

# MEMO: CODES UPDATE

## NUMBER 13, December 2002/ January 2003

### 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. YEAR END REVIEW: EMERGING TRENDS IN CODES, MONITORING AND VERIFICATION**

In our 2001 Year End Review, MSN noted that for better or worse codes of conduct were here to stay, and at least some of the multi-stakeholder code initiatives had gained sufficient corporate buy-in to ensure that they will continue to be actors in the labour rights terrain for the foreseeable future.

We concluded, “The real issue for labour and non-governmental organizations in the North and South is not whether we support or oppose voluntary codes of conduct; it’s how to effectively engage with and make use of these new regulatory instruments to promote greater respect for workers’ rights.”

In 2002, the limitations and unresolved issues plaguing these emerging non-governmental regulatory systems became more apparent. As competing multi-stakeholder initiatives moved into the implementation stage, questions arose about the quality of workplace audits, particularly those carried out by commercial compliance verification firms, the limited capacity or lack of interest among southern NGOs in compliance verification, the lack of transparency in corporate reporting, inadequate systems for worker and third-party complaints, multiple codes with varying standards, duplication in factory audits, and slow progress in achieving real improvements in working conditions and labour practices.

As the year progressed, three competing US-based initiatives – the Fair Labor Association (FLA), Social Accountability International (SAI), and the Worldwide Responsible Apparel Production Certification Program (WRAP) – came under increasing pressure from US government and other funding agencies to come to some agreement on areas and terms for cooperation, collaboration and mutual recognition.

Meanwhile a fourth US initiative, the Worker Rights Consortium (WRC), which focuses exclusively on university-licensed products and excludes companies from its governance bodies, carried out three factory investigations in response to worker and third-party complaints. The WRC is a complaints-based system, created as an alternative to the FLA.

Unlike other initiatives, the WRC does not monitor factories on a periodic basis, nor does it certify factories or brands.

In the UK, the Ethical Trading Initiative (ETI) succeeded in increasing its corporate membership while continuing to carry out pilot projects experimenting with methods of auditing and implementing different elements of its code of conduct.

In continental Europe, the Dutch Fair Wear Foundation is still the only up-and-running code compliance verification system. However, pilot projects involving Clean Clothes Campaign (CCC) groups, labour organizations and companies in a number of European countries point to a possible alternative model of monitoring and verification in which there would be a division of labour between commercial compliance verification firms, health and safety experts and local NGO/labour networks.

### ***Advantages of Multi-stakeholder Initiatives***

With the possible exception of the WRAP certification program, which is an industry-controlled initiative with a few “independent experts” participating in its governance body, these multi-stakeholder initiatives have gone beyond most company codes of conduct in a number of areas, including:

- code provisions that are usually more comprehensive and more consistent with ILO Conventions;
- forums for exploring and testing audit methodology and implementation of specific code provisions;
- better defined methods and procedures for internal monitoring and external verification of compliance with code provisions;
- requirements for the adoption of management systems by suppliers to provide verifiable evidence of code compliance;
- reporting requirements on certified factories and/or the results of monitoring and verification, within the multi-stakeholder initiative and/or to the public; and
- largely untested mechanisms for registering worker and third-party complaints when the code is being violated.

### ***Continuing Debates Among NGOs and Unions***

As these initiatives moved into the implementation stage, labour, women’s and non-governmental organizations in the North and South continued to be divided on whether these systems will actually benefit workers on the ground, and whether or how to engage with various competing initiatives.

Not surprisingly, the emergence of these new players in the labour rights field is exacerbating already existing divisions among labour, women’s and non-governmental organizations over questions, such as:

- Will these voluntary systems usurp the regulatory role of national governments and privatize labour standards regulation, or prompt governments to more actively monitor compliance with national labour laws?
- Can commercial auditing firms carry out quality social audits that accurately assess worker rights violations, and if not, who can and should play this role?
- Will local NGOs and/or labour organizations have a significant role in code monitoring and verification, or will this field continue to be dominated by commercial auditing firms and NGO/commercial hybrids?

- Will the presence of local NGO monitoring groups in factories facilitate or discourage worker organizing?
- Will workers themselves have an active role in workplace monitoring, or will they remain objects to be studied by outside organizations hired by companies or northern multi-stakeholder institutions?

Even among NGOs and labour organizations participating in multi-stakeholder initiatives, including the MSN, which is represented on the SAI Advisory Board, as well external organizations supporting the initiatives, there is a growing concern about the quality of factory audits being carried out by commercial compliance verification firms, especially those accredited under the various initiatives.

“For-profit monitors have a built-in credibility problem in those systems in which they are selected, contracted and paid by the factories they inspect,” says Sandra Polaski, a former US State Department official responsible for international labour affairs, and currently a Senior Associate with the Carnegie Endowment for International Peace. According to Polaski, “some systems allow only a fixed rate remuneration, and that serves as an incentive to audit as many factories as possible in the shortest period of time. At the same time, the jury is still out on whether local NGOs have the capacity to carry out effective audits of accounting and factory records or the specific skills to audit health and safety practices.”

### ***Taking Stock of the Multi-Stakeholder Initiatives***

In 2002, there were a number of important developments in the multi-stakeholder initiatives and the WRAP certification program as they moved into the implementation stage.

### **Fair Labor Association**

Two thousand and two was a year of major changes within the FLA, both in its personnel and membership and in its monitoring and reporting programs. Two of the most significant changes were the decision to bring control over external compliance verification in house and a commitment to more transparent public reporting on the results of factory audits.

At the institutional level, a new executive director was appointed, several senior staff left the organization, and the FLA experienced a significant loss in government funding.

Under its revised monitoring program, the FLA, rather than member companies, will select the compliance verifiers and the factories to be audited. This change brings the FLA more in line with the foundation model of the multi-stakeholder initiatives of continental Europe.

If the FLA fully implements its new commitments to greater transparency, consumers and worker rights advocates will have access to the following information on the results of factory audits:

- FLA member company whose facility was audited;
- country/region where the facility is located;
- size of the facility and type of product manufactured;
- areas of non-compliance with the FLA code; and
- status of remediation.

