

MEMO: CODES UPDATE

NUMBER 11, June 2002

Why a “Codes Update” memo?

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

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A. MULTI-STAKEHOLDER CODE INITIATIVES EXPLORE COMMON GROUND

On April 20-27, representatives of the Fair Labor Association (FLA), Social Accountability International (SAI), and the Worker Rights Consortium (WRC) travelled to Brussels and Amsterdam to learn more about European experiences with multi-stakeholder codes, monitoring and verification initiatives.

The Codes Study Tour was organized by Dara O’Rourke, assistant professor in the Department of Urban Studies and Planning at the Massachusetts Institute of Technology, and Charles Sabel, professor of law at Columbia University, and funded by the William and Flora Hewlett Foundation.

According to O’Rourke, the tour was not only an opportunity to learn about the trends, challenges and lessons of the European code initiatives, it was also a chance for US participants to discuss among themselves new developments and directions in their own initiatives, and to explore possibilities for better communication and collaboration.

While in Europe, the US delegation met with European labour, NGO and business leaders involved in the UK’s Ethical Trading Initiative, the Dutch Fair Wear Foundation, as well as representatives of the Clean Clothes Campaign.

According to O’Rourke, a key difference in the European initiatives as compared to their US counterparts is that the Europeans have taken a more experimental approach, exploring alternative methods of assessing compliance with codes and local labour legislation through pilot projects. “We wanted to learn from their learnings,” says O’Rourke.

While the experimental approach has allowed the European initiatives to avoid many of the early mistakes of their US counterparts, the delegation found that some of the European groups are beginning to see the limitations of one-off pilot projects and the need to move ahead in institutionalizing compliance verification systems.

O’Rourke also found that the European groups recognize that one-country initiatives, such as the Fair Wear Foundation in the Netherlands, need to be “scaled up” to the European level, if they are to be successful. According to Ineke Zeldenrust of the CCC, “European cooperation is high on our agenda,

because without it initiatives like the Fair Wear Foundation or the Swiss monitoring project might not survive.”

FLA Executive Director Aurret van Heerden found there was a “remarkable convergence” among the US and European initiatives on key issues related to monitoring, including the need for:

- a multi-stakeholder approach “at both the top and bottom of the supply chain;”
- capacity building for civil society organizations, but also for business and ministries of labour;
- greater transparency in external monitoring and reporting;
- “more substantive remediation that grapples with the underlying issues,” such as the impact of pressure to meet order deadlines on hours of work and overtime practices.

Is Cooperation Possible?

SAI president Alice Tepper Marlin says that while joint initiatives between SAI and the FLA are at the “agreement in principle stage,” there is a great deal of potential for cooperation and collaboration among the various initiatives, including:

- identifying and sharing information on common suppliers to facilitate joint or cooperative remediation effort among buyers using the same facilities;
- joint training programs for supervisors and workers, to share costs and avoid duplication; and
- joint audit assessments to determine best practices, and sharing and mutual recognition of audit reports.

Tepper Marlin emphasizes that discussions among the initiatives about areas of possible cooperation, collaboration and joint recognition have been underway long before the Study Tour took place.

While WRC Executive Director Scott Nova supports on-the-ground cooperation wherever possible, he cautions against homogenization of the various initiatives. “There is a value in multiple approaches to addressing sweatshop abuses,” says Nova, “and there will always be a need for groups like the WRC that are fully independent of industry.”

Zeldenrust notes that the CCC international secretariat and SOMO (Centre for Research on Multinational Corporations) are working to develop common terminology among the European initiatives and other partners in order to eliminate confusion over the different terms used by national initiatives for various code processes. They are also compiling information based on different experiences with worker and third-party complaints systems in order to determine best practices, and on developing guidelines for pre-audit studies on common issues and problems in particular countries.

