

# maquila network update



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## La Senza abandons lingerie workers in Thailand



**Canadian lingerie retailer La Senza is trying to cut and run from its responsibilities to workers at its Gina Form Bra supply factory in Bangkok, Thailand.**

Another Montreal-based retailer, Boutique Jacob, stopped placing orders with the Gina Form factory in April, citing business considerations, including merchandising, pricing, and quality of work as the reasons for its decision.

La Senza president Lawrence Lewin claims his company is pulling out of the factory because of May Day protests organized by MSN members and supporters in four Canadian cities. However, Gina Form workers say they completed the last La Senza order in the last week of April, days before the retailer was aware of the May 1st actions.

May Day protests included a bra burning outside a La Senza store in downtown Winnipeg, a store rally and delivery of petitions to the store manager in Vancouver, leafleting of customers at three stores in Toronto, and

distribution of leaflets at a May Day march in Montreal. The protesters urged La Senza to stay in the factory and help eliminate worker rights abuses.

MSN is now calling on La Senza to immediately resume orders with the Gina Form Bra factory and work with other buyers, including Gap and Victoria's Secrets, to pressure management to reinstate 37 unjustly fired union members and five laid-off union leaders, and put an end to the harassment and intimidation of union members in the factory.

While trying to blame MSN for his company's decision to

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# Nike v. Kasky: Corporate accountability or litigation chill?

**A critically important court case with major legal and political implications for the corporate social responsibility movement is being fought out in the US Supreme Court.**

Nike v. Kasky pits the global sportswear giant, Nike, against San Francisco anti-sweatshop activist, Marc Kasky, a David and Goliath case if ever there was one.

The specific issue being addressed by the Supreme Court is whether public statements made by Nike in response to allegations of sweatshop abuses are “commercial speech” or free speech. Whether Nike’s public statements on social and environmental matters are true or false is not at issue in the Supreme Court case.

The larger issues behind the specific question under review are whether corporations should be treated as “persons” concerning the US Constitutional First Amendment right to freedom of speech; whether corporations can be held legally accountable for false statements on their social and environmental practices; and whether court challenges on this issue will make corporations more accountable or discourage them from voluntarily reporting on actions they are taking to address social and environmental issues.

The story begins in 1998 when former athlete Marc Kasky sued Nike for “false advertising” because of public statements the company had made, including that workers in its

applying state laws barring false and misleading commercial messages.” In other words, Nike and other corporations are legally liable for false statements about their social or environmental



overseas supply factories made double the local minimum wage and were protected from physical and sexual abuse. Under a California consumer protection law, anyone can sue a company for false advertising.

While the state and appellate courts ruled in favour of Nike’s claim that its statements were “non-commercial” speech, and therefore protected under the First Amendment, the California Supreme Court overturned that decision in an appeal, ruling that Nike’s statements were “commercial speech for the purposes of

practices. Nike appealed this decision to the highest court in the land.

In an *amicus curiae* (friend of the court) submission to the Supreme Court on behalf of Domini Social Investments, law professor Cynthia A. Williams states: “[W]e ought to treat companies’ statements about social and environmental facts precisely as we treat their statements of financial facts. These factors are critical to investors and consumers, but they are only valuable if they are true. A broad ruling in Nike’s favour would seriously

— see ‘free speech’ on page 8 —

## maquila network update

is published quarterly in English and Spanish by the Maquila Solidarity Network (MSN). The MSN includes over 400 organizations and individuals across Canada. The MSN promotes solidarity between Canadian labour, women’s and social movement groups and Mexican, Central American and Asian counterparts organizing to raise standards and improve conditions in maquiladora and export processing zones. The MSN acts as the secretariat for the Ethical Trading Action Group and is active in Stop Sweatshops campaigning.

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# BJ&B workers win first union contract

On March 26, workers at the BJ&B cap factory in the Dominican Republic won an important victory when their union and factory management signed a first collective bargaining agreement.

