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**BETWEEN**  
**ROCK**  
**AND A**  
**HARD**  
**PLACE**

a history of  
**American**  
**Sweatshops**  
1820 - Present

An Exhibition at the  
National Museum of American History  
Smithsonian Institution  
Washington, D.C.

April 22 - October 30, 1998



**NO SWEAT UNIVERSITY:  
LABOR STANDARDS AND CODES OF CONDUCT**

**U. S. Department of Labor and the  
Smithsonian Institution's  
National Museum of American History**

**October 6, 1998**

- 9:00 am           **Opening**  
                      **Spencer Crew**  
                      **Director, Smithsonian Institution's National Museum of**  
                      **American History**
- 9:10 am           **Keynote Address**  
                      **Alexis M. Herman**  
                      **U.S. Secretary of Labor**
- 9:20 am           **Video**
- 9:30 am           **Why are we here? Framework/landscape of industry**  
                      *Moderator: Secretary Alexis Herman*
- Peter Liebhold, Curator, Smithsonian
  - Sister Gallagher, President, Marymount University
  - Tico Almeida, Student, Duke University
  - Doug Cahn, Director of Human Rights Programs, Reebok
  - Linda Golodner, President, National Consumers League
- 10:30 am           **Break**

11:00 am

**Creating Codes of Conduct**

*Moderator:* John Wiley, Provost, University of Wisconsin

- Jonathan D. Rosenblum, Esq.
- Brad Figel, Director of Governmental Affairs and International Trade Counsel, NIKE, Inc.
- Xochitl Marquez, Student, UCLA
- Marti Hale, President, Association of College Licensing Administrators
- Bruce Siegel, General Counsel, The Collegiate Licensing Company

12:30

**Lunch**

1:30 pm

**Remarks**

**Congressman George Miller**

1:45 pm

**A Call to Action**

*Moderator:* Peter Likins, President, University of Arizona

- Robert O. Keohane, Ph.D., James B. Duke Professor of Political Science, Duke University
- Eric Brakken, Student, University of Wisconsin
- Dale Apley, Vice President, Kmart
- Mark Levinson, UNITE
- Michael Posner, Executive Director, Lawyers' Committee for Human Rights

3:15 pm

**Closing Remarks**

**Kathryn O. Higgins**

**Deputy Secretary of Labor**

3:30 pm

**Adjournment**



## **BIOGRAPHIES OF MODERATORS AND PANELISTS**

A senior at Duke University studying Public Policy and Economics, **Tico Almeida** founded Students Against Sweatshops--an organization of Duke students that fosters campus awareness of sweatshop issues and helped to create real change in the University's licensing practices. He served as a member of the student delegation to Central America, visiting El Salvador, Honduras and Nicaragua to investigate labor condition in foreign garment factories.

**Dale J. Apley, Jr.** serves as Divisional Vice President for Public Policy at the Kmart Corporation. Previously, he served as the national retailer's Director of Government Affairs. Before joining the Kmart team, he was Director of Public Policy for the Ann Arbor Area Chamber of Commerce. He began his career in policy as Chief of Staff to Michigan State Senator Nick Smith.

**Eric Brakken** is a senior at the University of Wisconsin at Madison, where he is studying sociology. He is the Chair of the Student Government, and is active in progressive groups such as the Alliance for Democracy and the UWGreens.

As Reebok's Vice President of Human Rights Programs, **Doug Cahn** oversees corporate commitment to international human rights, both through the company's business practices and philanthropic endeavors. Cahn leads the team that develops and implements Reebok's workplace code of conduct for factories making Reebok products. He joined Reebok in 1991 after serving as Administrative Assistant to U.S. Representative Barney Frank and as Legislative Assistant to U.S. Representative Robert Drinan.

**Brad G. Figel** joined NIKE in 1995 in its Washington, D.C. office as Director of Governmental Affairs and International Trade Counsel. He represents the company in all Washington matters, including the Apparel Industry Partnership. On behalf of NIKE, he has traveled extensively throughout Asia, the Middle East, Europe and North America. Before joining NIKE, he was the Chief International Trade Counsel for the U.S. Senate Committee on Finance.

