent too small a portion of the each factory's production to compel real improvements, there is no reward for factories that do better, and the price pressure under which these factories operate makes long-term sustainable change impossible.

- How can schools most successfully be involved in improving working conditions and affecting workers' lives for the better, through compliance programs and through other measures, including educational initiatives?

We believe the best way to positively affect workers' lives is to ensure that the jobs they have making university apparel are jobs that allow them to meet basic needs and make decisions about how to improve their own lives, free from the constraints of grinding poverty. Currently, the jobs of most collegiate apparel workers are sweatshop jobs – jobs that provide wages so low that workers and their families are stuck in deep poverty, so low that parents are often unable to pay for secondary school for their children, and so low that workers are forced to work such excessive overtime that many rarely spend time with their families. Educational initiatives, designed in collaboration with factory workers and advocates, may indeed be a way that universities contribute to the wellbeing



of garment workers. But what is most urgently needed from universities is not educational opportunities to help workers find greener pastures, but simply the creation of apparel jobs that allow workers to rise out of poverty. We do not accept the premise that apparel jobs are inherently poverty jobs which at best provide a stepping stone to something better. As discussed in our FAQ, because labor accounts for typically between 1-3% of retail prices, apparel jobs could provide substantially higher wages without large retail price increases – if brands were willing to pay reasonable prices to their suppliers. Universities have the power to make this happen.

- How does the USAS Designated Supplier Program define ‘sweat free’ and how does that definition match your campus’ definition?

We believe that for a factory to be considered “sweat-free”, workers’ rights must be fully and demonstrably respected. This means a) demonstrable respect for all rights embodied in university code of conduct; b) demonstrable respect for rights of association, as evidenced by the presence of a representative employee body; c) the payment of a living wage.

We ask that you take a look at our FAQ for in-depth explanations of what these standards mean and why they are critical, but the following are some brief comments. On the issue of representative worker bodies, five years of code enforcement has shown us that relying exclusively on sporadic visits (e.g. once per year or less) by outside monitors like the FLA and on the goodwill of managers, themselves under tremendous pressures to cut costs, is not a viable strategy. Workers are the best monitors of their working conditions.

In most of the factories where real change has been achieved, through WRC and university action, the presence of a union or union organizing drive has played a central role in achieving this change and in the effort to protect the progress over time. These cases have been too few and too fragile, due to licensee sourcing practices, but they do show very clearly that deep and sustainable improvements in respect for workers rights are far more likely to occur where a legitimate, independent union is present.

On the issue of a living wage, we know that no job can honestly be called “sweat-free” if workers cannot afford to feed their families or take their children to the doctor when they are sick. Any definition of “sweat-free” that does not include these fundamental components is not sufficient to truly protect worker rights.

- What is your goal in holding your licensee companies accountable for working conditions in their supply chains; how important is sustainable, systemic improvement in a growing number of factories?

Our goal in holding licensees accountable is simple and, we thought, a matter of consensus in the university world: to ensure that workers’ rights are fully respected wherever collegiate goods are made and to set an example that can influence the rest of the industry. Unfortunately, most workers making collegiate apparel continue to work in sweatshops. Sustainable and systemic improvements are not currently possible because of the sourcing practices of our licensees.

The question seems to suggest that the FLA is somehow achieving “sustainable, systemic improvement in a growing number of factories.” We have seen no evidence to support this claim. The FLA and other industry directed monitoring schemes have been incredibly ineffective at helping workers achieve and sustain meaningful improvements. These failures have been worst in the most vital areas, like freedom of association, excessive overtime and wages. And the main reason these schemes are a failure is precisely because they do nothing to address the root causes of the problem: unfair pricing, unstable brand-supplier relationships, and the failure to reward good factories (There are, of course, other major weaknesses in these schemes, including ineffective monitoring in which the voice of workers is ignored).

The WRC has demonstrated that it is possible to make major improvements in the way workers are treated at individual factories, through aggressive, independent investigations and strong pressure on licensees and factory managers. But these changes have been limited and subject to reversal, because prices never reflect the cost of improved conditions and licensees have no commitment to support improved factories with orders. Sustainable, systemic improvement in a growing number of factories is and has always been USAS’ priority. The new policy is



designed to get us there. The current approach cannot.

- The USAS Designated Supplier Program applies just to apparel licensees. Does this disadvantage those companies as compared to the other collegiate licensee companies?

In drafting the Designated Supplier Program proposal, we chose apply the policy to apparel simply to make implementation as logistically feasible as possible. Our work, as well as the work of our universities' code enforcement agents, has to date focused on factories making apparel products. We all know the most about this industry. We are less knowledgeable about non-apparel specialty products, like birdhouses and helmet shaped chocolates. Eventually, all products will hopefully be covered, but it makes sense to start with what we know best. If, however, universities would like to have a broader scope from the start, we would be pleased to work with them on this.

- Are there enough factories that could be designated within a particular time frame and can those factories handle the demand from the university community, particularly in relation to the diversity of apparel products that are licensed and volume of product that needs to be produced for colleges and universities?

As discussed in our FAQ, given the current crisis in the global apparel industry – in which factories in many countries are truly desperate for orders – we are confident that more than enough factories will be willing to offer superior labor standards in exchange for reliable orders at prices that will allow them to meet those standards and make a profit,

There are a substantial number of apparel factories around the world that already partially fulfill these standards, through the recognition of legitimate unions. Many of these factories could be brought into compliance relatively easy, provided they receive steady orders at fair prices from university licensees. Some of these factories already produce collegiate apparel.

If licensees prefer, as we expect some will, they can work to bring factories in their existing supplier networks up to the program's standards. Since licensees are welcome to use their existing suppliers, there is no basis for concern about inadequate capacity, in terms of volume, quality or diversity of styles. Licensees will in many cases be required to reorganize some of their production, but that is something they clearly know how to do.

Monitoring Approach Questions

- How can we best implement monitoring and other compliance efforts that do not duplicate efforts or overburden factories, companies or bodies charged with enforcement of those efforts? How can real and sustainable change be created?

The goal of establishing a unified, coherent, and rational approach to code enforcement is indeed crucial. The real problem now is that our enforcement agents (and the factories they monitor) are being asked to do the impossible: a) to monitor thousands of factories, far in excess of what is needed to produce a relatively small amount of apparel; b) to compel these factories to make changes when the licensees involved, because their production at each facility is tiny, do not have the clout at the factories needed to compel improvements even if the licensees push hard; c) to compel factories to take on extra costs of compliance with no guarantee that the prices they receive from brands will be commensurate with these costs and in fact with no guarantee that university licensees or other brands will place business in the factory at all once the changes are made – indeed, of all the burdens placed on factories, this is probably the most problematic!

The USAS proposal is designed to address each these problems. It will create a system in which the resources of university enforcement agents are not spread needlessly over thousands of factories. It will substantially lessen any confusion or burden caused by mixed messages from brands by requiring that the majority of a factory's buyers be committed to the same standards, and it will ensure that factories have what they need from licensees – in the form of commitment of orders at reasonable prices – to meet these standards. This seems to us to be a far more coherent and less burdensome system than what is now in place.



- If production of collegiate apparel is focused on fewer factories, what impact would this have on workers at factories that are not chosen to do collegiate work? Would that be seen as ‘cutting and running’?

We have also addressed this question in some depth in our FAQ. It is important to understand that the apparel industry is now characterized by extreme volatility, with brands’ orders constantly being shifted from one factory to another to another – and university licensees are no exception. Our current arrangement could fairly be described as a constant state of “cutting and running.” It is this state of chaos that our proposal seeks to replace, with a structured, rational system that offers real job security for workers.

Won’t consolidating production in the designated factories cause more cutting and running? The reality is that, since collegiate apparel usually comprises a small portion of each factory’s production (often under 5% annually), the one-time redistribution of orders needed to create the program will be experienced by factories as a relatively minor loss of business, the kind they deal with every season, and will not have a dramatic impact on workforce levels. Any problems workers do experience would be in no way worse than what they face under the current system. The difference is that this shift would result in vastly improved conditions and job security for workers making collegiate apparel, instead of merely perpetuating the race from factory to factory in search of ever lower prices.

USAS has consulted with worker organizations around the world and these organizations have expressed support for the proposal, because they know from experience that workers have no job security with current industry practices.

Those who oppose the USAS proposal should be asked to explain what their plan is to stop the cutting and running by university licensees that now takes place.

- How can a factory ensure that it has enough work year round to sustain its workforce if it is only producing for schools?

Factories do not sustain their workforce year round in the apparel industry. This problem already exists. Employment levels fluctuate constantly and often drastically, season by season, year by year. Factories are more and more hiring contract labor, so they can more easily dump workers during low periods. The constant layoffs are one of the main problems workers face. The Designated Suppliers Program would bring qualified factories far more stability in terms of orders than they now enjoy. This will probably not totally eliminate seasonal changes in the level of production, but it will reduce them. And, by reducing the brutal price pressure that licensees and other brands now place on factories, the program will give factories less incentive to lay off workers during brief periods of reduced production. The proposal will also limit the use of contract labor.

Again, those who oppose the USAS program should explain what they would do to address the job insecurity that we now see throughout the industry.

Legal & Financial Questions

- What legal considerations does a school need to take into account when it engages in a compliance program, particularly with respect to anti-trust and restraint of trade type issues? Have legal opinions been sought?