At the same time, the FLA also introduced a change in the percentage of facilities of member companies to be audited from 30% to 10% for the initial membership period, and from 10% to 5% each year thereafter. It appears that this significant reduction in facilities to be audited and the recent accreditation of two auditing firms with questionable qualifications – Global Social Compliance (formerly part of PricewaterhouseCoopers) and T-Group

Solutions (a subsidiary of Triburg, an India-based company that sources garments for Liz Claiborne and Phillips-Van Heusen) – were trade offs for corporate acceptance of changes in the monitoring and reporting systems.

According to FLA Executive Director Aurret van Heerden, the FLA will use a risk assessment methodology to weight facilities for risk and then select facilities on a random sample basis for “external monitoring.”

As 2002 was drawing to a close, the FLA suffered two major blows when Levi Strauss announced plans to withdraw from the Association in 2003, reportedly because of slow progress in the implementation in the FLA’s verification program, and Verité decided to cease acting as an FLA-accredited external monitor. On a more positive note, the FLA announced the decision of the US department store chain, Nordstrom, to have its private label products monitored under the FLA system.

The Fair Labor Association (FLA) is a code monitoring and brand certification program that emerged from the Apparel Industry Partnership (AIP), a Clinton Administration-initiated forum to address sweatshop abuses in the apparel industry. US unions originally involved in the negotiation of the FLA code of conduct broke with the initiative before it was officially launched over perceived weaknesses in the compliance verification system. The FLA code has also been criticized for weak provisions on hours of work, wages, and how freedom of association is interpreted in China.

However, despite the lack of US union participation in the FLA, a number of US NGOs, faith organizations and university administrators have continued to be represented on its governance bodies, advocating for the recent changes in the monitoring and reporting systems.

Since FLA participating companies are predominantly major US apparel and sportswear brand merchandisers, Nordstrom’s decision to join the FLA in 2002 was seen as an important precedent that could encourage other retailers to become FLA member companies.

As of September 2002, 176 US and Canadian universities had joined the FLA, and over 1,100 university suppliers were affiliated with the FLA as a result of university code of conduct requirements that companies manufacturing university-licensed products must participate in the FLA. Three universities are represented on the FLA Board.

FLA accredited “independent external monitoring organizations” include multi-national and local commercial auditing firms, non-profit companies, and a few southern NGOs. Monitoring organizations can be accredited for one country or several countries. For a list of FLA-accredited external monitoring organizations, as well as corporate members and civil society board members, visit: [www.fairlabor.org](http://www.fairlabor.org).

Given the significant policy decisions made in 2002, the FLA will face a number of major challenges in 2003, including:

- Gaining timely and adequate information from auditors and corporate members to deliver on the promised public reports on factory audits and remediation;
- Retaining its current corporate members and incorporating new companies, particularly retailers;
- Retaining the involvement of FLA-accredited local NGO monitoring organizations, and recruiting additional NGO auditors;
- Managing its restructured external monitoring program in which primary responsibility for selecting auditors and facilities to be audited now lies with the Association; and

- Proving in practice that the reduction in facilities to be auditing will provide credible assessments of corporate practices.

As the FLA was struggling through a difficult year of change, SAI and WRAP were moving ahead in certifying factories as being in compliance with their respective standards.

### **Social Accountability International (SA8000)**

Unlike the FLA, Social Accountability International's SA8000 initiative is a factory certification system based on the ISO management systems model. Like the FLA, New York-based SAI accredits compliance verification organizations to carry out factory audits. However, accredited auditors are selected and paid for by the companies, rather than by SAI.

While SAI is a factory certification program, its Signatory Program encourages northern-based retailers, brand merchandisers and other companies to take additional responsibility to ensure that their suppliers are in compliance with the SA8000 Standard, and to report on progress in achieving compliance. In January 2003, the women's wear retailer Eileen Fisher released its progress report for 2002.

As of December 31, 2002, there were 190 SA8000 certified facilities in 31 industries and 31 countries, employing 123,810 workers. Sixty-one of the 190 certified facilities are apparel and textile factories, and 10 are toy factories. Thirty-six of the certified facilities are in China, and the vast majority of those are in the garment/textile and toy sectors.

The number of facilities certified in China has raised serious questions among labour and non-governmental organizations, particularly Hong Kong-based labour rights groups, about the quality of SAI audits and whether commercial compliance verification firms are adequately trained or qualified to carry out credible assessments of labour rights practices.

To date, all of SAI's accredited auditors are commercial compliance verification firms. For a list of SAI-accrediting auditors, visit: [www.sa-intl.org](http://www.sa-intl.org).

While there have been numerous criticisms of the SA8000 commercial auditing approach to code compliance verification, the SA8000 Standard is generally recognized as being higher and more consistent with international conventions and declarations of the International Labour Organization (ILO) and the United Nations (UN) than are the standards of most other code initiatives.

The SAI Advisory Board includes representatives of major US and European companies, such as Dole Food, Toys 'R' Us, Avon, Otto Versand, and WE Europe. It also includes two representatives from the global unions, the International Textile, Garment and Leather Workers Federation and Union Network International, as well as NGO representatives from the US National Child Labor Committee, Amnesty International, Abrinq Foundation (Brazil), and the Maquila Solidarity Network (Canada).

In 2003, SAI will face a number of challenges, including:

- Assessing and improving the quality of its audits and validity of workplace certifications, particularly in China;
- Addressing the limitations of its current commercial auditing model by incorporating the participation of local civil society organizations in the compliance verification process, based on lessons learned through European pilot projects;
- Improving its third-party complaints process to provide timely reports on audit results and remediation plans;
- Winning company support for increased transparency of its public reporting system to bring it more in line with the FLA's revised reporting requirements; and

- Gaining the participation of additional companies, particularly US retailers and brands, as well as increased participation of current member companies in its Signatory Program.