The agreement is the culmination of a difficult two-year struggle that combined local worker organizing, campaigning by Students Against Sweatshop groups on a number of US campuses, and the efforts of the Fair Labor Association (FLA) and the Worker Rights Consortium (WRC) to address complaints from workers and brand-name buyers.

## Wage Precedent

The contract provides a 10 percent wage increase beginning January 2004, productivity wage incentives, and scholarships to 75 university students, 67 percent to be given to factory workers or their children, and 33 percent to children of other residents of the community.

According to the FLA's Salem Shubash, this is the first collective agreement provid-

ing wage increases in a Dominican free trade zone, and represents "a major step forward in improving the living conditions of Dominican apparel workers."

BJ&B produces sports caps for Nike and Reebok, both of which are members of the FLA, and for a number of US universities, many of which are members of the FLA and/or the WRC.

## Workers Reinstated

The workers first began to organize in October 2001. Twenty of them, the legally required number, filed an application for union certification. When management received word that the union had been formed, they announced over the loudspeaker that if the other workers didn't remove the union leaders from the factory, they would all lose their jobs. All twenty of the union leaders who had

signed the application for certification were then fired.

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

The intervention of the FLA, the WRC and brand and university buyers resulted in the reinstatement of fired union leaders, as well as some improvements in factory conditions. However, further interventions were needed in response to additional illegal firings and continuing harassment of union members. BJ&B finally recognized the union in October 2002.

## Potential for Cooperation

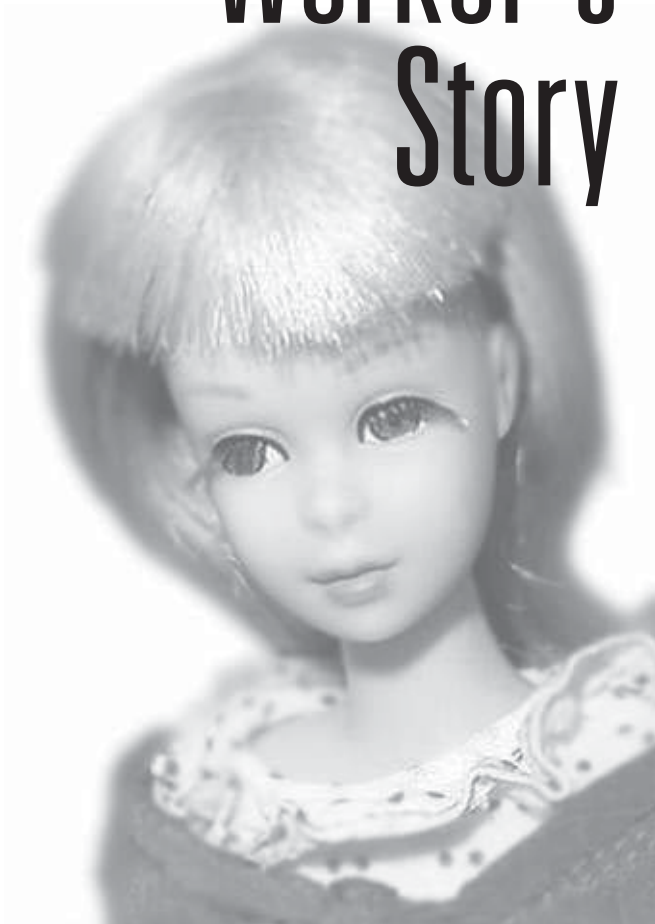
In an update to WRC-affiliated universities, WRC Executive Director Scott Nova points to the important roles played by the FLA, Nike and Reebok, and United Students Against Sweatshops. He commends the FLA for assisting with the reinstatement of fired union leaders, retaining the Dominican Republic labour lawyer and former Secretary of Labour Rafael Albuquerque as an ombudsperson in the case, and for conducting worker rights training on freedom of association with both workers and supervisors led by the FLA's former Director of Monitoring, Louis Vanegas.