Please see our FAQ for a detailed discussion of legal issues related to the new policy. Based on informal legal consultation to date, USAS is confident that when universities decide to adopt a policy along the lines of what we have proposed, an implementation approach can be readily worked out that does not violate applicable laws. USAS looks forward to seeking legal opinions on the question of how such a policy can be implemented that allows factories producing university goods to receive the necessary prices and order stability required to meet the wage and freedom of association standards outlined in the Designated Suppliers Program. The WRC University Caucus Governing Board representatives have asked the WRC staff to seek out such legal opinion, and this process is underway. The legal consultation is a matter of ensuring effective implementation and should not hinder discussion or the ability of universities to reach agreement on the basic principles of the policy.



- What are the contractual obligations and responsibilities that a school has with its licensee companies and what impact would different approaches to compliance have on those contractual relationships?

USAS is not asking universities to disregard existing contractual relationships with licensees. As with past changes to university policy (codes of conduct, factory disclosure) the Designated Suppliers Program will be integrated into applicable contracts when these contracts are up for renewal.

- Are there potential conflicts with those that select the factories and then perform the follow up monitoring to insure compliance with the determined standards?

Under the proposed policy, the Worker Rights Consortium (WRC) will not “select” the factories. The WRC will, as a service to licensees, provide a list of factories that have the potential to become Designated Suppliers, and licensees will then be able to choose these or other factories from their existing supply chains. The WRC will then assess candidate factories to determine if they meet the standards of the program. Those that do will be deemed Designated Suppliers once licensees begin placing orders there in accordance with the new policy. The WRC will then verify compliance on an ongoing basis at these factories.

Universities already set standards and charge various organizations with determining which factories are meeting these standards. Asking the WRC to assist universities by identifying factories that comply with new standards, and then to monitor these factories for ongoing compliance, is not a departure from past practices.

- What effect might different approaches to compliance have on a university’s licensing revenue streams? How would a reduced revenue stream affect other programs on campuses that are dependent on such revenues?

If universities have some reason to believe there will be a decrease in licensing revenue as a result of implementing the new policy, they should explain to us exactly what they think will happen. Like claims about unspecified antitrust violations, this excuse has been thrown at students every time a new university anti-sweatshop policy has been proposed, from the adoption of the original codes of conduct, to factory location disclosure, to affiliation with the WRC. Yet universities ultimately adopted all of these proposals, and licensing revenues and corresponding royalties have grown, not declined, since the policies were implemented.

Furthermore, the implication that the only way to sufficiently fund campus programs is to sell our logos to companies that refuse to curb their exploitative labor practices is a disturbing position for these not-for-profit institutions of higher learning to take.



U of M Committee Recommendation to President Mary Sue Coleman

In Late April, after immense pressure from SOLE, the Labor Standards and Human Rights Committee voted on whether or not to recommend the DSP to Mary Sue Coleman. In the end, they voted against recommendation, and highlight their concerns in this document.

Report to the President of University of Michigan by President's Advisory Committee on Labor Standards and Human Rights April 25, 2006

Executive Summary. United Students Against Sweatshops (USAS) has proposed a Designated Supplier Program (DSP) to upgrade and focus the enforcement of collegiate codes of conduct. The proposal calls for limiting the number of suppliers making collegiate apparel to factories approved by the Worker Rights Consortium (WRC). In addition to current code of conduct provisions, the proposal requires these designated suppliers to pay workers a “living wage” and have a union or other representative body that can bargain over wages and working conditions.

The committee has reviewed and discussed this proposal, seeking input from licensees and others who were not included in developing the proposal. In addition to its regular monthly meetings, members of the committee have attended meetings organized by the Worker Rights Consortium and the Fair Labor Association (FLA), participated in conference calls, and held three on-campus committee meetings with licensees and the WRC. The committee also organized a public forum on campus to address this issue.

The DSP would fundamentally change how licensees select and work with suppliers. Committee discussion has focused on the assumptions underlying the DSP, the overall rationale of shifting attention from apparel workers generally to only those in the collegiate sector, logistical challenges of implementing and administering the proposed system, and potential unintended consequences. Based on this discussion, the committee makes the following recommendations:

Recommendation #1: The committee recommends that the University, individually and in concert with others, take steps to increase the effectiveness of our codes of conduct on improving labor conditions for workers in the apparel industry.

Recommendation #2: Because of concerns about the proposed structure of the Designated Supplier Program, potential unintended consequences, and a range of implementation questions, the committee recommends that the University not endorse the proposal at this time.

Recommendation #3: The committee recommends that the University (1) initiate procedures to require licensees to document how they monitor/enforce our code of conduct and (2) develop protocols with other universities and external groups (e.g., FLA, WRC, and CLC) to monitor and support adherence to our code of conduct.

Introduction

The Designated Supplier Program (DSP) was developed by United Students Against Sweatshops (USAS) to address labor conditions in factories producing university apparel. The proposal is premised on the view that, despite codes of conduct, “university apparel is still made under sweatshop conditions in factories around the world.” (USAS website—www.studentsagainstsweatshops.org) USAS argues that “sweatshop conditions and poverty wages” are endemic in the apparel supply chain. Further, they contend that the current sourcing system itself, in which constant price competition among factories is a key factor, systematically penalizes those factories that have better working conditions.

The DSP would address this situation by restricting production of university apparel to a set of “designated suppliers,” which pay a “living wage” and have a legitimate union or other representative employee body. “Under the new proposal, university apparel companies will be forced to produce garments in truly sweat-free factories



where workers have a voice on the job and the power to win livable wages.” (USAS website) As currently formulated, the DSP would fundamentally change how licensees work with suppliers manufacturing collegiate apparel.

The discussion engendered by the DSP has revealed broad recognition that code of conduct violations continue to plague the apparel industry and steps should be taken to address this situation. In the course of deliberations concerning the DSP, the committee has considered both the basic rationale for concentrating university influence on the small subset of apparel workers who make university apparel and whether the DSP, as an approach to code enforcement, represents a workable solution within the broader context of the licensee-supplier relationship. The committee has sought input from a variety of sources and members of the committee have engaged in a number of activities, including:

- Two WRC conference calls for universities
- One FLA conference call including universities and licensees
- A WRC meeting in Washington, DC
- An FLA meeting in Houston, TX
- On-campus committee meetings with the Collegiate Licensing Company (CLC), New Era Caps (licensee), the WRC, and Nike (licensee)
- An open campus forum and subsequent committee meeting with representatives of WRC, FLA, CLC, and Knights Apparel (licensee)

In the following sections, we first highlight the problem in the collegiate apparel sector. We then summarize the DSP and discuss the issues raised by this proposal, both in general and with regard to specifics of implementation. We then describe our conclusions and recommendations.

A Continuing Problem of Labor Standards in the Collegiate Apparel Sector

Consideration of the Designated Supplier Program has brought attention to continuing problems with regard to codes of conduct in factories that manufacture collegiate apparel. In general terms, the core of the problem appears to be:

a. Cost pressures in the sourcing system. Despite the existence of university codes of conduct, labor conditions that violate those codes continue to be common in the apparel industry. Price competition among supplier factories often discourages improvement of labor conditions, making factories that improve conditions more vulnerable to losing orders because of their increased production costs.

Although the specifics vary with the particular sector, competition throughout the supply chain—among retailers, licensees, and factories—pressures factories to reduce costs, to the detriment of labor standards. While this may not always be the case, it is a strong dynamic within the system. To be effective, any solution must address the issue of licensees paying a price to suppliers that is adequate to meet the requirements of codes of conduct.

b. The large number of factories producing university apparel. Under the current licensee-supplier structure, thousands of factories produce for the collegiate logo market. This presents a serious challenge for monitoring and re-mediating violations of labor standards.

c. University influence on licensee-supplier behavior. University codes of conduct have increased recognition and visibility of the issue of labor standards, but in the face of other market factors, their impact has been limited. This is particularly true for small and medium-size licensees, many of which have not developed the infrastructure for monitoring the labor conditions for their suppliers.



Designated Supplier Program: What is Being Proposed?

The DSP is predicated on the view that the impact of university codes of conduct has been limited. To address this situation, the USAS proposal would change how collegiate goods are produced/sourced by limiting production to “designated suppliers” approved by the WRC. To be a designated supplier, a factory would have to:

- a. comply with university codes of conduct
- b. pay a “living wage”
- c. “fully respect employees’ associational rights, as evidenced by the existence of a legitimate labor union or other representative employee body”
- d. produce primarily for the collegiate market (at least two-thirds of their production)

The proposal requires licensees to pay suppliers enough so that they can meet “living wage” and other code requirements. The proposal notes that “it is the responsibility of the licensees to ensure, in the case of each order, that the price paid to the supplier is sufficient, in view of actual production costs, to allow all of the standards to be met.” The WRC will adjudicate cases in which there are disputes about whether the pay levels offer a “living wage” or the price for an order is “fair.”

The proposal calls for a phase-in period, after which licensees will be required to initially source at least 25 percent of their collegiate production from “designated suppliers” with that percentage later increasing to 50 percent and then 75 percent. Further increases are to be determined later.

Adopting the DSP would represent a major change in the structure and operation of the university apparel industry. USAS developed the proposal without input from licensees and there are many questions about how it would operate in practice, its impact on other aspects of the licensee-supplier relationship, and unintended consequences of this basic change in how the industry sources production. Before considering some of the details of the proposal, we first look at an underlying premise of the DSP: that universities should shift their attention from apparel workers generally to only those in the university apparel sector.