### **Worldwide Responsible Apparel Production Certification Program**

A third US-based code compliance initiative, the Worldwide Responsible Apparel Production Certification Program (WRAP), has moved quickly ahead in monitoring and certifying factories producing for US apparel manufacturers.

As of December 2002, WRAP had certified over 330 factories in 32 countries as being in compliance with the WRAP Principles. According to the WRAP website, a total of 1,025 factories in 68 countries have registered to be certified.

A code monitoring and factory certification initiative of the American Apparel and Footwear Association (formerly the American Apparel Manufacturers' Association), WRAP is generally considered to have the lowest code standards and the least transparent monitoring program. Unlike the multi-stakeholder initiatives, WRAP places total responsibility for seeking and paying for certification in the hands of the factory owners.

Designed as an alternative to Fair Labor Association (FLA), which includes major brand merchandisers (see above), WRAP is the program of choice for the large US apparel manufacturers that produce for the discount retail market. Corporate members of the WRAP Board include: Sara Lee (Hanes, Leggs Playtex, Sara Lee, Bali, etc.), Vanity Fair (VF) Corporation (Lee, Wrangler, Rustler, Riders, Britannia and Chic Jeans), Kellwood (which produces private labels for Wal-Mart), and Gerber Childrenswear.

WRAP is also endorsed by maquiladora and manufacturers' associations in El Salvador, Honduras, Nicaragua, Guatemala, Costa Rica, Mexico, Haiti, the Dominican Republic, Jamaica, Sri Lanka, the Philippines, South Africa, Turkey and Hong Kong.

While the WRAP Board does include former US labour and government leaders, as well as one NGO representative, it should be considered an industry rather than multi-stakeholder initiative. According to Terry Collingsworth of the US International Labor Rights Fund, WRAP is "an industry-dominated project [set up] to avoid outside, legitimate monitoring. In short, it's a dodge, and is so regarded by everyone except industry."

As in SAI's SA8000 factory certification system, WRAP accredits commercial social auditing firms to certify individual factories as being in compliance with the WRAP Principles. However, unlike the SA8000 Standard, the provisions of which are based on ILO Conventions, the WRAP Principles require little more than compliance with local laws.

To date, WRAP has accredited 10 commercial auditing firms to carrying out "independent monitoring" in 49 countries. While monitors are accredited on a country-by-country basis, a few large commercial auditing firms have been accredited for the vast majority of countries. For instance, Intertek Testing Services is accredited for 47 countries, Cal Safety Compliance Corporation (CSCC) for 32, and Global Social Compliance LLC (formerly part of PricewaterhouseCoopers) for 15 countries.

Monitors also include a few locally-based firms, such as El Salvador-based Reduccion de Riesgos S.A. de C.V., which is accredited for El Salvador, the Dominican Republic, Guatemala, Honduras, and Nicaragua. To date, no NGOs have been accredited as WRAP monitors. For a complete list of WRAP-accredited monitors, visit: [www.wrapapparel.org](http://www.wrapapparel.org).

In 2003, WRAP will face a number of challenges, primarily concerning the credibility of its factory audits and certifications, and the lack of transparency in the process. Already, in January 2003, reports of violations of freedom of association at two WRAP-certified factories, in Thailand and Honduras, are raising serious concerns about not only the

credibility of WRAP audits and certifications, but also the lack of any mechanisms for registering complaints.

### **Worker Rights Consortium**

The WRC is an initiative of United Students Against Sweatshops (USAS), and is being promoted to US universities as a more transparent alternative to the FLA. As of November 22, 2002, 110 US and Canadian universities were members of the WRC. However, many of these universities are also members of the FLA.

The WRC Board of Directors includes: five US university representatives, five representatives of United Students Against Sweatshops (USAS), and five US “independent labour rights experts” representing the WRC Advisory Council.

Unlike the FLA, WRAP or SA8000, the WRC does not certify factories or brands. It carries out investigations (both pro-active and in response to worker and third-party complaints) of factories producing for member universities. Investigations are carried out by joint investigative teams made up of WRC members and local NGO and labour organizations.

The first test of the WRC model of compliance verification came in January 2001 when workers at the Kuk Dong garment factory in Atlixco, Mexico, which produces university-licensed apparel for Nike, filed a complaint alleging violations of university codes, the WRC model code, Mexican labour law and international labour law. Based on its investigation, the WRC issued two public reports documenting labour rights violations, including violations of the right to freedom of association.

In 2002, the WRC carried out investigations at the PT Dada factory in Indonesia, which produces caps and stuffed toys for over 25 US universities affiliated with the WRC, the New Era cap factory in the US, and the BJ&B cap factory in the Dominican Republic.

While the successful investigations carried out by the WRC in 2002 have increased its credibility as a viable alternative model for implementing codes of conduct, the initiative will continue to face the challenge of gaining the cooperation of companies being investigated.

Another ongoing challenge for the WRC is whether or to what degree it should collaborate with the FLA on specific factory investigations, while attempting to retain its independence and unique approach to code implementation. Since many WRC-member universities are also members of the FLA, collaboration on specific cases is inevitable and desirable. However, given the corporate membership of the FLA, ongoing cooperation with that initiative might raise concerns among the WRC’s student, labour and labour rights constituencies that see the branded companies as the embodiment of all that is wrong with corporate globalization.

### ***Company Monitoring Programs***

Meanwhile, as these various competing industry and multi-stakeholder code initiatives move into operation, the vast majority of retailers and manufacturers continue to develop and carry out their own code monitoring programs.

In recent years, Gap, which is not currently affiliated with any of the above initiatives, has collaborated with local independent monitoring groups in El Salvador and Guatemala on monitoring of at least some of its supply factories. In 2002, Gap expanded this program to include the involvement of the Independent Monitoring Team (EMI-H) in monitoring two factories in Honduras.

According to Sean Ansett, Global Partnerships Manager for Gap’s Global Compliance program, Gap will continue to collaborate with these three Central American monitoring

groups in 2003, as well as with a new NGO monitoring group in Nicaragua linked to the Maria Elena Cuadra women's movement (MEC) with whom it carried out a pilot project in 2002. Gap is also hoping to expand its NGO monitoring program into Asia.