**Sister Eymard Gallagher, RSHM** has been the President of Marymount University since 1993. Previously, she served as the University's Executive Vice President and led the development of Marymount's long-range strategic plan for development and growth as the University celebrates its 50th anniversary in the year 2000. She has been an effective partner with the U.S. Department of Labor in the battle against sweatshops in a variety of innovative academic and public policy efforts and served as host for the department's Fashion Industry Forum in 1996. President of the National Consumers League since 1991, **Linda Golodner** leads the nation's pioneer consumers' organization and is an advocate in bringing consumer power to bear on

marketplace and workplace issues. Before coming to the NCL in 1983, she was president of her own public affairs firm. She Co-Chairs the Apparel Industry Partnership and the Child Labor Coalition.

**Martha Giesen Hale** serves as President of the Association of Collegiate Licensing Administrators and is the Director of the Office of Licensing and Trademark Administration at Virginia Tech University. Previously, she served in the Reagan Administration as Assistant Director for the White House Conference on Small Business.

Since she was sworn-in as the nation's 23rd U.S. Secretary of Labor on May 1, 1997, **Alexis M. Herman** has led the Department to focus its work on three goals: a prepared workforce, a secure workforce and a quality workplace. She is the nation's "top cop" on the workplace enforcement beat and brings more than two decades of leadership to her position--as a business woman, government executive and community leader. Before joining President Clinton's Cabinet, she served as Assistant to the President and Director of the White House Public Liaison Office. In 1992, she served as Deputy Director of the Presidential Transition Office.

**Kathryn "Kitty" O'Leary Higgins** was sworn in as Deputy Secretary of Labor on July 2, 1997. She oversees policy development and the day-to-day operations of 16,000 employees. She manages the Department's 16 agencies to assure that working Americans are paid a just wage, can depend on a secure retirement, have a safe and fair workplace, and are prepared for a highly-competitive global economy. Previously, she served in the Clinton Administration as Assistant to the President and Secretary to the Cabinet.

**Dr. Robert O. Keohane** is the James B. Duke Professor of Political Science at Duke University. He received his BA from Shimer College and his MA and Ph.D from Harvard University. A student of international institutions, he is the author of "After Hegemony: Cooperation and Discord in the World Political Economy" and "International Institutions and State Power: Essays in International Relations Theory," and has coauthored two other books. He was recently elected President of the American Political Science Association for 1999.

**Mark Levinson** is Chief Economist and Director of Policy at UNITE. Previously, he served as Chief Economist of District Council 37 of AFSCME and as an Economist for the UAW. He received his BA from Colorado State University and his MA and Ph.D from the New School for Social Research. He is on the Editorial Board of *Dissent* magazine.

Since 1988, **Peter Liebhold** has been a Museum Specialist in manufacturing history at the Smithsonian Institution's National Museum of American History. His research interests include the culture of work, manufacturing technology and work imagery. He is the co-curator of "Between a Rock and a Hard Place: A History of American Sweatshops, 1820-Present," which can be viewed at the National Museum of American History until December.

**Dr. Peter Likins** was appointed as the 18th President of the University of Arizona in 1997. Previously, he served as President of Lehigh University in Pennsylvania and was Provost of Columbia University where he had earlier served as a Professor and Dean of the School of

Engineering and Applied Science. He is a member of the Executive Committee of the Council on Competitiveness and a member of the Business-Higher Education Forum, both in Washington, D.C. He has also served on the White House Advisory Committee on the Health of Universities.

A sophomore at the University of California at Los Angeles, *Xochitl Marquez* is pursuing a double major in Chicano/Chicana and Women's studies with a specialization in labor and the workplace. She is a member of United Students Against Sweatshops and the Friends of Labor Coalition at UCLA. She became interested in labor issues because many members of her family worked in garment sweatshops in the Los Angeles area.

*United States Representative George Miller* is a leading spokesman on issues relating to children, families and natural resources. Currently the second most senior Democrat on the Committee on Education and the Workforce, he has made ending child labor and sweatshops a priority, both here and abroad. As vice-chairman of the House Democratic Policy Committee, he is responsible for developing policy positions on a wide array of issues for the Democratic Caucus, covering social, economic, foreign and environmental policy. He has represented California's 7<sup>th</sup> District (San Francisco-East Bay) since 1975.

As Executive Director of the Lawyers Committee for Human Rights since its inception in 1978, *Michael Posner* has led human rights fact-finding missions to 25 countries. He is a member of the Apparel Industry Partnership and is a visiting lecturer at Columbia University Law School. He is a regular commentator for Court TV and has contributed articles to the *New York Times*, *Los Angeles Times*, *Wall Street Journal* and other major publications.