Shifting from Apparel Workers Generally to Only Those Making Collegiate Products

The DSP would shift the attention of universities and colleges from apparel workers generally to only those producing for the collegiate market. This raises basic issues of focus and impact. On one hand, if the current arrangements are failing to improve working conditions in apparel factories, then seeking alternatives limited to the collegiate sector may be a more effective use of the influence of colleges and universities.

Also, if the DSP could be implemented in the way envisioned by its designers, it would ensure that those workers who actually produce university apparel are afforded higher wages and better working conditions. On the other hand, the influence of university codes of conduct currently applies to a much larger group of workers because some collegiate production takes place in many factories. The DSP would change this.

Under the existing structure, both the FLA and the WRC extend the influence of universities and colleges to workers well beyond the collegiate market. From the point of view of the FLA, participating universities require companies to affiliate with the FLA and abide by the relevant strictures about having a monitoring system that meets FLA standards. The effectiveness of licensees’ current monitoring of codes—particularly small and medium-size licensees—is questionable and needs further development. But the current system brings many more factories under the FLA umbrella than would be the case under the DSP.

The activities of the WRC also extend to many more workers than would be the case under the DSP. The WRC, in its investigative efforts, has leveraged college and university influence when problems are found in a factory even when only a small part of production involves collegiate goods. In virtually every situation in which the WRC has sought remediation of code violations, it has achieved factory-wide impact because there was some college production there. If collegiate production were to be confined to a small set of “designated suppliers,” the WRC



would no longer have a basis for intervention in these other factories.

Whether it makes strategic sense to focus all college and university influence on the small subset of apparel workers making collegiate apparel depends on one's assessment of the effectiveness, ineffectiveness, and potentials of the current approaches.

Practicalities of the DSP Approach: How Would It Operate in Practice?

The DSP seeks to change aspects of the licensee-supplier relationship that its authors see as inimical to improved labor standards. For example, market-determined wages in producing countries are seen as inadequate, so a "living wage" floor is established.

Freedom of association is resisted by employers and is difficult to monitor, so the workers in a designated supplier factory must actually have an active union or an equivalent representative body. Price competition is seen as driving down wages and working conditions, so there is a "fair pricing requirement."

USAS, in consultation with the WRC, formulated the DSP. Licensees and universities were not integrated into this process. Since the public introduction of the proposal, its overall thrust and its specific provisions have elicited a range of questions and concerns about how the proposed program would work in practice.

Sourcing Requirement. The heart of the DSP is that university apparel would be made in a set of designated factories that are primarily devoted to such production. Instead of selecting suppliers based on a range of considerations that are part of the current sourcing decisions, licensees would have to order most university products from a limited number of factories approved by the WRC.

Unanswered questions:

How many factories would be needed to meet the demand for manufacturing the different types of university apparel?

With a limited number of factories, would licensees have sufficient sourcing alternatives to ensure that they receive the quality, timely delivery, and product differentiation that they seek?

Although the DSP allows for licensees to nominate factories that they currently use, would this be a viable option since college goods would have to comprise two-thirds of their production?

Given the cyclical nature of the collegiate market, how would the designated factories handle "down-time" when there are fewer orders for university apparel?

Living Wage. The living wage requirement goes beyond the wage provisions of most current codes of conduct, which generally call for wages to meet or exceed the legal minimum wage law or prevailing industry wage in the area. There is little experience in how a living wage requirement in this context would work in producing countries. Analyses by the WRC in two producing countries suggest that the "living wage," as they calculate it, would be two to three times the current wage level. If implemented, the wages in designated factories would be more than double the wages in other local factories.

Unanswered questions:

Given that wages in "designated" factories would far exceed wages in other factories, how would these premium-wage jobs be allocated?

How would one monitor or control favoritism/corruption in hiring and firing, given the large disparities in wages created by the DSP?

Would having such a wage difference between "designated suppliers" and neighboring factories create other unintended consequences?



Would collective bargaining on wages be relevant only for increases above the calculated “living wage?”

Freedom of association. Freedom of association is one of the most important aspects of codes of conduct and one of the most difficult to implement and monitor. The freedom of association provision under the DSP requires that a legitimate union or other representative employee body is in place at a “designated supplier.” This goes beyond current codes, based on a dual rationale. First, the existence of such a representative body is seen as the best indicator that freedom of association truly exists. Second, the presence of an active union or its equivalent provides a means for local monitoring oversight of labor conditions in the factory.

As currently written, this requirement does not acknowledge that workers might freely choose not to have a union. It also raises challenges for implementation. In some situations, it may be clear that a union is not representative or actively engaged in furthering the interests of workers. For example, “white unions” or “ghost unions” in Mexico and elsewhere are often established by employers to avoid the creation of legitimate unions. But in other situations, such distinctions may not be clear, particularly over time as unions evolve, internal disputes arise, or new leadership emerges. Under the DSP, the WRC will be responsible for resolving conflicting claims of representation of between unions or between factions within a union.

Unanswered questions:

Under the DSP requirements, could workers freely choose not to have a union and still maintain their “designated” status?

Would this requirement punish workers in repressive regimes by effectively prohibiting suppliers in countries in which the legal structure limits independent unions (e.g., in China where unions must be part of the government-controlled All-China Federation of Trade Unions—ACFTU)?

If so, would the implementation of the DSP work against current efforts by licensees to encourage movement toward freedom of association through the formation of factory-based grievance or health-and-safety committees?

What protocols/approaches would be used to ensure that a particular union is (and continues to be) truly representative of workers?

Fair pricing requirement. The DSP’s “fair pricing requirement” sets a floor for the price paid for an order based on some calculation of costs of production. A supplier could appeal to the WRC if they believe the price offered by a licensee is too low. The WRC would then assemble an “assessment team” to determine whether a particular price paid by a licensee is sufficient to cover the supplier’s costs for that order.

Determining whether a price is “fair” involves complex calculations reflecting variations in material costs and labor processes. A “fair price” determination must also factor in assessments of non-production costs (e.g., managerial pay, acceptable profit levels, depreciation, etc.).

Unanswered questions:

Who would be on an assessment team formed by the WRC to decide whether a price for a specific order is “fair?”

Could prices be contested in an expeditious manner when factory orders are often highly time-sensitive?

How would considerations beyond direct production costs (e.g., overhead, profit) be included in the “fair price?”

Would price competition be eliminated from licensee’s selection of suppliers?



If so, what would be the implications with regard to other performance standards such as quality and on-time delivery?

Potential anti-trust issues. Concerns have been raised about potential anti-trust violations associated with the DSP. These relate to the overall approach of designating a limited number of factories to participate in the manufacture of university apparel as well as the details of implementation. A legal opinion, commissioned by the WRC, concluded that universities were unlikely to be considered in violation of anti-trust laws. However, universities have continued to raise concerns about this possibility. It has also been noted that licensees themselves may be at risk for anti-trust violations in the implementation of the DSP.

It has been suggested that it would be prudent for the WRC to request a “business review letter” under the Department of Justice’s Business Review Procedure, to clarify whether or not the DSP presents anti-trust concerns. It is noted that the FLA had followed this path during its formation.

Unanswered questions:

Has there been sufficient exploration of whether or not the DSP may place universities and/or licensees at risk for anti-trust violations?

Would potential anti-trust concerns limit the involvement of licensees in planning/modification of the DSP?

Should a “business review letter” be requested from the Department of Justice concerning anti-trust concerns?

Capacity and resources of the WRC. The WRC was created to assist in the enforcement of codes of conduct and has focused on identifying and working to remediate code violations. Under the DSP, the WRC would take on a new and greatly expanded role. It would shift its attention to a range of new areas, including certifying factories, assessing the representativeness and legitimacy of unions, defining living wage levels, and determining the fair price for factory orders. It is unclear how many “designated factories” there will be. In various discussions, estimates have ranged from several dozen to hundreds.

Currently, the WRC has a total of fourteen employees. They have indicated that they would be able to handle the increased workload with a small number of additional staff members. In terms of additional resources needed, the WRC has expressed confidence that funding could be secured from external sources.

Unanswered questions:

Does the WRC have the capacity to play the role outlined for it in the DSP?

How are the estimates of additional staff and resources being made?
Are these estimates based on a formal analysis?

What external sources are expected to be available to meet the need for expanded resources?

Will universities be expected to provide additional resources to the WRC?

Committee recommendations

Based on these considerations, the committee makes the following recommendations:

Recommendation #1: The committee recommends that the University, individually and in concert with others, take steps to increase the effectiveness of our codes of conduct on improving labor conditions for workers in the apparel industry. (Unanimous Recommendation)

Commentary: As noted above, the committee unanimously agrees that continuing problems of violations of codes of



conduct call for action by colleges and universities. A key source of these problems is the manner in which licensees operate within the cost-competitive sourcing system. Problems of oversight and implementation are compounded by the large number of factories and current limits on the effectiveness of universities in impacting licensee behavior. The committee recommends that the University undertake initiatives to address these problems.

Recommendation #2: Because of concerns about the proposed structure of the Designated Supplier Program, potential unintended consequences, and a range of implementation questions, the committee recommends that the University not formally endorse the proposal at this time. (Majority Recommendation)

Commentary: The DSP is an innovative approach to improving labor rights among those making university apparel. If implemented the way its designers would like, it would result in higher wages and greater security for those workers who work in “designated factories.” But there are serious questions about its general direction and about whether the proposal would work in practice. As noted in the analysis, the DSP would fundamentally change the nature of sourcing and introduce an untried administrative/regulatory structure. Further, the proposal could have negative impacts on the much larger number of workers who do not work in “designated” factories. By narrowing the focus of universities from apparel workers generally to only those involved in collegiate production, it would significantly reduce the number of factories subject to university codes of conduct.