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

# Sounding Bar

By Ana Enriquez, Factor X/Casa de la Mujer  
Tijuana, Mexico

## A Toy Factory Worker's Story



A few days before Christmas in 2001, Martha and her coworkers lined up outside the entrance to the Mabamex toy factory in Tijuana, Mexico to receive their annual Christmas bonus from their employer. That year, based on the points she had accumulated for punctuality throughout the year, Martha was entitled to the musical house, the Fisher Price blackboard and a toy tea set. The toys were from pallets where some defective products had been detected.

And just like every other year at Christmas time, Martha and hundreds of other women and men working for Mabamex not only received the Christmas toys they had earned, but also received notice that they were being laid off for the holiday season. In fact, many of the workers were told they were permanently fired, while others were promised they would be rehired at the beginning of the new year.

After handing out the toys, management collected the work smocks and identification badges from those workers who were being let go, and made them sign resigna-

tion letters, agreeing to accept severance pay that was much less than what they were legally entitled to receive.

Those workers who were not asked to hand in their smocks and badges knew they were going to be "recontracted" at the beginning of the year. That year Martha was one of the lucky ones.

Mattel, the world's largest toy company, is best known for its ever-popular Barbie doll. It is also known for its Code of

In the US,  
Girls aged 3  
to 11  
receive an  
average of  
three  
Barbies per  
year.

Conduct in which the company pledges to respect its workers rights and ensure that the code is followed in all the factories where its products are made around the world.

When Martha started working at Mabamex in March of 2000, she was an assembly line worker and was frequently moved from one department of the factory to another. First she was in electrical harnesses for toy racing cars, then they moved her to the ViewMaster area, and after that she was sent to the train set department.

"They moved me all over the place," she explains. "I assembled stuffed monkeys and dogs.

*Martha, centre, heading to the labour board office with protest banner.*

# bie's Alarm

Sometimes they assigned me to a number of different workstations. I didn't have a regular place to work; they put me wherever they needed me."



Then they moved her to the car racetrack department. Two months working on one toy, then on another, then back around to racetracks. She remembers that Mabamex made the Barbie minivan in 2001. In 2002, she was finally promoted to the moulding area where she caught the hot pieces of plastic toys spit out by the machines and placed them in various containers.

In July of 2002, she was moved to the morning shift. On her fourth day of work, at around 7:40 a.m., Martha suffered an accident. Reworking a piece of plastic, she cut her left forearm with a knife. The protective gloves that she had been given only covered her hands. She went to the

factory's infirmary where they gave her three stitches. They ordered her back to her workstation to continue loading containers with her bandaged hand.

Hours later, her arm was swollen and she was feeling a lot of pain, so she decided to leave the factory and go to the Social Security clinic to have it looked at. Her injury was diagnosed as an occupational accident, and she was told she was entitled to seven days disability leave.

The following day, she returned to the factory to deliver the disability notice and to request that her Social Security forms be filled out. For hours, a company doctor, nurses and the head of Human Resources all argued with Martha, trying to persuade

her not to return to the Social Security office and to stop insisting that they complete and sign the forms.

"For our company, this is like setting off an alarm," one of them

said to her. "Your cut isn't very serious," said another. "We'll pay you for the whole week. If Social Security gives you eight days, we'll pay you for ten,

Every year, 150 new Barbies are released onto the market.

two days more, what do you think? We'll give you everything, your pay cheque, your bonuses, your toys. We'll even pay you

for Saturday and Sunday." They finished by saying, "We're not going to have someone working at this factory that doesn't trust us, that does harm to the company, think about it. We're not going to fill out anything for you."

Finally, because of Martha's stubborn insistence, manage-

ment filled out the Social Security forms, but they included a statement saying that she had voluntarily agreed to continue working. This infuriated Martha even more and she decided to go to the Conciliation and Arbitration Board to formally request that the company clarify that she hadn't volunteered to go back to work the day of her accident.

