

MEMO: CODES UPDATE

NUMBER 7, June 2001

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.

In this issue:

- A. The Worker Rights Consortium: Monitoring without Certification**
- B. FLA NGO Advisory Council Meets**
- C. Health and Safety Training Project in China**
- D. Verité and Worker Rights Training in China**
- E. Adidas Rejects Clean Clothes Initiative**
- F. New Resources**

A. THE WORKER RIGHTS CONSORTIUM: MONITORING WITHOUT CERTIFICATION

The Worker Rights Consortium (WRC) is moving forward in defining its code monitoring program for its US member universities. The WRC was initiated by United Students Against Sweatshops (USAS) as an alternative to the Fair Labor Association (FLA). Its mandate is to assist universities in enforcing their codes of conduct for apparel that is licensed to bear the university name or insignias and/or for apparel products that are

purchased in bulk. In the US, the manufacture of university licensed apparel products is a \$2.5 billion business.

Unlike the FLA, SA8000 or the Worldwide Responsible Apparel Production certification program (WRAP), the WRC does not certify brands or factories as being in compliance with the WRC Code or the codes of conduct of its member universities. Instead, the WRC will conduct factory investigations in response to worker and third-party complaints, as well as on a proactive basis.

Nor will the WRC accredit external monitoring groups or social auditing firms to carry out the investigations. According to the WRC Investigative Protocols, investigations will be carried out by Collaborative Investigative Teams that include officials of local labour rights NGOs and/or local academics and at least one member of the WRC staff or Governing Board.

While anyone can file a complaint with the WRC alleging that a university supplier is violating workers' rights, decisions on whether to initiate investigations are largely in the hands of the WRC Executive Director. In this respect, the WRC and FLA are similar. However, WRC Investigative Protocols include provisions for Board members to challenge their Executive Director's decisions on which factories should be investigated.

As well, the Executive Director's decision must be based on the following criteria:

- reasonable cause of a non-trivial violation;
- substantial cause that the affected workers want the investigation;
- relative importance, severity, and pervasiveness of the alleged violations;
- relative probability that investigation will result in remediation, empowerment of workers and local groups to participate in future investigations, and will yield information, education and constructive innovation.

The WRC's criteria for determining which factories will be selected for its proactive investigations are the following:

- indications from reliable local NGOs that there are serious problems in a factory producing collegiate apparel;
- the lack of information about conditions in a particular factory that is an important source of collegiate apparel; and/or
- whether there is a sufficient percentage of collegiate apparel produced in the factory to give licensees and universities leverage to correct problems identified.

Unlike the FLA, the WRC will not carry out a predetermined number of audits of a given percentage of suppliers for particular companies or universities. According to the WRC Investigative Protocols, its investigations "do not purport to be comprehensive audits of facilities, contractors, or licensees, which cannot be realistically be completed in several days of private investigation."

A Different Approach to Monitoring

The WRC's approach to code monitoring is clearly very different from that of the FLA, and has even less in common with the social auditing model of Social Accountability International (SAI). While SAI emphasizes the consistent application of universal labour standards, the WRC Investigative Protocols state, "The WRC shall not promulgate 'benchmarks' or 'checklists' that purport to be applicable to highly variable local contexts and purport to yield comprehensive measures of compliance with the innumerable and complex rights and standards set forth in University Codes, the WRC Code, domestic labour law, and international labour law."

Nor will WRC investigation necessarily address all provisions of the WRC Code or particular university codes.

Investigations will apparently focus on verifying specific allegations rather than verifying compliance with all provisions of a code. However, the Executive Director, in consultation with the Investigative Team, may expand the scope of an investigation "based on evidence and facts found during the Investigation."

According to WRC Executive Director Scott Nova, the WRC's decision not to conduct "comprehensive audits" attempting to address all aspects of university Codes of Conduct in a single, brief investigation reflects a recognition of the inherent limitations of the codes monitoring process. "Our more realistic, targeted approach, which will focus the attention of investigators on the central issues of concern at each factory, will yield more accurate results," says Nova.

WRC investigations will apparently put more emphasis on off-site interviews with workers than on book audits of factory records. According to information on the

WRC website, “The team also interviews plant managers, local government labor authorities, relevant labor union officials, local academic and legal experts, and any other relevant parties *and will also tour the plant, if management allows* [our emphasis].”

The WRC’s reporting requirements appear to be much more transparent than in other code initiatives. WRC Investigative Teams may provide reports on the findings of its investigations to “universities, students, the affected workers and communities, organizations or individuals that participated in the Investigation, licensees, contractors and other relevant interested parties, and the public.” However, the timing and content of reports will be determined by the WRC Executive Director. Reports may include “remedial actions necessary to achieve compliance with the relevant Code or Codes,” as well as “findings of compliance and particularly good practices” by university licensees and contractors.

There are currently 80 universities participating in the WRC, compared to 155 universities in the FLA. Thirty-four universities are members of both initiatives. Unlike the FLA, the WRC does not allow companies to participate in its governance bodies, nor does it carry out monitoring or factory investigations on behalf of companies.

The WRC Governing Board includes university students, administrators and professors, and representatives of US labour, faith and labour rights organizations. The WRC Advisory Council includes prominent US academics, labour rights activists, and union and religious leaders, as well as southern representatives from labour, women’s, labour rights advocacy and independent monitoring organizations.