Although the committee does not currently recommend endorsing the DSP, further development or modification may address fundamental concerns. Also, the committee recognizes that if other efforts fail to improve conditions, the University should reconsider the DSP in light of those failures.

Recommendation #3: The committee recommends that the University (1) initiate procedures to require licensees to document how they monitor/enforce our code of conduct and (2) develop protocols with other universities and external groups (e.g., FLA, WRC, and CLC) to monitor and support adherence to our code of conduct. (Unanimous Recommendation)

Commentary: Cost pressures associated with the sourcing system are a major problem impacting labor conditions. The DSP would change the sourcing system itself. The committee believes that a more feasible approach at this time would be to change how our licensees operate within the existing system. This alternative is based on upgrading code enforcement standards and oversight of licensees. This approach would focus responsibility on licensees to ensure that they are in compliance.

Although details of implementation must be developed, committee discussion has focused on two general areas. First, the University should immediately begin working on ways to require licensees to document how they monitor compliance with our code of conduct. Second, the University should undertake collaborative efforts with other universities and external groups (e.g., FLA, WRC, and CLC) to achieve greater compliance with codes of conduct. A key element would be seeking ways to limit the negative impacts of price pressures on labor standards in supplier factories.



Mary Sue Coleman's Response to the Recommendation

A few weeks after the Committee submitted its recommendation, and students had gone home for the summer, Mary Sue released a letter accepting the Committee's Recommendation to not adopt the DSP at that time, while still charging them to continue to investigate developments on the DSP as well as other avenues of improving enforcement of the Code of Conduct.



MARY SUE COLEMAN
PRESIDENT

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May 2, 2006

Professor Lawrence Root
Chair, President's Advisory Committee on Labor Standards and Human Rights
2770 Social Work Building
Ann Arbor, Michigan 48109-1106

Dear Professor Root:

Thank you for submitting the April 25, 2006, report of the President's Advisory Committee on Labor Standards and Human Rights on the proposal for a Designated Supplier Program (DSP). I appreciate the hard work of the committee on this important proposal and the thought that has gone into the recommendations.

On behalf of the University, I hereby accept the committee's recommendations. Specifically:

- (1) Per Recommendation #1, I acknowledge and accept that there is an identified need to improve the effectiveness of our Code of Conduct on improving labor conditions for workers in the apparel industry. The USAS proposal and the committee's report identify important factors underlying this need.

The University must seek feasible means to address these factors and meet the goals of our code, and I charge the committee, as a priority for 2006-07, to work with other institutions, the WRC, the FLA, and other relevant organizations, to do so.

- (2) Per Recommendation #2, I understand that the committee has serious concerns about the Designated Supplier Program as currently proposed. I accept the recommendation that the University not formally endorse the proposal at this time.

I charge the committee to continue to monitor the development of the Designated Supplier Program as a possible future means to assist the University in improving the effectiveness of the Code of Conduct, and to the extent feasible, given that we are not formally endorsing the proposal at this time, to continue to engage with the WRC and other universities in discussion and analysis of the proposal.



Professor Lawrence Root
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(3) Per your Recommendation #3:

- a. I am hereby directing the University's Trademarks and Licensing Office immediately to begin the process of developing and implementing procedures to require licensees to document how they monitor/enforce our Code of Conduct. Such procedures should be reviewed by the committee, and I would like to receive a progress report on this charge at our annual meeting in the fall.
- b. I charge the committee to work with other universities, the FLA, the WRC, and the CLC, to develop protocols to monitor and support adherence to our Code of Conduct. I ask the committee to cast a broad net in pursuing this goal, and to engage in discussions of any and all possible means. In addition to continuing to monitor the DSP, I would particularly like the committee to examine the emergent FLA "preferred provider program," the FLA 3.0 program, and other possible developments relevant to this improving the effectiveness of our code.

I ask the committee to give me a progress report by December 2006.

Again, I thank you and the committee for your work on this matter, and I look forward to further progress in the year ahead.

Sincerely,

Mary Sue Coleman
President

MSC/pjf

cc: President's Advisory Committee on Labor Standards and Human Rights



Summary of the Baker Antitrust Opinion

In late 2005, the Worker's Right's Consortium realized the DSP may cause antitrust concerns. It submitted the DSP to Donald Baker (the former Head of Antitrust in the U.S. Department of Justice), for his opinion on whether or not the DSP bore significant risk of breaking Antitrust law. Following is an excerpt from the opinion, however, if you wish to read it in its entirety (20 pgs), it can be found at (http://www.workersrights.org/Baker_Opinion_1-17-06.pdf)

Executive Summary

As more fully explained in subsequent sections, we have reached the following conclusion based on our review of the Program:

1. The collective efforts by the ULs to enhance working conditions and terms at Factories producing the Products would not run a significant risk of being found to infringe the normal boycott rules in the U.S. antitrust laws, based on factual finding that (i) the ULs do not compete with each other in licensing what are distinct logos, (ii) do not compete with Licensees or Factories that may be excluded from the market under the Program, and (iii) do not stand to profit economically from the collective undertaking.
2. A U.S. government antitrust enforcement agency (the Justice Department or the FTC) might investigate, based on complaints from Licensees, but it would be very unlikely to bring an enforcement action to enjoin the Program
3. The Program is substantially more “regulatory” than anything the universities have previously tried in the “university logo” products area; and, as such, it is somewhere more likely to receive antitrust scrutiny at the behest of the parties that feel disadvantaged by it than would have been the case in past university efforts
4. To the extent that antitrust claims might be made, their more probably source would be a disgruntled Licensee or Factory, alleging that it had been improperly excluded from the Designated Suppliers’ List or terminated for failure to meet quotas or standards under the Program. Powerful incentives exist for a Licensee-plaintiff or Factory-plaintiff to try to convert its contract and tort claims into antitrust claims in order to be able to claim treble damages and litigation costs if successful.
5. A private plaintiff’s chances of ultimately prevailing on an antitrust “boycott” claim are fairly low
6. A private plaintiff generally has a somewhat improved chance of prevailing on a “boycott” claim when it can show that it has been the victim of an arbitrary or secretive process by the standards-setter or self-regulatory body. Such circumstances may generate judicial sympathy, which results in greater receptiveness to the underlying antitrust claim. Accordingly, the processes that the WRC uses in making DSL status determinations or license termination or renewal recommendations should be carefully reviewed to assure that they are as transparent and fair as reasonably possible.
7. It is important that a UL keep an accurate, contemporaneous record of communications with any Licensee over possible Program violation that could lead to termination or suspension of a license
8. A UL’s antitrust litigation risks could probably be further reduced by including in its licenses (i) a compulsory arbitration clause and/or (ii) a litigation cost-shifting clause (to require the losing party to pay the winner’s litigation cost, or to require each party to bear its own litigation cost). These provisions would apply to contract and tort claims, as well as antitrust claims.



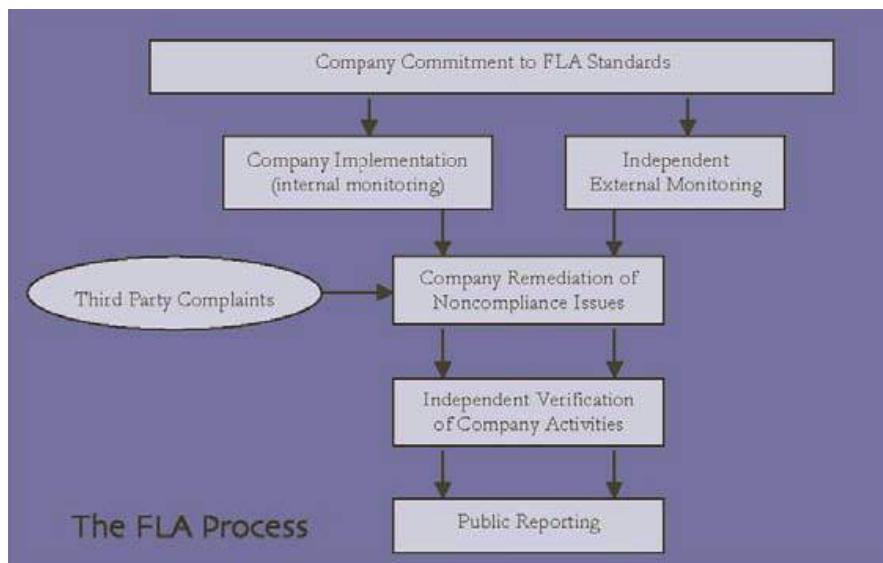
FLA 2006 Public Report Excerpts: (<http://www.fairlabor.org/all/2006PublicReport.pdf>)

THE FLA PROGRAM

The Fair Labor Association combines the efforts of participating companies, collegiate licensees, universities, and consumer, labor, and human rights groups to promote adherence to international labor standards and improve working conditions worldwide. The FLA works to increase and sustain factory compliance through its Workplace Code of Conduct, which is based on the core labor standards of the International Labor Organization (ILO). There are four essential components to FLA’s work: the Code Implementation and Monitoring Program, Public Reporting, the Third Party Complaint system, and Special Projects. Each program relies on a diverse staff to perform due diligence and communicate the progress of their activities to constituents.