*Jonathan D. Rosenblum* is an author, labor lawyer and Senior Fellow at the University of Wisconsin at Madison Sociology Department. He represents the Washington, D.C. based International Labor Rights Fund and is a member of the Apparel Industry Partnership. He advised Duke University in the preparation of its model code of conduct for licensed products and continues to work with Duke to create a universal collegiate code of conduct.

*Bruce B. Siegal* is Vice President and General Counsel for the Collegiate Licensing Company and manages and oversees all legal enforcement activities. His responsibilities include supervising anti-counterfeiting and litigation; trademark prosecution and policing; and negotiating and drafting contracts, including retail and promotional license agreements. He is an active member of the Association of Collegiate Licensing Administrators, the International Trademark Association and the International Anti-Counterfeiting Coalition.

Since 1994, *Dr. John Wiley* has served as Provost and Vice-Chancellor for Academic Affairs at the University of Wisconsin at Madison. He has considerable experience as an institutional representative for a variety of external constituencies, including alumni groups, the Boards of Trustees of university-affiliated foundations and other organizations, domestic and international inter-university cooperatives, chambers of commerce and service clubs, the state legislature and governmental bodies, the UW-System Administration and the UW-System Board of Regents.



October 1998

The Smithsonian Institution and the United States Department of Labor would like to thank *The Collegiate Licensing Company (CLC)* and the nine colleges and universities listed below for hosting and paying catering costs for the October 5, 1998 "No Sweat University" reception:

Duke University  
The University of Arizona  
Georgetown University  
University of Illinois  
The University of Michigan  
New York University  
The University of North Carolina – Chapel Hill  
The Pennsylvania State University  
The University of Wisconsin

Thank you.



## Report of Apparel Industry Partnership

The members of the Apparel Industry Partnership hereby report to the President and to the public on:

- The announcement of the attached *Workplace Code of Conduct* as a set of standards defining decent and humane working conditions;
- The individual determination of each company participating in the Partnership to adhere to the Code and to implement as soon as reasonably practicable a monitoring program consistent with the attached *Principles of Monitoring*, by adopting an internal monitoring program consistent with such Principles and utilizing an independent external monitor that agrees to conduct its monitoring consistent with such Principles; and
- The Partnership's commitment to work together to form, during a six-month transition period, a nonprofit association that would have the following functions intended to provide the public with confidence about compliance with the Code:
  - To determine the criteria for company membership in the association and for companies to remain members in good standing of the association;
  - To develop criteria and implement procedures for the qualification of independent external monitors;
  - To design audit and other instruments for the establishment of baseline monitoring practices;
  - To continue to address questions critical to the elimination of sweatshop practices;
  - To develop means to maximize the ability of member companies to remedy any instances of noncompliance with the Code; and
  - To serve as a source of information to consumers about the Code and about companies that comply with the Code.

The association would be governed by a board whose members would be nominated by companies, labor unions and consumer, human rights and religious groups. The Partnership would work together during this transition period to further determine the governance of the association.



## Workplace Code of Conduct

The Apparel Industry Partnership has addressed issues related to the eradication of sweatshops in the United States and abroad. On the basis of this examination, the Partnership has formulated the following set of standards defining decent and humane working conditions. The Partnership believes that consumers can have confidence that products that are manufactured in compliance with these standards are not produced under exploitative or inhumane conditions.

Forced Labor. There shall not be any use of forced labor, whether in the form of prison labor, indentured labor, bonded labor or otherwise.

Child Labor. No person shall be employed at an age younger than 15 (or 14 where the law of the country of manufacture<sup>1</sup> allows) or younger than the age for completing compulsory education in the country of manufacture where such age is higher than 15.

Harassment or Abuse. Every employee shall be treated with respect and dignity. No employee shall be subject to any physical, sexual, psychological or verbal harassment or abuse.

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

Health and Safety. Employers shall provide a safe and healthy working environment to prevent accidents and injury to health arising out of, linked with, or occurring in the course of work or as a result of the operation of employer facilities.

Freedom of Association and Collective Bargaining. Employers shall recognize and respect the right of employees to freedom of association and collective bargaining.

Wages and Benefits. Employers recognize that wages are essential to meeting employees' basic needs. Employers shall pay employees, as a floor, at least the minimum wage required by local law or the prevailing industry wage, whichever is higher, and shall provide legally mandated benefits.