Differences on Transparency

Despite these areas of convergence, both O’Rourke and van Heerden noted differences between US and European groups on the issue of transparency. While European NGOs tend to believe it is sufficient for companies to report on the results of code compliance verification to multi-stakeholder governance bodies where unions and NGOs are represented, their US counterparts are calling for increased public reporting on the results of monitoring and remediation plans.

Tepper Marlin believes European NGOs are no less committed to transparency than are their US counterparts; they merely differ on how much information consumers need to make ethical choices. “If consumers have confidence in the system for determining and reporting compliance, most don’t want detailed information on what’s

happening in a particular factory,” says Tepper Marlin. “What they want is point of purchase information, such as a certificate on a product. We’re a long way from that now, but maybe in 5-10 years it will be possible.”

Nova believes increased transparency is a crucial demand for corporate accountability. “The WRC’s commitment to absolute transparency is reflected in our public reports on the results of factory investigations,” says Nova. “We are seeing a growing recognition of the need for transparency among organizations involved in this work.”

Zeldenrust warns against generalizing about the views of European groups on transparency. She says that while there is a common commitment to the principle, there isn’t agreement on what or how much should be reported, or to whom. “It is true,” she says, “that there hasn’t been as much public debate in Europe on the issue of transparency as there has in the US and Canada.”

To Certify or Not to Certify?

Another key element of code enforcement where there are significant differences among the initiatives is the question of factory or brand certification. European Clean Clothes Campaign (CCC) groups and NGOs involved in the FLA appear to be moving away from the idea of brand or company certification toward systems that measure Northern companies’ actions and progress toward achieving code compliance in their supply chains. In contrast, SAI continues to focus on auditing and certifying whether individual facilities meet the SA8000 standard.

According to WRC Executive Director Scott Nova, the WRC has always rejected certification of factories or brands because most apparel factories around the world require substantial remediation. “If a monitoring regime is premised on eventual certification, then there may be

pressures to certify factories where problems still exist,” says Nova.

“Compliance is a process that requires ongoing vigilance and effort; certification may remove a factory’s incentive to continue efforts to improve.” He argues that the WRC and other initiatives that don’t certify facilities can still provide valuable information to consumers.

Tepper Marlin defends factory certification as an important incentive and mechanism for facilities to improve labour practices. She says that compliance audits are “the tip of the iceberg,” and that a facility must have management systems in place and then go through a series of audits and take correction actions before it achieves a SA8000 certificate.

She also points to SAI’s Signatory program as being compatible with the FLA’s new assessment and reporting requirements for member companies. SAI Signatory companies commit to providing public reports on their progress in achieving code compliance in their supply chains. According to Tepper Marlin, SAI’s first “verified Signatory report,” from Cutter & Buck, will be released in the near future.

The FLA is also moving to bring more control over “external monitoring” in house, making its compliance verification system more similar to the European foundation model in which auditors are contracted by and report to a multi-stakeholder foundation. In contrast, under the SAI’s SA8000 system, accredited auditing organizations are contracted directly by companies to carry out audits verifying whether their facilities meet the SA8000 standard.

Is Convergence Possible?

Despite their differences on the issue of factory certification and compliance verification, both Tepper Marlin and van Heerden are optimistic about the potential for collaboration between SAI and the

FLA. They also agree on the need to develop common language and common benchmarks on codes and their implementation, and both express their preference for ILO language and norms.

Van Heerden also sees possibilities for collaboration among the different code initiatives on improving and standardizing techniques for monitoring and verification, including worker interviews, and in learning how to effectively engage civil society and workers in compliance programs.

“The best mechanism for monitoring is empowered workers and active civil society organizations,” says van Heerden.

While the FLA and WRC continue to have significant differences on approaches to monitoring, their similar views on the issue of certification could open the door to more on-the-ground cooperation. Both van Heerden and Nova point approvingly to the collaboration between the WRC and FLA on the BJ&B case in the Dominican Republic. (See Codes Memo #10) Van Heerden also notes that the WRC has “early warning sensors out there” that can be effective in identifying problems, and that the WRC is taking into account the need for remedial action.