At the end of her disability period, Martha returned to work for the next few months, until she was fired on November 7. When he notified her of her

dismissal, the Human Resources Manager said: "A few months ago you made a complaint to the labour board and now we don't want you to work with us. This is your last day of work, you're fired."

Martha is now an employee of Mabamex. Not only did the company fail to provide her full severance pay, they even denied her the toys she had earned based on the punctuality points she had accumulated that year.

Martha decided to file

another complaint with the labour authorities, charging Mabamex with unjust dismissal.

Now Martha is sounding the alarm. Now she knows that Mabamex isn't just about toys delivered hot from the machines that you earn with points or lose for your disobedience. She is now aware of the

commitments Mattel has made in its code of conduct to respect its workers' rights. She knows there are channels to register her complaints, demanding that the company follow through on its promises. Barbie still hasn't heard the news, but her workers are becoming aware.

Most Barbies are made in China, where Mattel supply factories employ approximately 10,000 workers.

Around the world, two Barbies are bought every second.

# news & notes

## State of Maine confronts Gildan

The State of Maine has invoked its code of vendor conduct to challenge Montreal-based T-shirt manufacturer Gildan Activewear to prove it is respecting workers' rights in its Honduran factories.

In July 2002, the State purchased



Gildan T-shirts for inmates at one of its correctional facilities. When it learned of reports in the Canadian media of alleged forced pregnancy testing and violations of freedom of association at Gildan facilities, the State's Division of Purchases ordered its vendor to provide evidence that Gildan was in compliance with the State's code of conduct.

Other bulk purchasers of Gildan products that have requested similar assurances include the University of Toronto, Amnesty International, Oxfam Canada, and the Winnipeg Folk Festival.

## \$20M settlement to Saipan workers

On April 24, a US\$20-million settlement was approved in a class action lawsuit on behalf of 30,000 garment workers on the Pacific island of Saipan. All but one of the 27 major US retailers named in the suit have agreed to the settlement. The one holdout, Levi Strauss, continues to fight the case in the courts.

The 1999 lawsuit alleged that the workers laboured under sweatshop conditions, working up to 12 hours day,

seven days a week, sewing for well-known US retailers including Gap, Sears, Liz Claiborne, Levi's and Target. It charged companies with benefiting from a form of indentured labour, in which "guest workers" from China and other Asian countries were compelled to sign contracts denying them their basic human rights and pay exorbitant recruitment fees to work in the US Commonwealth island.

Although the settlement does not include an admission of wrongdoing, it does require companies to contribute \$20 million to a fund to pay back wages and cooperate with independent monitoring of factory conditions. The parties agreed to explore ILO involvement in the monitoring system, but the US government has refused to allow ILO participation. (As a US protectorate, Saipan falls under US federal government jurisdiction.)

The US labour rights group Sweatshop Watch is calling for letters to Levi's, urging that company to settle the Saipan lawsuit. See [www.sweatshopwatch.org](http://www.sweatshopwatch.org).

## Still awaiting disclosure on disclosure

Four months after the federal government promised to release a report assessing the Ethical Trading Action Group's (ETAG's) proposal for factory disclosure regulations for companies selling apparel products in Canada, ETAG is still waiting for the report and for

promised round table discussions on the proposal and other policy options. On February 24, ETAG delivered tens of thousands of clothing labels and petitions signed by over 20,000 Canadians to the office of Industry Minister Allan Rock, demonstrating broad public support for factory disclosure regulations.

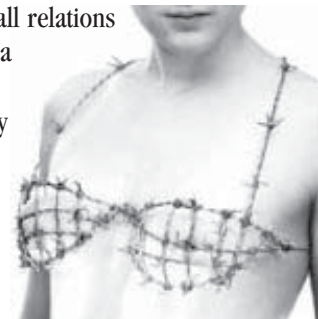
## Bye, bye, Burma (for now)

Canadian retailer Boutique Jacob has responded to a consumer boycott campaign launched by the Canadian Friends of Burma (CFOB) by agreeing to stop having Jacob products made in Burma, for now anyway.