Hours of Work. Except in extraordinary business circumstances, employees shall (i) not be required to work more than the lesser of (a) 48 hours per week and 12 hours overtime or (b) the limits on regular and overtime hours allowed by the law of the country of

manufacture or, where the laws of such country do not limit the hours of work, the regular work week in such country plus 12 hours overtime and (ii) be entitled to at least one day off in every seven day period.

Overtime Compensation. In addition to their compensation for regular hours of work, employees shall be compensated for overtime hours at such premium rate as is legally required in the country of manufacture or, in those countries where such laws do not exist, at a rate at least equal to their regular hourly compensation rate.

Any company that determines to adopt the Workplace Code of Conduct shall, in addition to complying with all applicable laws of the country of manufacture, comply with and support the Workplace Code of Conduct in accordance with the attached Principles of Monitoring and shall apply the higher standard in cases of differences or conflicts. Any company that determines to adopt the Workplace Code of Conduct also shall require its contractors and, in the case of a retailer, its suppliers to comply with applicable local laws and with this Code in accordance with the attached Principles of Monitoring and to apply the higher standard in cases of differences or conflicts.

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<sup>1</sup>All references to local law throughout this Code shall include regulations implemented in accordance with applicable local law.



## Principles of Monitoring

### I. Obligations of Companies<sup>1</sup>

#### A. Establish Clear Standards

- Establish and articulate clear, written workplace standards<sup>2</sup>
- Formally convey those standards to company factories as well as to contractors and suppliers<sup>3</sup>
- Receive written certifications, on a regular basis, from company factories as well as contractors and suppliers that standards are being met, and that employees have been informed about the standards
- Obtain written agreement of company factories and contractors and suppliers to submit to periodic inspections and audits, including by independent external monitors, for compliance with the workplace standards

#### B. Create An Informed Workplace

Ensure that all company factories as well as contractors and suppliers inform their employees about the workplace standards orally and through the posting of standards in a prominent place (in the local languages spoken by employees and managers) and undertake other efforts to educate employees about the standards on a regular basis

#### C. Develop An Information Database

- Develop a questionnaire to verify and quantify compliance with the workplace standards
- Require company factories and contractors and suppliers to complete and submit the questionnaire to the company on a regular basis

#### D. Establish Program to Train Company Monitors

Provide training on a regular basis to company monitors about the workplace standards and applicable local and international law, as well as about effective monitoring practices, so as to enable company monitors to be able to assess compliance with the standards

#### E. Conduct Periodic Visits and Audits

- Have trained company monitors conduct periodic announced and unannounced visits to an appropriate sampling of company factories and facilities of contractors and suppliers to assess compliance with the workplace standards
- Have company monitors conduct periodic audits of production records and practices and of wage, hour, payroll and other employee records and practices of company factories and contractors and suppliers

#### F. Provide Employees With Opportunity to Report Noncompliance

Develop a secure communications channel, in a manner appropriate to the culture and situation, to enable company employees and employees of contractors and suppliers to report to the company on noncompliance with the workplace standards, with security that they will not be punished or prejudiced for doing so

#### G. Establish Relationships with Labor, Human Rights, Religious or Other Local Institutions

- Consult regularly with human rights, labor, religious or other leading local institutions that are likely to have the trust of workers and knowledge of local conditions and utilize, where companies deem necessary, such local institutions to facilitate communication with company employees and employees of contractors and suppliers in the reporting of noncompliance with the workplace standards
- Consult periodically with legally constituted unions representing employees at the worksite regarding the monitoring process and utilize, where companies deem appropriate, the input of such unions
- Assure that implementation of monitoring is consistent with applicable collective bargaining agreements

#### H. Establish Means of Remediation

- Work with company factories and contractors and suppliers to correct instances of noncompliance with the workplace standards promptly as they are discovered and to take steps to ensure that such instances do not recur
- Condition future business with contractors and suppliers upon compliance with the standards

## **II. Obligations of Independent External Monitors**

### **A. Establish Clear Evaluation Guidelines and Criteria**

Establish clear, written criteria and guidelines for evaluation of company compliance with the workplace standards

### **B. Review Company Information Database**

Conduct independent review of written data obtained by company to verify and quantify compliance with the workplace standards

### **C. Verify Creation of Informed Workplace**

Verify that company employees and employees of contractors and suppliers have been informed about the workplace standards orally, through the posting of standards in a prominent place (in the local languages spoken by employees and managers) and through other educational efforts