As mentioned above, Levi Strauss recently decided to resign from the Fair Labor Association beginning in 2003. According to Moe Rajan, Levi's former Director of Worldwide Government Affairs and Public Policy, Levi Strauss will be directly contracting Verité, as well as other monitoring organizations, to carry out audits of its supply factories.

While Levi's decision to leave the FLA and the Gap's decision to remain outside the various initiatives might be seen as evidence of a retreat from engagement with civil society to corporate self-regulation, it is more likely that some companies are growing weary of the slow progress of the multi-stakeholder initiatives and that these – and perhaps other – companies will seek other ways of engaging with NGOs and collaborating with other companies outside these initiatives.

According to Verité Executive Director, Heather White, there is growing interest among companies, both inside and outside the multi-stakeholder initiatives, in sharing monitoring reports and collaborating on remediation in shared supply factories.

### ***European Pilot Projects***

As US-based code initiatives moved into the implementation stage, labour and non-governmental organizations in Europe continued to engage with companies and southern NGOs, unions, and suppliers in code monitoring pilot projects. While there is a real danger that the European initiatives will be left in the dust of the US-based global verification programs, the slower, more careful approach of the European groups could result in a more effective and inclusive (of southern groups) code verification model.

The Centre for Research on Multinational Corporations (SOMO) and the international secretariat of the Clean Clothes Campaign (CCC) have assessed five national European initiatives on monitoring and verification of codes of conduct in the Netherlands, the UK, Sweden, France, and Switzerland. Most of these initiatives are in the garment sector. The assessment includes a review of pilot projects undertaken by CCC groups and the ETI in collaboration with companies and southern NGOs.

Reports point to interesting possibilities for a division of labour between commercial compliance verification companies, southern NGOs, and labour organizations. In a number of the pilot projects – the UK Ethical Trading Initiative's horticulture pilot in Zimbabwe, and the Swedish CCC pilots in Bangladesh, India and China – local NGOs and/or researchers identified by them carried out off-site interviews with workers, and commercial compliance verification firms carried out book audits of factory records.

While CCC groups recognize that, given the lack of capacity for local NGOs to undertake code verification for hundreds of thousands of supply factories around the world, commercial auditors will unavoidably play a significant role in any future code monitoring systems, they are attempting to create governance structures in which commercial and NGO auditors are directly accountable to multi-stakeholder foundations, rather than being contracted by and accountable to retailers and brands.

### **Ethical Trading Initiative**

While the UK's Ethical Trading Initiative (ETI) was successful in increasing its corporate membership in 2001/2002 from 20 to 29, Littlewood's decision in January 2003 to withdraw from the ETI, after a change in management in November 2002, could raise concerns about the long-term commitment of member companies to ETI principles and processes.

Unlike other multi-stakeholder code monitoring initiatives, the ETI has chosen not to establish or institutionalise a code monitoring, verification and certification system, nor is there any indication it will do so in the future. Instead, the ETI continues to be a forum for companies, labour organizations and NGOs to experiment with alternative methods of auditing and implementing codes of conduct, and to share “learnings” from those experiences. The ETI code is based on ILO Conventions and includes a living wage provision. At present the ETI has six pilot projects at different stages of development focusing on child labour in India, ready-made garments in Sri Lanka, bananas in Costa Rica, wine in South Africa, horticulture in Zimbabwe, and a sixth pilot that is more international in scope, focusing on small producers and homework.

A defining characteristic of the ETI is the tripartite (business, labour, NGO) nature of its decision-making bodies, including those involved in the implementation of pilot projects to test code monitoring and implementation methods. In recent years, the ETI has put increasing emphasis on supporting the development of local, southern multi-stakeholder organizations, which could have a key role in the practical implementation of codes.

According to Maggie Burns, Coordinator of the ETT's NGO Caucus, “locally owned and governed multi-stakeholder organisations have a far better chance of ensuring that basic working conditions defined in codes of conduct are implemented within the global supply chains that serve the Northern markets. The push for corporations to adopt codes arose in response to struggles in the South, but has ended up with most of the power being held in the North. It is time to look at how more of this power and local mechanisms for change can be in the hands of those in the South.”

In 1999, the UK Ethical Trading Initiative's horticulture pilot project in Zimbabwe resulted in the establishment of a local multi-stakeholder group, including producers, NGOs, and at a later stage, a trade union, which collaborated with the ETT's Pilot Group in London on the planning and implementation of farm inspections.

In 2001, the Agricultural Ethics Assurance Association of Zimbabwe (AEAAZ) was formed, a tripartite association of local business, trade union and development organizations. AEAAZ plans to implement a system of monitoring and verification of its own code, which is currently in draft form. With ETI support, in 2002, AEAAZ published a handbook on participatory social auditing of labour standards.

A local tripartite body has also been established in South Africa to carry out inspections in farms in that country's wine industry.

The strength of the ETT's experimental “learning by doing” approach has been its ability to explore alternative methods of monitoring and remediation at a time when there are no easy answers to the code implementation dilemma. At the same time, ETT's seeming inability to move beyond the learning stage could ultimately lead to self-regulation by better educated companies, in the absence of any permanent institutional enforcement mechanisms.

### **Fair Wear Foundation**

In 2002, the Dutch Fair Wear Foundation (FWF) moved beyond the pilot project stage and adopted a code verification system based on the lessons learned from the pilot audits in India, Poland and Romania. While the FWF will carry out factory audits, it will not certify factories or brands. The FWF Code is similar to those of the ETI and SAI, is based on ILO Conventions, and requires payment of a living wage.

Under the Dutch foundation model, an audit team is selected by the Foundation, rather than the company, in collaboration with a local FWF contact person. “We build up audit teams that include people with a combination of skills – accounting, health and safety,

worker interviews, management interviews, local stakeholders,” says Frans Papma of the Fair Wear Foundation.