Code Implementation and Monitoring Program (CIMP)

Since the FLA’s formation in 1999, its monitoring program has evolved in accord with the experiences gained and lessons learned through code implementation and verification around the world. The FLA has strengthened its processes by making all independent monitoring unannounced and transparent, by providing more specific terms of reference and guidance to its monitors, and by developing new approaches that include root-cause analysis and capacity building. The FLA is now in the process of transitioning to a new system of assessment and remediation called FLA 3.0 that involves more shared and collective action and more stakeholder involvement.



Commitment to FLA Standards

CIMP is the gateway for companies to make a formal commitment to the FLA’s standards and system. Companies agree to adopt the FLA Workplace Code of Conduct in the manufacture of their products as a condition for participating in the FLA. Participating Companies undertake this commitment with respect to all applicable facilities, while collegiate licensees commit to do the same with respect to facilities that produce or manufacture products under license from a college or university that participates in the FLA. This marks the first step. The “continuous-improvement approach” of the FLA program then requires companies to put principle into practice.

Monitoring and Verification

Participation in the FLA also requires companies to establish an internal compliance program throughout their supply chains. This includes internal monitoring and remediation of instances of noncompliance, and various activities to ensure that the Code is implemented. The FLA staff conducts onsite visits to company headquarters and



field offices to evaluate a company's progress in establishing systems to uphold its FLA commitments.

The FLA uses independent external monitoring (IEM) to verify companies' compliance with their obligations. The FLA selects independent external monitors, accredited by the FLA, to perform unannounced inspection visits of companies' supplier factories around the world. The FLA does not give companies or factories advance notice of the time or location of these monitoring visits.

Remediation and Follow-up

When an IEM visit uncovers Code noncompliance, the FLA process requires companies to work with their suppliers to develop a remediation plan within 60 days, at which point the company must report the correction of the issue back to the FLA. The FLA then evaluates the company's remediation plan, advises it on necessary actions, collects evidence, and, when deemed necessary by FLA staff, conducts a follow-up visit to verify that the company has taken the necessary steps to remediate the noncompliance issue.

When a company joins the FLA, it commits to establishing a workplace standards program that complies with FLA requirements, and chooses either a two- or three-year period in which to do so. The FLA carries out an in-depth evaluation of the company's performance at the end of the designated period. If the FLA determines that a company's compliance program has substantially fulfilled these requirements, the program receives FLA accreditation. Accredited programs are reviewed for re-accreditation every two years.

Public Reporting

The FLA publishes both an Annual Public Report such as this one that describes FLA companies' compliance efforts, and tracking charts that contain detailed information about the IEM findings from each monitored factory, its remediation plan, and the status of actions called for in the plan. The Annual Public Report and the tracking charts can be found on the FLA website.

Third Party Complaints

The FLA has a third party complaint mechanism that provides an additional reporting channel and a further check on systematic monitoring efforts. Any person or group that uncovers instances of noncompliance in a company's supplier facility can file a third-party complaint with the FLA. A summary of a third party complaint processed in 2005 is included in this report.

Special Projects

The FLA has developed a number of special projects to help address systemic noncompliance issues that have proven particularly difficult to remediate on a factory-by-factory basis. The projects seek to involve a wide range of interested parties in testing and innovating new strategies to improve Code compliance. The Special Projects described in this report include a project to develop approaches to sustainable compliance by addressing the root causes of common compliance issues through capacity building and a pilot project implementing that methodology in a limited number of factories engaged in the production of soccer products; a project addressing discrimination, harassment and abuse, and freedom of association in Central America's maquila sector; and a collaborative project that brings together six multi-stakeholder initiatives to maximize the effectiveness and impact of the implementation and enforcement of codes of conduct.



THIRD PARTY COMPLAINTS

Through the Third Party Complaint mechanism, any person, organization, or company can confidentially report to the FLA a situation of persistent or serious noncompliance with the FLA Workplace Code of Conduct in a production facility used by any FLA-affiliated company. The process focuses on corrective action to address noncompliance and ensure conditions that are fair and decent.

A Third Party Complaint is a resource of last resort when serious or persistent noncompliance occurs in a factory. The complaint mechanism uses a four-step process to address complaints lodged with the FLA:

1. When the FLA receives a complaint, staff first checks whether the factory in question produces for an FLA-affiliated company. If the complaint does concern a factory supplying FLA brands, FLA then evaluates if the complaint contains specific, verifiable evidence of noncompliance and whether to accept the complaint.
2. If the FLA accepts the complaint, the process moves to Step Two, during which time the company or brands using the factory have 45 days to conduct an internal assessment of the alleged noncompliance.
3. In Step Three, the FLA conducts further investigation into the situation in the factory, sometimes with the help of an outside, impartial assessor or ombudsperson.
4. Step Four is the remediation of noncompliance as identified by the outside assessor. Brands participate in the remediation process to create positive change in the conditions in the factory where serious noncompliance occurred.

In 2005, FLA received eight Third Party Complaints from individuals and organizations. Six of these complaints were lodged by individuals working in the United States. While none of the complainants worked in facilities producing goods for FLA-affiliated companies and therefore were out of the scope of the Third Party Complaint mechanism, the FLA was able to refer them to the appropriate state and federal resources to help them address their workplace concerns.

The other two complaints were at (1) a NIKE contract factory in Thailand, MSP Sportswear; and (2) a contract factory in El Salvador where adidas, NIKE, Russell Corporation, and Majestic Athletic had been involved. The final report of the case regarding MSP Sportswear in Thailand reveals how the Third Party Complaint mechanism can assist workers achieve gains in workplace conditions—in this case, by creating the space for union organization—by bringing together workers, factory management, brands, and government. The complaint regarding the factory in El Salvador was lodged on December 8, 2005; as most of the investigation and remediation work occurred in 2006 and is ongoing, the case will be examined in a subsequent report.

Third Party Complaint Regarding a NIKE Contract Factory in Thailand, MSP Sportswear

Complaint

On January 5, 2005, the Garment Industry Labor Union, with support from the Centre for Labor Information Service and Training (CLIST), filed a third party complaint with the Fair Labor Association regarding MSP Sportswear, a factory located in Nakorn Ratchasima, Thailand, supplying NIKE and other companies not affiliated with the FLA. The complaint alleged, among other noncompliance issues, that three workers were dismissed for organizing a union at the factory.

The FLA initiated a Third Party Complaint at Step 2 on February 1, 2005 and notified the complainant and NIKE about its action. NIKE waived the 45-day period and requested that the process go directly to Step 3. Pursuant to Step 3, the FLA determines whether to proceed with further assessment through use of either an expert or an FLA Independent External Monitor.



Legal Context

Thailand's 1975 Labor Relations Act recognizes the right of private sector workers to organize and bargain collectively, and prohibits anti-union discrimination by employers. Ten workers in the same factory or industry can apply to form a union, which must be registered with the Ministry of Labor and Social Welfare (MOLSW). Workers can be legally fired for any reason provided they receive severance pay, even if they are union leaders, a provision that lends itself to abuse. Members of the bilateral Worker-Employer Welfare Committees are protected from dismissal under the 1998 Labor Protection Act, but even in such cases, reinstatement for unfair dismissals is a very lengthy process. It is reported that employers frequently dismiss workers who try to form trade unions. In some cases, they are dismissed while awaiting registration, while in others they are dismissed ostensibly for non-union reasons made up by the employer. Thai law does not provide for punitive damages in cases of wrongful dismissal.

Background

In November 2003, three worker leaders at a factory in Nakorn Rachasima province, in the northeast region of Thailand, began to collect workers' signatures to support demands to end alleged verbal abuse by supervisors and inappropriate body searches by security guards. Before they had the opportunity to submit the demand to management, two of the workers were dismissed. The workers filed a complaint before the National Commission on Human Rights and Labor Relations. The Commission on Human Rights found in favor of the workers and ordered their reinstatement, which took place in February 2004.

On October 12, 2004, workers at the factory registered the Garment Industry Labor Union with the Ministry of Labor and Social Welfare (MOLSW). A general meeting and union leadership election was held on October 23. Several days later, factory management dismissed three union leaders—including the elected President and General Secretary of the newly-formed union.

According to the letter of employment termination, the three dismissed workers were accused of serious misconduct, including instigating conflict and division among workers, distributing leaflets criticizing company management and supervisors, disseminating distorted facts about the company, and causing disturbances. The dismissed workers again filed a complaint before the National Commission on Human Rights and Labor Relations.

On December 14, a conciliator from the Welfare and Labor Protection Department of the Ministry of Labor informally organized a meeting in order to conciliate the case between management and the three workers, and offered them severance pay in the form of ten months' salary. All three workers refused to accept the severance and stated they would continue to pursue reinstatement.

Remediation

In March 2005, the Thai Labor Relations Committee ruled in favor of reinstatement of the workers. NIKE worked with factory management to draft a remediation plan involving not only reinstatement and payment of back wages, but also the establishment of a factory environment favorable to the exercise of freedom of association. Given the history of tension between the parties, NIKE asked the FLA to mediate the process.

Auret van Heerden, FLA President and CEO, assisted by Tanida Disyabut, FLA Regional Coordinator for South East Asia, mediated three meetings between the union and management in Bangkok. The NIKE regional compliance team observed the process. Management agreed to reinstate the three union workers with back pay and negotiated a Recognition Agreement with the Garment Industry Labor Union and CLIST.

Professor Lae Dilokvidharat, Director of the Labor and Management Center of Chulalongkorn University's Faculty of Arts and Chairman of the Joint Consultation Committee of the Electricity Generating Authority of Thailand (EGAT) was appointed by the FLA as an Ombudsperson to oversee the implementation of the agreement, including training on freedom of association for the unions, workers, supervisors and management.