### **D. Verify Establishment of Communications Channel**

Verify that the company has established a secure communications channel to enable company employees and employees of contractors and suppliers to report to the company on noncompliance with the workplace standards, with security that they will not be punished or prejudiced for doing so

### **E. Be Given Independent Access to, and Conduct Independent Audit of, Employee Records**

- Be given independent access to all production records and practices and wage, hour, payroll and other employee records and practices of company factories and contractors and suppliers
- Conduct independent audit, on a confidential basis, of an appropriate sampling of production records and practices and wage, hour, payroll and other employee records and practices of company factories and contractors and suppliers

### **F. Conduct Periodic Visits and Audits**

Conduct periodic announced and unannounced visits, on a confidential basis, of an appropriate sampling of company factories and facilities of contractors and suppliers to survey compliance with the workplace standards

### G. Establish Relationships with Labor, Human Rights, Religious or Other Local Institutions

- In those instances where independent external monitors themselves are not leading local human rights, labor rights, religious or other similar institutions, consult regularly with human rights, labor, religious or other leading local institutions that are likely to have the trust of workers and knowledge of local conditions
- Assure that implementation of monitoring is consistent with applicable collective bargaining agreements and performed in consultation with legally constituted unions representing employees at the worksite

### H. Conduct Confidential Employee Interviews

- Conduct periodic confidential interviews, in a manner appropriate to the culture and situation, with a random sampling of company employees and employees of contractors and suppliers (in their local languages) to determine employee perspective on compliance with the workplace standards
- Utilize human rights, labor, religious or other leading local institutions to facilitate communication with company employees and employees of contractors and suppliers, both in the conduct of employee interviews and in the reporting of noncompliance

### I. Implement Remediation

Work, where appropriate, with company factories and contractors and suppliers to correct instances of noncompliance with the workplace standards

### J. Complete Evaluation Report

Complete report evaluating company compliance with the workplace standards

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<sup>1</sup> It is recognized that implementation by companies of internal monitoring programs might vary depending upon the extent of their resources but that any internal monitoring program adopted by a company would be consistent with these Principles of Monitoring. If companies do not have the resources to implement some of these Principles as part of

an internal monitoring program, they may delegate the implementation of such Principles to their independent external monitors.

<sup>2</sup> Adoption of the Workplace Code of Conduct would satisfy the requirement to establish and articulate clear written standards. Accordingly, all references to the "workplace standards" and the "standards" throughout this document could be replaced with a reference to the Workplace Code of Conduct.

<sup>3</sup> These Principles of Monitoring should apply to contractors where the company adopting the workplace standards is a manufacturer (including a retailer acting as a manufacturer) and to suppliers where the company adopting the standards is a retailer (including a manufacturer acting as a retailer). A "contractor" or a "supplier" shall mean any contractor or supplier engaged in a manufacturing process, including cutting, sewing, assembling and packaging, which results in a finished product for the consumer.

## PRESIDENT CLINTON'S INITIATIVE ON CHILD LABOR

*"This year, I will send legislation to Congress, and ask other nations to join us, to fight the most intolerable labor practice of all -- abusive child labor"*

President Clinton, January 27, 1998

President Clinton is proposing in his FY99 budget a new initiative to fight child labor. The initiative builds on the administration's record of reporting on child labor, aiding the private sector in the development of codes of conduct and labeling efforts, pressing successfully for a greater ILO focus on exploitative child labor, leveraging change in the domestic garment industry through the use of "hot goods" laws, and using U.S. laws to suspend trade benefits in response to persistent exploitative child labor practices.

### **The president's initiative to fight abusive child labor will:**

- ✓ Make the United States the world leader in supporting programs to reduce abusive child labor with a **\$27 million** increase in our commitment to the International Programme for the Elimination of Child Labour.
- ✓ Reduce the supply of child workers in the farm sector by providing a **\$50 million** increase for migrant education to reach 70,000-100,000 additional migrant children and **\$5 million** for a youth job training demonstration.
- ✓ Reduce the demand for illegal child labor in the US agriculture sector with **\$4 million** for 36 new investigators to enforce child labor laws, collect data, and enlist commercial sellers of produce in encouraging child labor compliance by their suppliers.