According to Ineke Zeldenrust of the Clean Clothes Campaign European office, the participation of local stakeholders is an essential component of the FWF system. “Audit teams always consist of local people, gathered by a local contact person. FWF trains these people so they can perform the audits according to FWF standards.”

In 2002, FWF local Partner Networks were created in India, Indonesia, Pakistan, Poland, Romania and Turkey.

Because the FWF only involves small to medium-sized companies in one small European country, a major challenge for the FWF and the Clean Clothes Campaign in 2003 will be to scale up this promising code compliance verification model to the European, or at least a multi-country level.

### ***NGO Monitoring Groups***

While the social auditing field is largely dominated by northern-based commercial firms, a growing number of local NGOs are becoming involved in code compliance verification. In 2002, we witnessed the increasing involvement of southern NGOs in code monitoring and verification schemes.

In Central America in particular, major US brand-name apparel companies, such as Gap and Liz Claiborne, seem to have recognized the added credibility that can be gained by involving southern NGOs in external monitoring of selected supply factories.

The El Salvador Independent Monitoring Group (GMIES) was the first NGO monitoring organization in Central America. GMIES has carried out external monitoring at maquila factories for both Gap and Liz Claiborne.

The Guatemalan Commission for the Verification of Codes of Conduct (COVERCO) has participated in a monitoring pilot project at one factory (with two plants) for Liz Claiborne, and has been carrying out monitoring at five Gap factories. COVERCO was also contracted by Starbucks to carry out an investigation of living and working conditions in coffee plantations producing coffee for that company. Starbucks did not provide the names of the fincas producing coffee for them and the study was focused on areas producing the gourmet grade coffee that Starbucks purchases. Unfortunately, the Guatemalan coffee exporters association was unwilling to accept the findings of the study, and refused to participate in a follow-up monitoring project. COVERCO Coordinators Homero Fuentes and Ken Kim have also participated in Chiquita's internal assessment of their banana producers' compliance with the SA8000 Standard. (See “Resources” below.)

In 2002 a third Central American monitoring group, the Honduras Independent Monitoring Team (EMI-H) carried out monitoring of two Gap supply factories, and a fourth independent monitoring initiative, PASE (Profesionales por la Auditoría Social Empresarial) was launched in the Nicaragua.

Increasingly, the Central American independent monitoring groups are sharing information and experiences on their engagement with companies and the multi-stakeholder initiatives. They have joined with the Research Centre for Feminist Action (CIPAF) in the Dominican Republic, the Costa Rica-based Central American labour research and education centre ASEPROLA, and the Nicaraguan Maria Elena Cuadra Movement of Working and Unemployed Women (MEC) in forming the Regional Initiative for Social Responsibility and Jobs with Dignity.

It is still unclear to what degree Central American monitoring groups will become involved in one or more of the multi-stakeholder initiatives. In March 2001, COVERCO

became the first southern NGO to be accredited to carry out external monitoring in Guatemala for companies affiliated with the Fair Labor Association (FLA).

While COVERCO has been successful in setting conditions for its participation in the FLA, establishing its co-ownership of information from monitoring and its right to publish pertinent information from monitoring reports, companies were reluctant to contract COVERCO because of its unwillingness to reduce the duration and thoroughness of its monitoring. Thus COVERCO has been unwilling and unable to make additional commitments to participate in FLA audits. According to Ken Kim, COVERCO's operations/projects coordinator, they require a minimum of six months access to a factory in order to carry out an FLA audit, although this time period could be significantly less in situations where COVERCO has already been involved in monitoring for some time.

Although there has been some interest in the SA8000 code verification program by Central American monitoring groups, it is unlikely they will seek SA8000 accreditation, since SA8000, based on the ISO model, seems to favour the use of commercial auditing firms rather than the skills that NGOs might bring to external monitoring or verification. A related problem for SAI has been the lack of interest to date in SA8000 certifications among US brands and manufacturers with production in Mexico and/or Central America.

At the same time, there appear to have been no efforts by the WRAP program to seek involvement of Central American NGOs in code compliance verification.

Although the monitoring groups have relations with the WRC, it is not yet clear whether or to what degree they will be directly involved in WRC investigations. While leading members of the three Central American independent monitoring groups sit on the WRC advisory committee, the increasing scepticism of US unions concerning the value of the monitoring groups' role could limit possibilities for collaboration.

As well, the monitoring groups' approach, which requires cooperation with factory management and a fairly lengthy presence in the workplace, might not be adaptable to the WRC conception of joint investigations in response to complaints.

While there has been less systematic experience with local NGO participation in code monitoring or verification in other countries in Latin America or other regions of the world, there are some examples of NGO involvement in external monitoring.

In March 2001, the FLA accredited a second southern NGO, Phulki, to carry out external monitoring in Bangladesh. However, Phulki's mandate does not include verification of compliance with freedom of association.

In Mexico, there continues to be little awareness of or interest in codes and monitoring initiatives among most NGOs and democratic unions, however there are important exceptions. In 2001, a coordinated strategy of local organizing, international solidarity, and pressure on Nike and Reebok for code violations resulted in the only independent union with a signed collective agreement in Mexico's maquilas at the Kuk Dong (now Mex Mode) factory in Atlixco, Puebla. During that struggle, the WRC carried out an investigation and released two public reports, and Mexican academics and a labour lawyer carried out external monitoring for Verité and Nike.

More recently, the same local group – the Worker Support Centre (CAT) – that provided support and strategic advice to the workers in the Kuk Dong struggle is once again employing a brand campaign strategy to support worker organizing in another Puebla factory, this time focusing on the German footwear company, Puma.

Already, an international solidarity campaign initiated by the CAT is challenging Puma on the limitations of its factory monitoring program, and demanding a serious investigation

that could involve a new factory audit, as well as consultation with the workers and their union.

Given the growth of Mexico's export-oriented apparel industry, and with it, the arrival of large retailers and brand-name apparel firms, we can expect that companies as well as multi-stakeholder compliance verification initiatives will be interested in involving Mexican NGOs in code verification and training programs.