From March 2005 through January 2006, Dr. Lae and the FLA facilitated meetings with all constituents every six weeks to review progress at the facility. Since one of the major concerns related to disciplinary practices, FLA and NIKE worked with the factory management to restructure grievance and disciplinary policy and procedures. In addition, the factory revised the performance evaluation system and adjusted the wage calculation system to



motivate the workers to improve their performance. In an effort to improve internal communications, meetings with management and the welfare committee and safety committee are held every month instead of every three months as required by law. Management has also created a newsletter to communicate with its workforce. The factory has implemented ISO 9000 and the Thai Labour Standards to improve its management systems and is committed to implementing the Quality of Work life Standards initiated by the Industrial Council of Thailand.

Conclusion

According to Professor Lae, the case is an example of a best practice related to reinstatement because “normally, the case is closed when the union leader(s) are reinstated. However, in this case, a series of meetings to facilitate dialogue between the terminated union leaders and MSP management and the actions taken after reinstatement greatly helped labor relations at the factory.”

A tangible positive result to the better labor relations is the improvement of productivity at the facility. In addition, the factory has also broadened its customer base.

SPECIAL PROJECTS

Special projects allow the FLA to test new concepts, tackle persistent noncompliances in particular regions that have proven difficult to remediate on a factory-by-factory basis, and strengthen collaboration with likeminded multi-stakeholder initiatives.

In 2005, the FLA engaged in the following projects:

- Sustainable Compliance Project
- Soccer Project
- Central America Project
- Joint Initiative on Corporate Accountability and Worker Rights (Jo-In)

More information about each of these projects can be found at <http://www.fairlabor.org/all/resources/projects>.

Sustainable Compliance Project/Soccer Project

Recognizing the limits of traditional monitoring to effect real and lasting change in working conditions, the FLA is moving toward a new monitoring methodology called “FLA 3.0” that seeks to create sustainable compliance by working with local stakeholders to address the root causes of noncompliance. Two FLA projects undertaken in 2005, the Sustainable Compliance Project and the Soccer Project, piloted aspects of FLA 3.0.

Sustainable Compliance Project: The Sustainable Compliance Project aimed to develop the capacity of four Chinese factories to manage code elements on a self-sufficient basis. This entailed developing tools to allow factories to sustain their compliance efforts by (1) assessing for compliance gaps; (2) developing systems to address the gaps; and (3) measuring progress. Tools developed by the FLA in the project during 2005 include:

- Sustainable Compliance Assessment Tool (SCAT)
- Sustainable Compliance Instruction Materials (SCIM)
- Sustainable Compliance Indices (SCI)

Two of the factories were assessed by FLA staff and consultants and two conducted self-assessments. Capacity building programs were then developed to address the gaps identified. The implementation of these programs is managed with a Balanced Scorecard tool. One of the priority gaps addressed was the absence of grievance procedures and a training package was developed for this task. Local service providers will be identified and trained so that Chinese suppliers can receive capacity building at local rates on an on-going basis.

A number of diagnostic and capacity building tools were developed in the course of the project. The next phase of the Sustainable Compliance Project involves the placement of these tools on a website that will allow factories to access the materials and to record their progress independently.



Soccer Project: The Soccer Project piloted a methodology to improve labor conditions in factories that is sustainable and addresses the root causes of noncompliance. The pilot was conducted in 20 factories—12 in Thailand and eight in China that produce soccer apparel, footwear, and equipment. The immediate goal was to strengthen the capacity of these suppliers to improve—and sustain—compliance with the FLA Workplace Code of Conduct with respect to hours of work and grievance procedures. These two code elements were selected on the basis of FLA monitoring experience during the last five years that consistently showed systemic noncompliance in these two areas.

In October 2005, FLA hosted two consultations with suppliers in the project, two with NGOs and trade unions, and one with owners to introduce them to the FLA 3.0 methodology and the tools developed in the Sustainable Compliance Project. The factories began to implement the methodology at the end of 2005, and capacity building activities commenced in mid-2006. An interim report on the Soccer Project published in August 2006 is available at www.fairlabor.org/all/resources/projects/Soccer.

Central America Project

The Central America Project sought to develop mechanisms and tools that would produce measurable improvement of workplace conditions in El Salvador, Guatemala, and Honduras. The project concentrated on the issues of discrimination, harassment or abuse, and freedom of association in the apparel assembly or maquila sector. The project was largely funded by a grant from the U.S. Department of State.

The FLA developed Guidelines of Good Practice on Hiring, Termination, Discipline, and Grievance Procedures (www.fairlabor.org/all/resources/projects/camp/FLA_GGP_v2-0_esp.pdf) to prevent discrimination, harassment, or abuse and promote the right of free association. FLA made the Guidelines available to brands, factories, zone authorities, trade associations, and Ministries of Labor, and conducted training on how to incorporate them into their activities. FLA provided such training to a variety of constituents in Guatemala, Honduras, and El Salvador, including brands, factory management, and labor inspectors. The trainings were well-received and recognized as a necessity to develop and implement policies and procedures on discrimination and grievances.

Over the 20 months of its existence, the program delivered trainings on the Guidelines of Good Practice and other labor standards issues to 581 individuals in Guatemala, Honduras, and El Salvador, of which 337 were associated with the private sector (suppliers, brands, trade associations) and 244 with the public sector (Ministries of Labor). Ninety-seven percent of participants in the trainings stated that they believed that the Guidelines of Good Practice were either very necessary or necessary in workplaces in the region. The 97 factories whose management representatives participated in the trainings represented some 78,000 workers. A closing ceremony for the Central America Project was held in January 2006 in Guatemala City. The closing event was co-hosted by the Guatemalan Ministry of Labor, VESTEX (Guatemala Apparel and Textile Industry Commission), INTECAP (Technical Institute of Training and Productivity), and the FLA.

For more information on the trainings conducted by the Central America Project see <http://www.fairlabor.org/all/resources/projects/camp/reports.html>

Joint Initiative on Corporate Accountability and Workers' Rights (JO-IN)

The FLA is one of six multi-stakeholder initiatives (MSIs) participating in the Joint Initiative on Corporate Accountability and Workers' Rights (JO-IN), the first effort to bring together key organizations involved in different aspects of code implementation and/or enforcement in a program of collaborative work. The other MSIs participating in JO-IN are Clean Clothes Campaign (CCC), Ethical Trading Initiative (ETI), Fair Wear Foundation (FWF), Social Accountability International (SAI), and Worker Rights Consortium (WRC). Each of these organizations is involved in the global effort to improve working conditions in global supply chains. All believe that codes of conduct can only make an effective and credible contribution to this effort if their implementation involves a broad range of stakeholders, including governments, trade unions, employers' associations, and civil society.



The aims of JO-IN are:

- to maximize the effectiveness and impact of multi-stakeholder approaches to the implementation and enforcement of codes of conduct, by ensuring that resources are directed as efficiently as possible to improving the lives of workers and their families;
- to explore possibilities for closer co-operation between MSIs; and
- to share learning on the manner in which voluntary codes of labor practice contribute to better workplace conditions in global supply chains.

Jo-In undertook its first pilot project in Turkey starting in late 2004. Since then, the six organizations have drafted the *Jo-In draft Code of Conduct*, which adopts the highest standard across the different MSI codes. The *draft Code* will be the standard used during the pilot project's trials, which will take place in late 2006 in selected factories, and will be revisited at the end of the project.

Based on consultations with local and international stakeholders, the project's focus is on effective remediation that is, finding sustainable solutions to some of the most common noncompliance issues in Turkish factories producing for export. The project will therefore focus on freedom of association, hours of work, and wages, along with subcontracting and informal work, practices closely-linked to noncompliance in Turkey.

In 2005, a total of 7 brands committed to participate in the pilot project: Adidas, Nike, Patagonia, and Puma from the FLA, Hess Natur (FWF), Marks & Spencer (ETI), and Gap, Inc. (ETI and SAI). After a comprehensive selection process, several factories were invited to participate in the project. A total of six factories are expected to participate in Jo-In trials, due to start in the autumn of 2006.

In preparation for the trials, the project conducted in-depth studies on freedom of association, hours of work, and wages in Turkey and used these as the basis of an international stakeholder meeting held at MIT in July 2005, where project processes were further defined. The MIT meeting, and its follow-up in Turkey in October 2005, in turn led to the development of protocols for factory assessments, guidelines for off-site worker interviews, explanations of the project's approach to the living wage question and public reporting, and other documents which will guide the project. Trial preparations in the first part of 2006 have involved the selection and training of the Jo-In assessment team and the delivery of a training seminar for more than 60 local stakeholders about the six organizations and their cooperation efforts. The project has also developed structures for improved stakeholder involvement at the local and international levels.

The Jo-In project is funded through grants from the European Commission and the U.S. Department of State, as well as from two of the brands involved in it.

More information on the JO-IN program is available at www.jo-in.org.



Larry Root's Project to Improve the Effectiveness of Univ. Codes of Conducts

Draft – For discussion
October 6, 2006

Labor Standards and the Manufacturing of University Apparel

Multi-University Pilot Project to Improve the Effectiveness of
University Codes of Conduct for Licensees

Overview: Many universities have incorporated codes of conduct for labor standards into their licensing agreements. This pilot project is being undertaken by the five universities to improve the effectiveness of these codes. It is intended to provide licensees with more specific information about these requirements and assess the extent to which licensees have integrated this aspect of the contractual relationship into their operations.