### **LEADING THE WORLD IN SUPPORTING PROGRAMS TO REDUCE ABUSIVE CHILD LABOR**

The President called for the U.S. to be the world's leading supporter of the International Programme for the Elimination of Child Labour (IPEC). The President's FY99 balanced budget proposes that the U.S. contribute a total of \$30 million -- *a 10 fold increase* -- to IPEC in support of programs aimed at reducing the most intolerable forms of child labor -- forced or indentured work, work by very young children, and work in the most hazardous occupations. The US funds will support multi-dimensional programs including key elements such as: in-country ownership, innovative partnerships between governments, workers and NGOs, development of reasonable educational alternatives, monitoring, creative use of media, and documentation.

### **INCREASING EDUCATION SERVICES FOR MIGRANT CHILDREN AND YOUTH**

The President's FY99 budget calls for a **\$50 million** increase in the Migrant Education Program which provides special services to migrant children who often have difficulty in school because they change schools frequently. This 16% increase will allow all kinds of school based interventions including after school care, summer sessions, transportation, and recruitment. The funds will serve about 70,000-100,000 additional children. The budget also calls for a **\$5 million** demonstration program within the Migrant Youth Job Training title of JTPA. The demonstration will test the efficacy of new programs to get school age children out of the fields and into job experience coupled with educational enrichment.

### **ENFORCING DOMESTIC CHILD LABOR**

The President's FY99 budget calls for **\$4 million** for the Department of Labor to increase enforcement of child labor laws in the agricultural sector. The funds will be used to hire 36 additional investigators; collect data; conduct targeted enforcement actions; and enlist growers, processors, wholesalers, and grocers in encouraging child labor compliance by their suppliers.

ILO DECLARATION  
ON FUNDAMENTAL  
PRINCIPLES AND  
RIGHTS AT WORK  
AND ITS  
FOLLOW-UP

*adopted by  
the International Labour  
Conference  
at its Eighty-sixth Session,  
Geneva, 18 June 1998*

## PRESENTATION

On 18 June 1998 the International Labour Organization adopted the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up* in Geneva, thereby taking up the challenges of globalization which have been the focus of considerable debate within the ILO since 1994. Although globalization is a factor of economic growth, and economic growth is a prerequisite for social progress, the fact remains that it is not in itself enough to guarantee that progress. It must be accompanied by a certain number of social ground rules founded on common values to enable all those involved to claim their fair share of the wealth they have helped to generate.

The aim of the Declaration is to reconcile the desire to stimulate national efforts to ensure that social progress goes hand in hand with economic progress and the need to respect the diversity of circumstances, possibilities and preferences of individual countries.

A first step in this direction was made in Copenhagen in 1995, when the Heads of State and Government attending the World Summit for Social Development adopted specific commitments and a Programme of Action relating to "basic workers' rights" – the prohibition of forced labour and child labour, freedom of association, the right to organize and bargain collectively, equal remuneration for work of equal value and the elimination of discrimination in employment. The WTO Ministerial Conference held in Singapore in 1996 then provided the opportunity for a second step to be taken. The States renewed their commitment to observe internation-

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ART

ally recognized core labour standards, recalled that the ILO was the competent body to set and deal with these standards and reaffirmed their support for its work in promoting them.

The adoption of the Declaration constituted the third step. It makes a significant contribution to the aim set forth in paragraph 54(b) of the Programme of Action adopted by the Copenhagen Summit, which is to safeguard and promote respect for basic workers' rights, requesting States parties to the corresponding ILO Conventions to fully implement them and other States to take into account the principles embodied in them.

The existing supervisory machinery already provides the means of assuring the application of Conventions in the States that have ratified them. For those that have not, the Declaration makes an important new contribution. Firstly, it recognizes that the Members of the ILO, even if they have not ratified the Conventions in question, have an obligation to respect "in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions". Next, and this is the first aspect of the follow-up provided in the Annex to the Declaration, it seeks to achieve this aim by implementing the ILO's unique Constitutional procedure in accordance with which each year States that have not ratified the core Conventions will be asked to submit reports on progress made in implementing the principles enshrined in them.

Lastly, by solemnly committing itself to mobilize its budgetary resources and its influence to help its Members to achieve the aims of the Copenhagen Summit, the Organization goes one step further. This commitment will be

reflected in the global report, the second aspect of the follow-up provided in the Annex. The global report will provide an overview of the progress made in the preceding four-year period both in countries which have ratified the core Conventions as well as in those which have not, it will serve as a basis for assessing the effectiveness of the action taken during the preceding period and as a starting point for action plans for future assistance.