As we have seen above, both the Ethical Trading Initiative and the Fair Wear Foundation have supported the development of local, southern multi-stakeholder organizations and local networks in Asia and Africa that are playing an active role in monitoring and implementation of codes.

### ***China: New Experiments in Worker Representation***

While Hong Kong-based labour rights organizations have been highly critical of western-initiated code compliance verification systems, and particularly of those involving social auditing by commercial firms that result in the certification of factories or brands, some Hong Kong-based groups have engaged with brand-name companies and their suppliers on worker rights and health and safety training project that lead to workers playing an active role in factory monitoring.

In 2002, the Hong Kong Christian Industrial Committee (CIC), the Asia Monitor Resource Centre (AMRC) and the Chinese Working Women's Network (CWWN) carried out worker rights training and, in collaboration with US health and safety experts, health and safety training with workers in factories producing for major brands in southern China. Hong Kong labour rights groups have long argued that factory monitoring cannot be effective unless workers themselves have an active role in the ongoing monitoring process.

This vision of workers as the most effective workplace monitors has also been taken up by the sports shoe giant Reebok, which worked with Hong Kong-based NGOs in 2002 to facilitate secret-ballot elections for union leaders at two sports shoe factories in southern China at which both representatives of CIC and AMRC played a role.

### ***Issues and Challenges for Southern NGO Monitors***

While most of the women's, human rights and religious organizations that have formed the southern independent monitoring groups have extensive histories of labour rights advocacy work, as independent monitoring groups they are new players in the workplace. A major challenge has been to define their appropriate role and relationship with companies, unions, worker support groups, and ministries of labour.

The role of monitoring groups during labour disputes has been a source of conflict in Central America, and to a lesser extent in Mexico. While NGO monitoring groups have played a key role in documenting violations of freedom of association, and in some cases, facilitating the reinstatement of workers fired for union activity, labour disputes have often strained relations between monitoring groups and both unions and management, and have tested their commitment to remain independent and neutral, and to avoid substituting themselves for unions, governments or advocacy groups.

For local unions, this redefinition of roles has sometimes created confusion about the allegiance of the monitoring groups. As well, some of the Central American organizations currently involved in, or considering becoming involved in, independent monitoring are understandably reluctant to give up their historical advocacy role in exchange for the objective stance required of a monitoring organization.

In 2002, GMIES came under severe criticism for its monitoring report on a Gap supply factory that contradicted the claims of a union representing some of the workers at the factory, as well as their supporters in the US, that the factory was closed to get rid of the union. COVERCO was also criticized for not including in a public report some worker allegations of violence against union members, which COVERCO wasn't able to verify, in two Liz Claiborne supply factories in Guatemala.

As we have seen, Central American monitoring groups are also feeling pressured by the multi-stakeholder initiatives to adopt their global monitoring methods and protocols. While the local monitoring groups insist that independent monitoring cannot be successful without unrestricted access to the workplace and considerable time to win workers' trust, they are increasingly being pushed by companies and the multi-stakeholder initiatives to adapt to their less intensive global compliance verification model.

Despite the far lower compensation received by staff and contract workers with the monitoring groups, their intensive brand of monitoring is more expensive and invasive than the relatively brief audits carried out by northern-based commercial firms.

### ***To Engage or Not to Engage***

For southern labour, women's and non-governmental organizations that choose not to become directly involved in code monitoring and verification, the issue remains whether or how to engage with the new code of conduct initiatives. Some possible options include:

- Participating in worker rights training programs for workers and/or management personnel so that workers are aware of their rights under particular codes, national law, and international labour conventions.
- Monitoring the monitors and challenging improper factory certifications and accreditations of auditors responsible for those certifications.
- Using codes of conduct to educate and mobilize workers, and to pressure companies to respect the right of workers to organize and bargain collectively.
- Pressuring for a more authentic role for southern labour and non-governmental organizations in code monitoring and/or verification, such as carrying out off-site worker interviews.

### ***Advances in Transparency***

According to Polaski, transparency in monitoring and public reporting is a crucial factor in determining the effectiveness of the multi-stakeholder initiatives. She believes public funders of those initiatives "have an obligation, based on their own accountability to their publics, to use their influence to achieve rapid progress toward increased transparency."

Polaski favours full transparency in reporting, including the name and location of the factory and the results of monitoring. However, she believes full transparency can be achieved in two stages, beginning at the factory level and moving up to the level of the brands and retailers.

In recent years, there have been a number of important advances toward greater transparency in code monitoring and public reporting.

In response to demands by Students Against Sweatshops groups at numerous US and Canadian university campuses for full public disclosure of the names and locations of production facilities making university-licensed apparel, some major brand-name companies, including Nike, Reebok, Champion, GEAR for Sports, JanSport are now disclosing increased information on some or all of their suppliers producing university-licensed apparel.

Over 200 universities in the US and Canada have adopted “ethical purchasing policies.” Many of these policies include provisions for full public disclosure of factory locations producing for the universities. Campaigns for the adoption of similar policies by municipal governments and school boards are also under way in the US, Canada and Europe.

Increased access to information on factory locations is facilitating research on corporate supply chains, and encouraging increased coordination between workers in the South and corporate campaigners in the North.

While most companies continue to closely guard information from their auditors’ reports, some important precedents have also been set for increased transparency of the auditing process. In Central America, both Liz Claiborne and Gap have signed agreements with local independent monitoring groups, acknowledging their right to publish their monitoring reports, and the FLA has accepted this principle as a basis of COVERCO’s participation in its external monitoring program. In November 2002, Chiquita published its second public report on the status of its internal monitoring program, including areas of non-compliance with the SA8000 Standard and remediation plans. (See “Resources” below.)

As we have seen, in response to internal pressure from NGO and university members and external demands for increased transparency in monitoring, the FLA recently made a number of commitments to provide the public more information on the results of third party audits.

While the SA8000 initiative currently provides only limited information on the results of factory audits – the names of certified factories appear on its website – its corporate “Signatory Company” program could potentially provide some additional information to the public through company reports on progress made in bringing suppliers into compliance with the SA8000 Standard.