A 2-part website has been created. The first part will provide basic information to licensees about university codes of conduct. Many of the larger licensees will be familiar with these issues. For smaller licensees, however, this information will provide more information about the rationale and expectations that are a part of this aspect of the licensing agreement. The second part of the website will seek information from each licensee about its current approach to meeting this part of the licensing contract.

Website—Part One, “University codes of conduct—what is expected of licensees?”

[The following is proposed text for this part of the website]

The purpose of this website is to ensure that our licensees are fully informed about what is expected of them with respect to the codes of conduct for licensees and their suppliers. Although larger licensees may have well established monitoring and compliance systems, we realize this can present challenges for many small- and medium-sized licensees. In the following, we

- Explain the rationale for having a Code of Conduct
- Present the provisions of the Code of Conduct and what is expected of licensees
- Request information from licensees and potential licensees about their current approach to ensuring that collegiate products are made under working conditions that conform with our Code of Conduct
- Provide information about approaches and resources to help licensees meet this contractual obligation

A Code of Conduct for licensed goods

Our five universities, like many other colleges and universities, have each adopted a Code of Conduct that is designed to ensure that factories producing clothing and other goods bearing the our name or symbols respect the basic rights of workers. This approach has been taken in response to widespread reports of substandard working conditions in factories producing for the university market. Although enforcing basic standards is usually seen as the responsibility of government, this regulatory function is often limited or ineffective. As a result, universities have turned to their contractual relationship with licensees to ensure that collegiate goods are being produced under conditions that are fair to workers.

Respecting the Code of Conduct is part of our universities' licensing agreement. By signing this contract, licensees agree that the collegiate products that they produce are made under conditions that conform to the Code of Conduct. Because most licensees subcontract at least some of their production from other companies or acquire ready-made articles from distributors or suppliers, licensees are expected to take appropriate steps to determine that conditions in supplier factories comply with the Code.



It is expected that licensees have or will develop ways to ensure that the products they are selling are made in accordance with the Code of Conduct. Large licensees typically have sourcing departments that have arrangements for monitoring the labor conditions in their supply chain. Medium and small licensees can meet their obligations through their own efforts or by working with factories that are regularly monitored or audited through a recognized impartial group. If acquiring products through a distributor, licensees are expected to have credible assurance that the goods they are purchasing were made in compliance with the Code of Conduct.

By having a code of conduct, the universities are endorsing the principle that it is inappropriate to seek a competitive advantage rooted in the violation of basic workers' rights. Taken together, these basic rights form the foundation for ethical employment practices.

What are the provisions of the code?

While each of our codes vary slightly, they are similar in most respects to other codes that have been developed for the collegiate market by schools or other organizations, such as the Fair Labor Association (FLA) [[hot link to FLA code](#)] and the Worker Rights Consortium (WRC) [[hot link to WRC code](#)]. All of these Codes address both “core labor rights” as defined in the principal international conventions, including conventions of the International Labor Organization (ILO) as well as standards that address health and safety, wages, and hours of work.

Typically, university codes of conduct address the following (the first four have been defined by the International Labour Organization as “core labor rights:”

- No forced labor** – including prison labor, indentured labor, bonded labor, or otherwise
- No child labor** – with the specifics varying somewhat among schools and countries, but usually precluding labor by children below the age of 15 or 16
- Nondiscrimination**– including prohibiting discrimination on the basis of race, gender, religion, and nationality, with some codes also specifying marital status, age, disability, sexual orientation, political opinion, caste, and other factors
- Freedom of association and collective bargaining** – respecting the basic rights of workers to organize unions and bargain with employers about their conditions of employment
- No harassment or abuse of workers** – including physical or verbal abuse, usually with specific mention of corporal punishment and sexual harassment or abuse
- Protection of health and safety** – including protection from exposure to toxins, unsafe machinery, and other hazards
- Standards for hours of work** – limits on the number of hours a worker may be required to work, including daily and weekly limits on required overtime
- Compensation standards** – standards usually refer to paying the higher of either the legal minimum wage or the prevailing industry wage in the area; some codes call for a “living wage,” based on analysis of the costs of sustaining a family in the local area

The individual Codes of Conduct for our universities can be viewed below.
[All hot-links to the individual universities' codes of conduct]



What is expected of licensees?

The Code of Conduct is part of our licensing agreement and we expect our licensees to take the steps necessary to make sure that this is the case. For those licensees who do their own manufacturing, the Code of Conduct is to be respected in their own operations. Most licensees, however, contract with factories or use distributors/suppliers. In these cases, it is the responsibility of the licensees to ensure that these suppliers do not violate the Code of Conduct.

How are licensees expected to do this? Larger licensees often have their own sourcing departments for checking on the compliance in their supply chain. Other licensees may draw upon outside resources, such as external monitoring agents or certification programs, to determine compliance.

We expect that some licensees may not have developed systematic approaches to this aspect of the contract. We will be working with strategic partners to develop ways in which this can be addressed.

We believe that compliance with labor standards should be an essential part of the selection process for suppliers and/or distributors, just as other factors that are basic to sourcing decisions, such as price, quality, and on-time delivery. In short, it is the responsibility of the licensee to ensure that workers are not exploited in the manufacturing of the collegiate goods.

In summary, the Code of Conduct provision in our contract means that licensees who do their own manufacturing are expected to make sure that they do not violate these standards. Licensees who source from supplier factories make respect for the Code of Conduct a condition of doing business. And licensees who work through distributors or middlemen communicate these obligations and receive credible assurance that these standards are being respected.

Website—Part Two, “Information from licensees”

This part of the website is designed to get information from you, as a licensee. First, there are some questions about your company. Then we ask about current approaches to monitoring labor conditions.

With which schools do you currently have a licensing agreement?

- University of Michigan
- University B (actual names in final version)
- University C
- University D
- University E

Nature of Product (check all that apply)

- T-shirts
- Fleece
- Outerwear
- Headwear
- Replica Jerseys
- Fashion Apparel
- Performance Apparel
- Youth Apparel
- Loungewear
- Women’s Apparel Headwear
- Accessories

What is your sales total from previous fiscal year? \$ _____

Approx. COLLEGIATE sales from that year? \$ _____



Through which distribution channels do you market your products? (check all that apply)

- Bookstores
- Department Stores
- Sporting Goods Stores
- Campus/Local Specialty Stores
- Mass Merchants
- Grocery/Drug/Convenience Stores
- Internet/Catalog

Manufacturing responsibility (check all that apply)

- We have our own factory/factories
 - in the United States
 - elsewhere

Please list country location(s)

- We source to outside factory/factories
 - in the United States
 - elsewhere

Please list country location(s)

- We get manufactured goods/items from distributors/suppliers
 - from suppliers in the United States
 - elsewhere

Please list country location(s)

In general, please describe you business and the place/role/scope of collegiate products in your business

Does your company have a “sourcing” department?

- Yes
- No

If “yes,” please provide the following information in the box below:
Describe the department (number of employees and responsibilities)



Does your company currently have a way to check to ensure that university goods are made according to the Codes of Conduct)?

- Yes No

If “yes,” how do you ensure that working conditions meet the requirements of university Codes of Conduct?

Does your company have a Corporate Social Responsibility program that includes labor conditions?

- Yes No

If “yes,” please provide the following information in the box below:
Describe your CSR policy

Who is responsible for implementing your CSR policy and monitoring labor standards?



Tables

Following are several tables that show the quantifiable impact the DSP would have on things like production costs as well as what exactly as “Living Wage” is. These are good tools to debunk the myths corporations espouse, like, “a 18-20% increase in retail price” (Nike, March 2006)

Increase in Cost—Philippines

Table 1 Consequences of Wage Increases on Apparel Production Costs Men’s Knit Shirt (Manufactured in the Philippines)³				
Apparel Costs	Costs at current wage rate	Impact of 50% increase in wages	Impact of doubling wages	Impact of tripling wages
Non-labor costs of production (includes fabric and other materials, factory overhead, and factory profit)	\$7.31	\$7.31	\$7.31	\$7.31
Labor costs of production (includes direct and supervisory labor)	\$0.69	\$1.03	\$1.38	\$2.06
Freight-on-Board (FOB) price (price to brand at factory door: includes all labor and non-labor production costs of factory)	\$8.00	\$8.34	\$8.69	\$9.38
Labor costs as a % of FOB price	8.6%	12.4%	15.8%	22.0%
Landed-Duty-Paid (LDP) price (final cost to brand: includes FOB price plus shipping, duty, delivery, insurance, and customs clearance)	\$10.00	\$10.34	\$10.69	\$11.38
Labor costs as a % of LDP price	6.9%	10.0%	12.9%	18.1%
Wholesale price	\$20.00	\$20.34	\$20.69	\$21.38
Labor costs as a % of wholesale price	3.44%	5.07%	6.65%	9.65%
Retail price	\$44.00	\$44.34	\$44.69	\$45.38
Labor costs as % of retail price	1.56%	2.33%	3.08%	4.55%
% change in retail price	0%	0.78%	1.54%	3.03%

Full Report at: http://www.workersrights.org/Labor_Cost_Increases_and_Apparel_Retail_Prices.pdf