On April 19, the Canadian Friends of Burma staged leafleting actions in four Canadian cities, urging Jacob to cease all business with Burma until the human rights situation improves significantly in that country. On April 30, the company promised not to sell products made in Burma in their fall and winter collections in 2003 and throughout 2004.

While CFOB is pleased with Jacob's announcement, they are disappointed that the company did not state its intentions after 2004 or agree to terminate all relations with Burma

until democracy and human rights have been restored.



Burma, renamed Myanmar by its military rulers, is controlled by one of the world's most brutal dictatorships. For the past several years, the CFOB, MSN and the Ethical Trading Action Group have been calling on the Canadian government to impose economic sanctions on the regime and ban all imports from Burma.

MSN invites anyone who sees "Made in Myanmar" labels in Canadian stores to contact our office.



### Nike month of action

May was a month-of-action in solidarity with Nike workers. Between May 1 and May 31, people around the world staged weekly leafleting actions in front of stores selling Nike products, calling on Nike to contribute to the severance pay of 7,000 Indonesian women and men who lost their jobs seven months ago, as Nike shifts orders from Indonesia to lower wage countries like China and Vietnam. The month of action was initiated by NikeWatch, a project of Oxfam Australia-Community Aid Abroad.

### Improvements at MEC, while Hudson's Bay lags

Canadian outdoors sportswear retailer Mountain Equipment Co-op (MEC) has launched its new Sourcing Policy that will hold its suppliers to



higher labour standards and introduce some public reporting on the results of factory

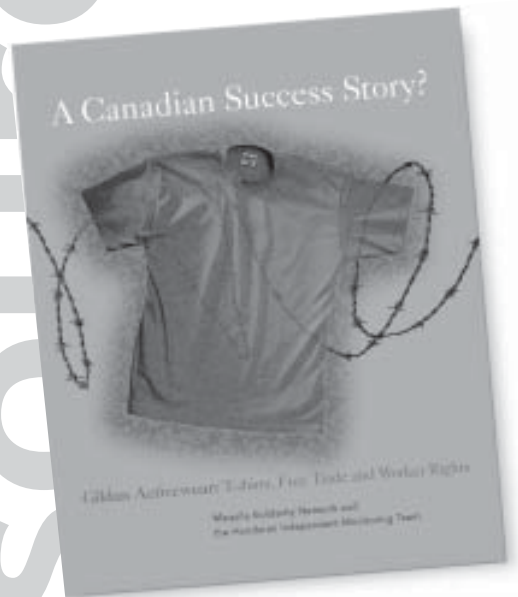
monitoring. Over the past year, MEC has been consulting with MSN and other groups about possible improvements in its code of conduct and factory monitoring system.

At MEC's April 24 AGM, MSN volunteer Tom Sandborn thanked co-op staff and board members for the improvements made in the code, but urged them to disclose more information on the results of factory audits.

While MEC's new Sourcing Policy brings the co-op's labour standards more in line with ILO Conventions on issues like freedom of association, collective bargaining rights, and hours of work, its public reporting program does not yet provide sufficient information to identify common worker rights violations or to track steps taken to improve practices.

Meanwhile, Canada's oldest retailer, the Hudson's Bay Company (HBC), has also announced some improvements in its code of conduct, but has released only minimal information on the process and results of its factory monitoring program. At the HBC's 2002 annual meeting, 37 percent of shareholder votes were cast in favour of a resolution calling for more transparent reporting on the results of third-party factory audits.