Nova supports cooperation among the different initiatives “wherever it serves to enhance monitoring and remediation efforts.” He notes, however, that “it is the differences among the organizations that allow them to add distinct and important elements to the equation; the differences themselves are therefore worth preserving.”

Implications for the South?

Most civil society groups and contractors in the South would welcome greater coordination and consistency among the various Northern-based multi-stakeholder initiatives, if for no other reason than to avoid multiple audits of factories with inconsistent results, and multiple demands

on local groups for information, expertise and/or collaboration.

More attention to coordinated worker rights training, increased transparency in reporting, and exploration of best practice in worker interview methods and worker and third party complaints systems should also be welcome by Southern groups.

At the same time, formalization and harmonization of monitoring and compliance verification methods could also place increasing demands on Southern NGO monitoring groups to conform to procedures and protocols defined in the North. Hopefully convergence of systems in the North will not crowd out locally-based initiatives and experimentation in the South.

Despite these misgivings, increased cooperation among the various multi-stakeholder initiatives is a welcome development. As Zeldenrust states, “Do we really have the luxury of not working together? Must consumers and civil society groups in the North and worker rights organizations in the South confront as many multi-stakeholder code initiatives as they do company codes?”

Information on the multi-stakeholder code initiatives described above can be found on the following websites: www.fairlabor.org ; www.sa-intl.org ; www.workersrights.org ; www.cleanclothes.org

B. REPORT RELEASED ON HEALTH AND SAFETY TRAINING IN CHINA

The final report on an innovative health and safety training project in sports shoe factories in China’s Pearl River Delta was released on May 29. The project was a multi-stakeholder effort involving three NGOs (Asia Monitor Resource Centre, Chinese Working Women Network, Hong

Kong Christian Industrial Committee); one labour organization (Hong Kong Confederation of Trade Unions); three international brands (Nike, Reebok, adidas), three Taiwanese-owned contract factories (Kong Tai Shoes, Pegasus Shoes, Yue Yuen II); and health and safety experts from the US and Hong Kong.

A total of 90 people participated in the four-day health and safety training program, including 45 workers and 15 supervisors from the three plants, eight staff from the international brands, and 22 staff members from the participating NGOs. According to Garrett Brown, one of the trainers in the project, while worker participants were selected by management, the project was able to increase the number of women participants.

The training program led to the creation of “young, but functioning” worker-management health and safety committees at the three factories “with the training participants at their core.” Brown notes that four of the 20 members of the committee at the KTS plant are workers who had recently been elected as members of the union committee at that factory, and that one of those four is now the chair of the health and safety committee.

Two evaluations carried out during the first six months after the training workshop show that over half the participants had used materials from the training sessions, conducted plant inspections, and participated in the health and safety committees.

However, follow-up interviews with committee members carried out in November 2001 identified a number of problems, including resistance from supervisors to workplace inspections, frustration with the limited changes the committees could make in health and safety practices, and the lack of salary or overtime pay for the time working on the committees. These issues were brought to the attention of the companies.

The second evaluation carried out in March 2002 indicated that the committees were carrying out regular factory inspections and had identified a number of problems, reported them to management and had them corrected.

At the KTS plant, the committee had been carrying out four full-day inspections a month since shortly after the training program. In early 2002, the number of full-day inspections was reduced from four to two at the same time that four of the 20 part-time safety committee members became full-time plant-wide safety coordinators interacting with supervisors and department managers on a daily basis. The four full-time committee members at KTS include two women and the committee chairperson.

The March evaluation also identified areas that needed improvement, such as the need for additional training, greater management commitment and resources, the challenge of keeping unpaid, volunteer members motivated and involved, and the need for more worker involvement.

Committee members also stated that committees need assistance in “overcoming longstanding ‘cultural barriers’ to successfully implementing a ‘bottom up’ approach to workplace safety in a social context where there are few examples of meaningful worker participation in hierarchical structures in the workplace.”