The WRC has gone further than other initiatives by making public all reports from its investigations.

### ***Training and Capacity Building***

Organizations committed to local NGO and labour involvement in code verification, including some northern NGOs involved in multi-stakeholder initiatives, are putting increasing emphasis on training and capacity building.

The International Labor Rights Fund (ILRF) has supported training programs on code monitoring for NGOs in three countries: Taiwan, Indonesia and Guatemala (for Central America). In Guatemala, ILRF has worked with COVERCO, which has developed a training program on codes and monitoring for Guatemalan labour, women’s and human rights groups as well as local government representatives. This program could become a pilot for similar training programs in other Central American countries or for a regional training program.

Other NGO networks, including the UK-based Women Working Worldwide (WWW) and Central American Women’s Network, the European Clean Clothes Campaign, as well as the Maquila Solidarity Network have organized and collaborated on NGO/labour consultations and training initiatives in Asia and Central America on codes and monitoring.

Increasingly, the multi-stakeholder code initiatives are incorporating worker rights training, both for workers and management personnel, as part of their code verification programs. SAI and the International Textile, Garment and Leather Workers Federation (ITGLWF) have received funding for a joint project to develop and pilot training modules on codes of conduct and SA8000 with ITGLWF affiliates in Asia, Latin America and Africa. They are currently sponsoring training workshops for garment workers in a number of

countries, focusing on worker rights under ILO Conventions, local laws and the SA8000 Standard.

While many companies have been suspicious of worker rights training as an element in code implementation, fearing that it could encourage worker organizing, a few companies, including Reebok, Chiquita and Eileen Fisher, have collaborated with NGOs and/or labour organizations in worker rights training for workers and management personnel.

According to Gap's Global Partnerships Manager, Sean Ansett, Gap will also be supporting worker and management training in 2003. Over the last year, his company has been working with the Cambodia Labour Training Coalition (CLTC) to lay the groundwork for a worker and management training program that will be carried out in five Gap supply factories in Cambodia. Training should commence in February of 2003. The CLTC is a coalition of three Cambodian NGOs, spearheaded by the Cambodian Labour Organization (CLO). According to Ansett, a public report will be released on completion of the project.

In its 2002 Progress Report, Eileen Fisher states, "Unless the workers understand the rationale for the standard, how it relates to them personally, and how they can use the standard to help improve their work environment, no standard can be considered effective."

### ***Worker and Third-Party Complaints***

For code verification and factory certification systems to be credible, there must be confidential and effective means for workers and interested third parties to register complaints. While these mechanisms are still underdeveloped in most of the multi-stakeholder initiatives, there is a general recognition of their importance.

SAI currently has a more developed third-party complaints system than does the FLA. The SAI website includes information on how to register complaints, and in mid-2002 SAI added a grid on all past complaints, including the name and address of the facility, the date and nature of the complaint, the identity of complainant – unless they ask to remain anonymous, the status of corrective action, and the date the case was closed.

According to SAI, anyone can file a complaint about an "inappropriate factory certification" to either the relevant social auditing organization or to SAI directly. According to SAI, all complaints will be investigated, and all complainants will be advised of the outcome. Since 1999, there have been seven complaints, four of which challenged certifications of specific factories.

In practice, however, the effectiveness and timeliness of SAI's complaints review process has been the subject of criticism. In December 2001, the SÜDWIND Institute for Economics and Ecumenism (a member of the German Clean Clothes Campaign) initiated a complaint regarding violations of freedom of association at a factory certified in Indonesia.

Ingeborg Wick, a researcher for the SÜDWIND Institute, describes the handling of the complaint to date as "very unsatisfactory." She notes that the factory certification was granted at a time when the case concerning the dismissal of workers for union activity was still pending. She claims that the auditing organization, SGS, closed the case four months after the complaint was filed, without having contacted the union involved or independent experts. "Several months later, SAI started a reinvestigation into the case, the results of which are still open," says Wick.

According to Rochelle Zaid, SAI Director of Accreditation, an SAI investigation of the case, which included consultation with local human rights groups, was recently carried out, and a report on that investigation will be discussed at SAI's February 2003 Advisory Board meeting, prior to publication.

While there are undoubtedly legitimate reasons for the length of time required to address this specific complaint, the more fundamental question is whether SAI's complaints process provides effective remedies for workers' problems. The case also raises questions as to whether commercial auditing firms are equipped to assess rights-based violations, and whether they should play a significant role in the complaint review process. "So far, this process has reinforced our doubts concerning the ability of commercial auditing companies to perform social audits satisfactorily, or to play an important role in certification procedures," says Wick.

SA8000 also requires certified facilities to provide a confidential system for workers to register complaints concerning violations of the SA8000 Standard. Companies must maintain records of all complaints and how they responded to them. It is not clear, however, whether SAI's requirements for confidential means for workers to register complaints is being implemented in most SA8000 certified factories.

The FLA's procedures for receiving and addressing worker and third-party complaints are still in the development stage. WRAP apparently does not have any provisions for worker or third-party complaints.

In contrast, the WRC is a complaints-based system, and most of its joint investigations will apparently be carried out in response to worker and third-party complaints.

Given the exclusion of companies from the WRC's governance bodies, access to factories for its investigations could be a potential issue. It is worth noting, however, that despite Nike's antagonistic relationship with the WRC, Kuk Dong management and representatives of the "official" union at the factory were willing to participate in interviews carried out by the WRC investigative team. While management at the New Era cap factory initially refused a WRC team access to factory records or management personnel, the company eventually agreed to cooperate with a follow-up investigation.

Whether these mechanisms for worker and third-party complaints in the various code initiatives will prove to be useful tools for southern workers, unions and NGOs is yet to be seen.

### ***Where are we headed in 2003?***

We anticipate that in the coming year the competing multi-stakeholder initiatives will be under increasing pressure from companies, government agencies and funding organizations for greater cooperation and less duplication.