Increases in Cost—Dominican Republic

Table 2				
Consequences of Wage Increases on Apparel Production Costs				
Embroidered Logo Sweatshirt (Manufactured in the Dominican Republic) ⁴				
Apparel Costs	Costs at Current wage rate	Impact of 50% increase in wages	Impact of doubling wages	Impact of tripling wages
Non-labor costs of production (includes fabric and other materials, factory overhead, and factory profit)	\$5.89	\$5.89	\$5.89	\$5.89
Labor costs of production (includes direct and supervisory labor)	\$0.45	\$0.68	\$0.90	\$1.35
Freight-on-Board (FOB) price (price to brand at factory door: includes all labor and non-labor production costs of factory)	\$6.34	\$6.57	\$6.79	\$7.24
Labor costs as a % of FOB price	7.1%	10.3%	13.3%	18.6%
Landed-Duty-Paid (LDP) price (final cost to brand: includes FOB price plus shipping, duty, delivery, insurance, and customs clearance)	\$7.89	\$8.12	\$8.34	\$8.79
Labor costs as a % of LDP price	5.7%	8.3%	10.8%	15.4%
Wholesale price	\$15.78	\$16.01	\$16.23	\$16.68
Labor costs as a % of wholesale price	2.85%	4.22%	5.55%	8.09%
Retail price	\$35.00	\$35.23	\$35.45	\$35.90
Labor costs as % of retail price	1.29%	1.92%	2.54%	3.76%
% change in retail price	0.00%	0.64%	1.27%	2.51%

Full Report at: http://www.workersrights.org/Labor_Cost_Increases_and_Apparel_Retail_Prices.pdf



Living Wage Estimate—Jakarta, Indonesia

Prevailing Wage (2006)¹		\$82.15 / month \$0.47 / hour		
WRC living wage (1 worker, 2 dependents)²		\$228.54 / month \$1.31 / hour		
NUTRITION (diet for 1 adult and 2 children, 2200 calories per day)	Cost (USD)³	Unit	Monthly Requirement	Monthly Cost (USD)
Rice	\$0.30	Kg	25.09	\$7.44
Chinese cabbage	\$0.18	kg	5.67	\$1.04
Com	\$1.03	kg	0.92	\$0.94
Leafy green vegetables	\$0.90	kg	6.41	\$5.76
Potatoes	\$0.69	kg	4.12	\$2.85
Tomatoes	\$0.43	kg	5.67	\$2.41
Apples	\$1.47	kg	2.01	\$2.95
Bananas	\$0.99	kg	3.29	\$3.25
Carrots	\$0.20	kg	12.35	\$2.44
Oranges	\$0.59	kg	7.87	\$4.67
Tempe	\$0.10	Box (226 g)	18.22	\$1.80
Tofu	\$0.10	Box (396 g)	12.71	\$1.26
Fish	\$1.28	1 fish (568 g)	3.71	\$4.77
Chicken	\$1.38	1 whole chicken	3.97	\$5.49
Eggs	\$0.73	kg	3.20	\$2.34
Powdered milk	\$1.93	kg (powder)	0.62	\$1.19
Bread	\$0.35	Loaf	5.66	\$1.96
Wheat flour	\$0.51	kg	1.65	\$0.85
Cooking oil	\$0.59	Liter	2.48	\$1.47
Sugar	\$0.71	kg	2.75	\$1.96
Coffee	\$0.99	kg	0.73	\$0.72
Lunch purchased near factory	\$0.44	1 lunch	25.00	\$11.11
Drinking water	\$0.84	Jug	4.00	\$3.36
Nutrition subtotal (per month)				\$72.03
HOUSING (2 room house with bathroom and kitchen)	Cost (USD)	Unit	Quantity and frequency of replacement	Monthly Cost (USD)⁴
Rent	\$27.81	Per house	1 payment, monthly	\$21.96
Bed (mattress, frame, box spring)	\$197.23	1 bed	2 beds, every 10 years	\$2.60
Bedding (sheets, pillow, pillow cases)	\$10.37	Set for 1 bed	2 sets, once every 2 years	\$0.68
Table and 4 chairs	\$91.80	Set (1 table, 4 chairs)	1 set, every 10 years	\$0.60
Clothing storage	\$44.15	Set of shelves	1 set, once every 5 years	\$0.58
Other seating: 2 additional chairs	\$22.95	2 chairs	2 chairs, every 10 years	\$0.15
Tabletop stove	\$13.34	1 stove	1, every 5 years	\$0.18
Pots and pans (set of 4-6)	\$43.47	Set	1 set, every 2 years	\$1.43
Dishes (includes glasses and cutlery)	\$20.85	Set	1 set, every 2 years	\$0.69
Electric cooking appliance: rice cooker	\$34.58	1 rice cooker	1, every 5 years	\$0.46
Small refrigerator	\$118.56	1 refrigerator	1, every 10 years	\$0.78
Electric fan	\$19.76	1 fan	1, every 2 years	\$0.65
Radio	\$16.80	1 radio	1, every 5 years	\$0.22
Household cleaning supplies	\$2.71	Monthly cost	Once monthly	\$2.14
Water (utility)	\$0.00	Monthly cost	N/A, covered by electricity fee	\$0.00
Housing subtotal (per month)				\$33.10



ENERGY	Cost (USD)	Unit	Frequency	Monthly Cost (USD)
Electricity	\$8.15	Monthly cost per household	Monthly	\$6.44
Kerosene (for stove) and stove wick	\$4.68	Monthly cost per household	Monthly	\$3.69
Energy subtotal (per month)				\$10.13
CLOTHING	Cost (USD)	Unit	Frequency	Monthly Cost (USD)
Adult (1 adult)				
Shirt/blouse	\$8.89	1 shirt or blouse	3 per year	\$2.22
Pants or skirt	\$4.94	1 pair pants or skirt	3 per year	\$1.23
T-shirt/undershirt	\$2.96	1 shirt	3 per year	\$0.74
Socks	\$0.80	Pair	3 per year	\$0.20
Underwear	\$1.03	Pair	3 per year	\$0.26
Sarong (night clothes)	\$4.45	1 sarong	1 per year	\$0.37
Shoes	\$14.82	Pair	2 per year	\$2.47
Rubber sandals	\$0.59	Pair	1 per year	\$0.05
Child (2 children)				
Shirt	\$2.47	1 child shirt	3 per year per child	\$1.23
Pants or skirt	\$2.96	1 pair pants or skirt	3 per year per child	\$1.48
Shorts	\$1.98	Pair	1 per year per child	\$0.33
Underwear	\$1.03	Pair	3 per year per child	\$0.52
Socks	\$0.80	Pair	3 per year per child	\$0.40
Shoes	\$7.90	Pair	2 per year per child	\$2.63
Plastic sandals	\$0.49	Pair	1 per year per child	\$0.08
Laundry costs (for 3 people)	\$0.59	1 kg detergent	Monthly	\$0.59
Clothing subtotal (per month)				\$14.82
HEALTH CARE (costs for one adult and 2 children)	Cost (USD)	Unit	Frequency	Monthly Cost (USD)
Doctor visit*	\$0.00	1 visit	3 per year per person	\$0.00
Dentist visit*	\$0.00	1 visit	1 per person per year	\$0.00
Ophthalmologist visit*	\$0.00	1 visit	1 per person per year	\$0.00
Prescription medication*	\$0.00	Average monthly cost for 3 people	Monthly	\$0.00
Over the counter medication	\$0.40	Average monthly cost for 3 people	Monthly	\$0.40
First aid supplies	\$1.48	Average monthly cost for 3 people	Monthly	\$1.48
Eye glasses*	\$0.00	1 pair	1 pair every 2 years	\$0.00
Prenatal care/maternity costs*	\$0.00	Total cost per pregnancy	1 birth every 5 years	\$0.00
Personal hygiene (soap, toothpaste, feminine hygiene)	\$4.82	Average monthly cost for 3 people	Monthly	\$4.82
*Costs covered by social security or mandatory employer-funded health insurance.				
Health Care subtotal (per month)				\$6.70



EDUCATION	Cost (USD)	Unit	Frequency	Monthly Cost (USD)
Primary school (1 child)				
Primary school tuition fees	\$2.52	Monthly, per child	Monthly, 9 months/year	\$1.89
Primary school uniform cost	\$2.59	1 uniform	6 per year	\$1.29
Primary school book and materials cost	\$25.56	Set	Twice annually	\$4.26
Transportation to primary school	\$0.49	1 roundtrip	Daily (20 days/month)	\$9.88
School bag	\$5.93	1 bag	once every 2 years	\$0.25
Secondary school (1 child)				
Secondary school tuition fees	\$5.79	Monthly, per child	Monthly, 9 months/year	\$4.34
Secondary school uniform cost	\$3.02	1 uniform	6 per year	\$1.51
Secondary school book and materials cost	\$18.31	Set	Twice annually	\$3.05
Transportation to secondary school	\$0.49	1 roundtrip	Daily (20 days/month)	\$9.88
School bag	\$5.93	1 bag	Once every 2 years per child	\$0.49
Education subtotal (per month)				\$36.85
TRANSPORTATION	Cost (USD)	Unit	Frequency	Monthly Cost (USD)
Transport for worker to and from factory	\$0.99	1 roundtrip	25 days/month	\$24.70
Transport to market	\$0.49	1 roundtrip	Once per week	\$2.12
Transport to hometown	\$29.27	1 roundtrip	Annually, 3 people	\$7.32
Transportation subtotal (per month)				\$34.14
SUBTOTAL (per month)				\$207.76
Miscellaneous (2.5%)				\$5.19
Savings (7.5%)				\$15.58
MONTHLY TOTAL				\$228.54
<i>% increase over prevailing wage required to achieve living wage</i>				<i>178%</i>

Full Report at: <http://www.workersrights.org/LivingWageEstimates.pdf>