By adopting this Declaration, the ILO has taken up the challenge presented to it by the international community. It has established a social minimum at the global level to respond to the realities of globalization and can now look ahead to the new century with renewed optimism.

Michel Hansenne

## ILO DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK

- Whereas the ILO was founded in the conviction that social justice is essential to universal and lasting peace;
- Whereas economic growth is essential but not sufficient to ensure equity, social progress and the eradication of poverty, confirming the need for the ILO to promote strong social policies, justice and democratic institutions;
- Whereas the ILO should, now more than ever, draw upon all its standard-setting, technical cooperation and research resources in all its areas of competence, in particular employment, vocational training and working conditions, to ensure that, in the context of a global strategy for economic and social development, economic and social policies are mutually reinforcing components in order to create broad-based sustainable development;
- Whereas the ILO should give special attention to the problems of persons with special social needs, particularly the unemployed and migrant workers, and mobilize and encourage international, regional and national efforts aimed at resolving their problems, and promote effective policies aimed at job creation;
- Whereas, in seeking to maintain the link between social progress and economic growth, the guarantee of fundamental principles and rights at work is of particular significance in that it enables the persons

concerned to claim freely and on the basis of equality of opportunity their fair share of the wealth which they have helped to generate, and to achieve fully their human potential;

<sup>1</sup> Whereas the ILO is the constitutionally mandated international organization and the competent body to set and deal with international labour standards, and enjoys universal support and acknowledgement in promoting fundamental rights at work as the expression of its constitutional principles;

Whereas it is urgent, in a situation of growing economic interdependence, to reaffirm the immutable nature of the fundamental principles and rights embodied in the Constitution of the Organization and to promote their universal application;

The International Labour Conference,

1. Recalls:

- (a) that in freely joining the ILO, all Members have endorsed the principles and rights set out in its Constitution and in the Declaration of Philadelphia, and have undertaken to work towards attaining the overall objectives of the Organization to the best of their resources and fully in line with their specific circumstances;
- (b) that these principles and rights have been expressed and developed in the form of specific rights and obligations in Conventions recognized as fundamental both inside and outside the Organization.

2. Declares that all Members, even if they have not ratified the Conventions in question, have an obligation, arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

3. Recognizes the obligation on the Organization to assist its Members, in response to their established and expressed needs, in order to attain these objectives by making full use of its constitutional, operational and budgetary resources, including by the mobilization of external resources and support, as well as by encouraging other international organizations with which the ILO has established relations, pursuant to article 12 of its Constitution, to support these efforts:

- (a) by offering technical cooperation and advisory services to promote the ratification and implementation of the fundamental Conventions;
- (b) by assisting those Members not yet in a position to ratify some or all of these Conventions in their efforts to respect, to promote and to realize the principles concerning fundamental rights which are the subject of those Conventions; and

(c) by helping the Members in their efforts to create a climate for economic and social development.

4. Decides that, to give full effect to this Declaration, a promotional follow-up, which is meaningful and effective, shall be implemented in accordance with the measures specified in the annex hereto, which shall be considered as an integral part of this Declaration.
5. Stresses that labour standards should not be used for protectionist trade purposes, and that nothing in this Declaration and its follow-up shall be invoked or otherwise used for such purposes; in addition, the comparative advantage of any country should in no way be called into question by this Declaration and its follow-up.

## Annex

### Follow-up to the Déclaration

#### I. OVERALL PURPOSE

1. The aim of the follow-up described below is to encourage the efforts made by the Members of the Organization to promote the fundamental principles and rights enshrined in the Constitution of the ILO and the Declaration of Philadelphia and reaffirmed in this Declaration.

2. In line with this objective, which is of a strictly promotional nature, this follow-up will allow the identification of areas in which the assistance of the Organization through its technical cooperation activities may prove useful to its Members to help them implement these fundamental principles and rights. It is not a substitute for the established supervisory mechanisms, nor shall it impede their functioning; consequently, specific situations within the purview of those mechanisms shall not be examined or re-examined within the framework of this follow-up.

3. The two aspects of this follow-up, described below, are based on existing procedures: the annual follow-up concerning non-ratified fundamental Conventions will entail merely some adaptation of the present modalities of application of article 19, paragraph 5(e), of the Constitution; and the global report will serve to obtain the best results from the procedures carried out pursuant to the Constitution.