While cooperation in defining best practices in monitoring and verification would certainly be welcome, mutual recognition of factories audited and/or factory certifications without prior agreement on minimum labour standards or sufficiently rigorous and transparent auditing methods could give legitimacy to the weakest initiatives, lessen the incentive for companies to join stronger initiatives, and make the lodging of worker and third-party complaints more complicated, since at least one initiative does not include a complaints process.

With the European initiatives, if not with their US counterparts, we expect to see continuing exploration of a possible division of labour in which private auditing firms focus on auditing company books, contracts and employment and sourcing records, while local NGOs play an increasing role in pre-audits, consultations, off-site interviews with workers, and assessments of audit results.

At the same time, there will also be increasing pressure from labour and civil society organizations on corporations, governments and multi-stakeholder code initiatives for greater public access to information on factory locations and increased transparency in the

code verification and factory or brand certification processes. This is an essential prerequisite to assess the extent to which codes and monitoring are effective in contributing to systemic improvements for workers in the global apparel industry.

However, if the new code monitoring and verification systems are to be effective in improving conditions for workers, groups in the South and North – unions, women’s organizations, NGOs, independent monitoring groups, and workers – must have sufficient information and the capacity to effectively engage with these systems, and to make demands upon them.

Already we are seeing an increasing awareness among leading companies and the multi-stakeholder initiatives on the importance of worker rights training for both workers and management personnel. Some companies, such as Reebok, are going further in recognizing worker representation as an essential element in effective workplace monitoring. In 2003, we can expect to see an increased emphasis on worker rights training and the role of workers in the monitoring process.

If southern NGOs are to play a more active and authentic role in code monitoring and verification, there will also need to be increased support for training, organizational capacity-building, and South/South and North/South networking and information sharing. We could also see the emergence of new regional consortiums of southern NGOs, in partnership with northern groups and individuals with expertise in more technical areas like health and safety and book audits.

In 2003, there will be a pressing need to clarify the role of local NGOs and labour groups in code monitoring and verification processes, and the specific role of independent monitoring groups in relationship to the role of unions and ministries of labour.

While an increasing number of NGOs will no doubt become more directly involved in code compliance verification, the field is likely to continue to be largely dominated by northern-based commercial social auditing firms. In 2000, PricewaterhouseCoopers alone carried out over 2,000 social audits.

We are also likely to see the emergence of more hybrid NGO/commercial monitoring organizations in a number of southern countries. Unlike labour rights independent monitoring groups that have a history of human or labour rights advocacy work, the “hybrids” tend to have less historical experience with labour rights issues or links with other civil society organizations or networks. In that sense, they have more in common with commercial firms or consultancies.

Monitoring the monitors is therefore likely to continue to be an important role for many southern and northern labour rights advocacy groups. As well, there will likely be increasing pressures on commercial, as well as NGO auditors, to demonstrate their professional expertise in documenting violations of labour rights and their independence from potential conflicts of interest.

As we approach 2005, and the elimination of quotas under the Multi-fibre Arrangement (MFA), we will see increasing competition among garment producing countries for investment and jobs, which will result in increasing pressures to weaken labour standards and lower wages.

A key challenge for companies and civil society actors participating in code compliance verification systems is to demonstrate whether these initiatives can act as one counterweight to this global trend, by promoting investment and sourcing in countries where labour rights are respected.

An important related issue is the outstanding question of who pays for code compliance, not only the costs for internal monitoring and third-party audits, but also the more

significant expenses involved in bringing factory conditions and labour practices into compliance with codes of conduct and local laws. Clearly, factory owners cannot be expected to bear the full financial responsibility for the necessary changes; northern retailers and brand merchandisers will have to make a significant contribution.

A key challenge for manufacturers, retailers and brands is therefore how to reconcile contradictory demands being made by different departments of northern companies – that production costs be constantly lowered and the pace of production increased, and that workers' rights be respected and factory conditions improved.

And finally, the most important challenge of all: Will all this attention to voluntary codes and monitoring systems increase the space for workers to organize to improve conditions, raise the floor on labour standards, and promote enforcement of labour regulations in an industry historically associated with worker rights violations? The jury is still out.

## **B. RESOURCES**

### ***Our Continuing Commitment: Chiquita Brands 2001 Corporate Responsibility Report, November 2002, 41 pp.***

This groundbreaking report documents steps Chiquita Brands has taken to ensure compliance with environmental and labour standards in banana farms in Colombia and Central America, including:

- signing an historic framework agreement with the International Union of Foodworkers (IUF) and the Coordinating Committee of Banana Workers Unions (COLSIBA) in 2001;
- inviting German Zepeda of the Honduran banana workers' union and Homero Fuentes of COVERCO to participate in company assessments of its Central American operations against the SA8000 Standard;
- disclosing progress reports that document areas of compliance and noncompliance, and employee feedback on compliance with the company's core values; and
- plans for third-party audits of facilities in the future.

Available in Spanish and English at:

<http://www.chiquita.com/chiquitaCR01/downloads/downloads.asp>

### ***Trade and Labor Standards: A Strategy for Developing Countries, Sandra Polaski, Trade, Equity, and Development Project, Carnegie Endowment for International Peace, 2003, 23 pp.***

The author assesses the potential benefits for developing countries in linking trade and labour standards. She examines specific experiences, such as the US/Jordan Free Trade Agreement and the US/Cambodia Textile Agreement, and argues that developing countries should seize the moment and seek a labour-trade linkage in bilateral or regional agreements.

***Available in Spanish and English at: [www.ceip.org/pubs](http://www.ceip.org/pubs)***

### ***If You Want to Help Us Then Start Listening to Us, Marina Prieto and Jem Bendell, New Academy of Business, December 2002, 17 pp.***

Based on focus group discussions with women banana and garment workers in Central America, the study presents women workers' views and proposals on codes of conduct and

monitoring and how codes could be developed and implemented in ways that involve and benefit women.

*Available in English only at:*

**[http://www.new-academy.ac.uk/Research/Gender\\_Codes\\_Auditing/Report.pdf](http://www.new-academy.ac.uk/Research/Gender_Codes_Auditing/Report.pdf)**