Implications for Southern Labour Rights Organizations

The WRC has the advantage of offering southern organizations opportunities to participate in collaborative investigations of worker rights violations without giving up their right to carry out labour rights advocacy work on other cases. (However, organizations filing complaints cannot also be involved in the WRC Team investigating the complaint.)

While some independent monitoring groups in Central America, such as COVERCO in Guatemala, have consciously decided to define their role as monitoring rather than advocacy, many other southern organizations interested in monitoring are not willing to give up their advocacy role. The WRC approach to monitoring is more compatible with this dual role that many southern labour rights groups would like to play.

Unlike the social auditing model that emphasizes global consistency and verifiability, the WRC approach promises to be more similar to and compatible with investigations currently being carried out by many local labour rights advocacy groups in Latin America and Asia. Some of the attractive features of the WRC for southern groups are its emphasis on worker complaints as the primary impetus for investigations, worker interviews as the primary source of information, and capacity building for local groups to participate in future investigations with or independent of the WRC. However, given its unique approach to monitoring, consistency and verifiability with no doubt be ongoing issues the WRC will have to grapple with.

Whether WRC investigations will provide local groups with increased access to factories or factory managers will depend on how credible its investigations are seen

to be by university administrations, brand-name companies producing for the university market, and local contractors. If the brands and their suppliers view WRC investigations as incomplete, biased, or “unprofessional,” they could refuse WRC Teams access to factories, company records and management personnel.

The fact that WRC investigations only address factories producing university apparel products is another limitation for southern organizations interested in playing a role in workplace monitoring.

Another challenge for the WRC and local organizations that choose to collaborate with it on investigations will be the likely competition they will face from the FLA, particularly given the greater number of universities involved in the FLA, and the fact that a significant number of universities are involved in both initiatives.

The likelihood of different local NGOs being involved in FLA and WRC monitoring of the same factories could exacerbate existing divisions among NGOs and labour groups. Conflicting reports from the FLA and WRC on conditions in particular factories could expose local NGOs to criticism, and involve them in efforts to discredit either or both of these initiatives. How easy it will be for Central American monitoring groups to participate in both WRC investigations and FLA external monitoring is yet to be seen.

Potential competition with the FLA underlines the importance of the WRC establishing its professionalism and objectivity through practice. Transparency in its reporting, compared to the other code monitoring initiatives, could go a long way toward winning the WRC credibility with universities and the public.

A clearer definition between the roles of the WRC and the campaigning organizations that created it and participate in its governance structures would also help strengthen its legitimacy.

B. FAIR LABOR ASSOCIATION (FLA) NGO ADVISORY COUNCIL MEETS

The NGO Advisory Council of the Fair Labor Association (FLA) met on May 1 to discuss the FLA and the role of NGOs within it. Representatives of the following NGOs attended the meeting: International Labor Rights Fund, Committee for the Verification of Code of Conduct (COVERCO, Guatemala), Lawyers Committee for Human Rights, Robert F. Kennedy Memorial Centre for Human Rights, University of North Carolina, United Methodist General Board of Church and Society, National Council of Churches. While no labour organizations participated in the meeting, it was noted that unions in both the Philippines and Malaysia are members of the Advisory Council.

Topics discussed at the meeting included:

- the importance of unannounced factory visits as part of the monitoring process;
- the role of universities in the FLA and the importance they give to the role of local NGOs in monitoring;
- the importance of translating FLA materials into local languages;
- wage standards;
- response to reprisals by management against workers;
- the FLA third party complaint mechanism; and
- development of a crisis response mechanism to deal with escalating worker/factory conflicts.

C. HEALTH AND SAFETY TRAINING PROJECT IN CHINA

Hong Kong-based labour and non-governmental organizations are collaborating with US health and safety experts on a health and safety training program in China that will involve workers in three contract factories producing for Nike, Reebok and adidas.

On March 28, a memorandum of understanding for the project was signed by representatives of the three companies, the local contractors, the Asia Monitor Resource Centre, the Hong Kong Christian Industrial Committee, the Hong Kong Confederation of Trade Unions, the Chinese Working Women Network, and US health and safety experts Garrett Brown, Dara O'Rourke and Betty Szudy.

In July and August, two four-day sessions will be held, training workers and supervisors/managers to recognize, evaluate and document workplace hazards.

The Memorandum of Agreement (in English) is available on line at: www.igc.apc.org/mhssn/china.htm.

D. VERITÉ AND WORKER RIGHTS TRAINING IN CHINA

Ethical Funds, the Canadian credit union system's ethical investment arm, has announced it is supporting the development of the Verité Labour Centre in China. According to Bob Walker of Ethical Funds, the centre will provide 600 factory workers in Dongguan, Guangdong Province with vocational, life skills, and labour rights training, including training on workers' legal rights under Chinese labour law. The centre will serve migrant factory workers in the Pearl River Delta. Verité is a US non-profit labour rights monitoring organization that was recently accredited to carry out external monitoring in 14 countries for major US apparel and sports shoe companies involved in the Fair Labor Association.

E. ADIDAS REJECTS CLEAN CLOTHES PILOT PROJECT

For the second time in one year, the European sportswear giant adidas-Salomon has broken off discussions with the German Clean Clothes Campaign (CCC) about a possible pilot project for the monitoring of labour practices of adidas' suppliers in Central America. In April 2001, adidas informed the CCC that it prefers to work with the US-based Fair Labor Association (FLA) on factory monitoring in Central America. The CCC is suspicious of adidas' motives, arguing that the FLA code is "seriously flawed in terms of the range/reach of their standards and the proposed monitoring procedures...."