The report concludes that the “centrality of workers in the process” and the focus on worker empowerment were key factors in the project’s success. It goes on to say, “the experience of initiating and assisting health and safety committees in these three factories may lay the basis for developing more extensive systems of worker participation and external processes of corporate responsibility in China.”

To access the report, visit: www.igc.org/mhssn/

C. EUROPEAN PARLIAMENT VOTES FOR CORPORATE ACCOUNTABILITY

On May 30, the European Parliament passed a resolution in favour of regulations that would require European companies to provide annual public reports on their social and environmental performance.

The resolution calls for independently verified social and environmental impact assessment reports on all levels of companies' activities, including labour and environmental practices in their global supply chains. It also calls for the establishment of legal jurisdiction concerning European companies practices in developing countries.

The European Parliament also voted to:

- Set up a European Corporate Social Responsibility Forum to give rights to stakeholders, including consumers and activist groups, to oversee policies alongside business and trade unions;
- Establish a European Social Label for products that are made under conditions that respect human and worker rights;
- Include the wider social and environmental impact of companies' performance in European negotiations between employers and trade unions;
- Make all European financial assistance to business subject to compliance with minimum standards, and create a list of companies guilty of corruption; and
- Mobilize the EU's trade and development programs to tackle abuses by companies in developing countries.

The European Commission is due to publish its response to the European Parliament's vote in July, and revisions to the Fourth Company Law Directive

concerning mandatory social and environmental reporting will be considered during the second half of the year.

For more information, visit the Clean Clothes Campaign website: www.cleanclothes.org

D. WORLD CUP LOGOS LINKED TO SWEATSHOPS

The European Clean Clothes Campaign (CCC) and the Global March Against Child Labour have joined forces to challenge FIFA and the sporting goods industry to "live up to their promises and responsibilities to make football a fair game, by giving adult workers better working conditions and taking children out of work and [putting them] into school."

The CCC and Global March point to new studies on working conditions in sportswear and soccer ball factories in China, India, Indonesia and Pakistan to illustrate that "some products made by sponsors and licensees, using the FIFA and/or the 2002 World Cup logos are violating fundamental and other rights of workers."

In an April 26 letter from FIFA to the CCC, FIFA declares that they "cannot be held responsible for the labour conditions in factories." According to the CCC, this statement directly contradicts commitments FIFA has made in the past, including its code of conduct drafted in 1996 in collaboration with global unions.

For copies of the recent studies and information on the campaign, visit the CCC and Global March websites: www.cleanclothes.org and www.globalmarch.org/world-cup-campaign

E. NEW ERA FOR THE FLA?

On June 3, a settlement was reached in an 11-month strike at the New Era Cap factory in Derby, New York, which had been a source of controversy for the Fair Labor Association (FLA) at a time when it was considering a New Era application for FLA membership.

United Students Against Sweatshops (USAS) groups at a number of US universities played a major role in building solidarity for the striking workers, who make university licensed baseball caps. Many of the universities that license New Era to make caps bearing their names and logos have codes of conduct requiring compliance with minimum labour standards. Some are also members of the Worker Rights Consortium (WRC) and/or the Fair Labor Association (FLA).

In May 2001, four workers at New Era submitted a complaint to the Worker Rights Consortium (WRC) charging their employer with violations of provisions of university codes of conduct, including health and safety, discrimination and freedom of association provisions.

In August 2001, the WRC released a report on its findings from a preliminary investigation, documenting violations of both US health and safety and labour regulations and university codes of conduct.

After the report was released, USAS members lobbied their universities to end contracts with New Era, and called on the Fair Labor Association to reject an application by New Era to become an FLA member company.

The week before the settlement was achieved, the FLA had voted for a third time to postpone its decision on the application. As a result of student pressure, six universities had dropped their contracts with New Era.

The agreement provides workers a 4% wage increase and health insurance contributions.

For a copy of the WRC report, as well as other information, visit: www.workersrights.org