**A Canadian Success Story? Gildan Activewear: T-shirts, Free Trade and Worker Rights.** Maquila Solidarity Network and the Honduran Independent Monitoring Team, May 2003. Contact: [info@maquilasolidarity.org](mailto:info@maquilasolidarity.org)



**Justice for All: A Guide to Worker Rights in the Global Economy.** American Center for International Labor Solidarity, May 2003. Contact: [www.solidaritycenter.org](http://www.solidaritycenter.org)

**Blowing the Whistle on a Neighbourhood Bully: What makes Wal-Mart such a bad neighbour?** UFCW Canada, 2000. Contact: [www.ufcw.ca](http://www.ufcw.ca)

**Asia Pacific Labour Law Review: Workers' Rights for the New Century.** Asia Monitor Resource Centre, April 2003, US\$38.00, 393 pp. Contact: [www.amrc.org.hk](http://www.amrc.org.hk)

NEWSREVIEWS

# La Senza's blame spiral

—continued from page 1—

pull out of the Gina plant, Lewin says a La Senza inspection team found no worker rights violations in the factory. His claims directly contradict the findings of the Thai National Human Rights Commission and the Labour Relations Committee, which ruled that Gina management was guilty of violating the Thai labour code and international human rights conventions.



PHOTO: GINA MOUNT

Winnipeg protestors burn their bras in front of La Senza store.

Lewin goes on to say that all problems in the factory are the result of “an inter-union rivalry.” But according to the Gina Relation Worker Union (GWU), management’s recent recruitment of a pro-company union into the factory is just the latest tactic in an ongoing campaign to destroy the GWU, which has represented the workers in the factory since 1994.

Meanwhile, Gina workers and their international supporters won a small victory on March 18 when factory management was forced to comply with a Supreme Court ruling to reinstate the former president and current Secretary General of the GWU, Somboon Rodjareon. Ms. Rodjareon was unlawfully dismissed in August 2001.

La Senza’s attempt to cut and run from Gina Form comes at a critical moment in the workers’ struggle, as harassment of union members intensifies. Supervisors have reportedly confiscated workers’ GWU union membership cards, demanding copies of personal documents to facilitate applications to the pro-company union. They are also reportedly exploiting the fear of lost orders to intimidate workers

into signing up with the company union, telling them that if they accept the new union, the company will survive.

La Senza’s refusal to disclose the results of its March factory audit, or even to provide MSN a copy of its code of conduct, suggests that Canadian retailers still have a long way to go in addressing their customers’ concerns about possible links to sweatshop abuses.

Without factory disclosure regulations, companies like La Senza and Jacob will continue to hide behind vague statements on corporate social responsibility, while cutting and running from their responsibilities whenever real instances of sweatshop abuses are uncovered.



PHOTO: RON STIPP

“Shame on you, La Senza!” shout 30 protestors outside Vancouver store.

# Free speech or false speech?

—continued from page 2—

undermine the SEC [Securities Exchange Commission] and other regulators’ abilities to ensure that these statements are accurate and not misleading.”

While most US anti-sweatshop groups, including Press for Change, Campaign for Labor Rights and United Students Against Sweatshops, agree with professor Williams’ assessment of the negative impact of a Supreme Court ruling in favour of Nike, a number of corporate social responsibility advocates, journalists, the American Civil Liberties Union and the AFL-CIO are also concerned that

an unanticipated negative impact of the court case could be to discourage companies from engaging in public debate on social and environmental issues or voluntarily reporting on their social and environmental performance.

In its brief to the Supreme Court “in support of neither party,” the AFL-CIO states: “[I]n the continuing debate on Nike’s labour standards, the Corporation’s public statements are not the only word or the last word but rather are part of a continuing dialogue, and indeed serve as a catalyst for that dialogue. Nike’s withdrawal under legal pressure

from the dialogue about the labour conditions at its production facilities serves both to diminish the sources of public knowledge about that matter and to frustrate the debate itself.”

Whether or not a US Supreme Court decision in favour of Kasky would discourage companies from voluntarily reporting on their social and environmental practices, a decision in favour of Nike might be worse, if that decision further entrenches the view that corporations be treated as “persons” and enshrines their “right” to mislead the public about those practices.