## II. ANNUAL FOLLOW-UP CONCERNING NON-RATIFIED FUNDAMENTAL CONVENTIONS

### *A. Purpose and scope*

1. The purpose is to provide an opportunity to review each year, by means of simplified procedures to replace the four-year review introduced by the Governing Body in 1995, the efforts made in accordance with the Declaration by Members which have not yet ratified all the fundamental Conventions.

2. The follow-up will cover each year the four areas of fundamental principles and rights specified in the Declaration.

### *B. Modalities*

1. The follow-up will be based on reports requested from Members under article 19, paragraph 5(e), of the Constitution. The report forms will be drawn up so as to obtain information from governments which have not ratified one or more of the fundamental Conventions, on any changes which may have taken place in their law and practice, taking due account of article 23 of the Constitution and established practice.

2. These reports, as compiled by the Office, will be reviewed by the Governing Body.

3. With a view to presenting an introduction to the reports thus compiled, drawing attention to any aspects which might call for a more in-depth discussion, the Office may call upon a group of experts appointed for this purpose by the Governing Body.

4. Adjustments to the Governing Body's existing procedures should be examined to allow Members which are not represented on the Governing Body to provide, in the most appropriate way, clarifications which might prove necessary or useful during Governing Body discussions to supplement the information contained in their reports.

## III. GLOBAL REPORT

### *A. Purpose and scope*

1. The purpose of this report is to provide a dynamic global picture relating to each category of fundamental principles and rights noted during the preceding four-year period, and to serve as a basis for assessing the effectiveness of the assistance provided by the Organization, and for determining priorities for the following period, in the form of action plans for technical cooperation designed in particular to mobilize the internal and external resources necessary to carry them out.

2. The report will cover, each year, one of the four categories of fundamental principles and rights in turn.

### *B. Modalities*

1. The report will be drawn up under the responsibility of the Director-General on the basis of official information, or information gathered and assessed in accordance with established procedures. In the case of States which have not ratified the fundamental Conventions, it will

be based in particular on the findings of the aforementioned annual follow-up. In the case of Members which have ratified the Conventions concerned, the report will be based in particular on reports as dealt with pursuant to article 22 of the Constitution.

2. This report will be submitted to the Conference for tripartite discussion as a report of the Director-General. The Conference may deal with this report separately from reports under article 12 of its Standing Orders, and may discuss it during a sitting devoted entirely to this report, or in any other appropriate way. It will then be for the Governing Body, at an early session, to draw conclusions from this discussion concerning the priorities and plans of action for technical cooperation to be implemented for the following four-year period.

#### IV. IT IS UNDERSTOOD THAT:

1. Proposals shall be made for amendments to the Standing Orders of the Governing Body and the Conference which are required to implement the preceding provisions.

2. The Conference shall, in due course, review the operation of this follow-up in the light of the experience acquired to assess whether it has adequately fulfilled the overall purpose articulated in Part I.

The foregoing is the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up duly adopted by the General Conference of the International Labour Organization during its Eighty-sixth Session which was held at Geneva and declared closed the 18 June 1998.

IN FAITH WHEREOF we have appended our signatures this nineteenth day of June 1998.

*The President of the Conference,*

JEAN-JACQUES OECHSLIN

*The Director-General of the International Labour Office.*

MICHEL HANSENNE



NAME \_\_\_\_\_

ORGANIZATION \_\_\_\_\_

QUESTION \_\_\_\_\_

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\_\_\_\_\_  
\_\_\_\_\_



# NO SWEAT INITIATIVE Fact Sheet

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In the fashion world, you either follow trends or you set them. The college and university community is setting a trend by joining the fight against sweatshops – demanding that their institutions develop and implement codes of conduct so their school and team merchandise is not made in sweatshops. They are joining others who are partnering with the Department to relegate sweatshops to the history books.

## **Background**

The ugly stain of sweatshops in America (and around the world) still exists nearly 100 years after the famous Triangle Shirtwaist Company fire in New York City where 146 garment workers lost their lives. Today, three years after Thai immigrants were discovered in a California sweatshop forced to work in slave-like conditions for less than 70 cents an hour, a survey of garment shops in Los Angeles still found that 60 percent of the sewing shops were violating this nation's most fundamental labor law. A similar lack of compliance exists in New York City.

With its "No Sweat" four-pronged strategy, the U.S. Department of Labor is working hard to eliminate sweatshops in this industry which employs approximately one million workers in some 22,000 garment sewing and cutting shops. But the government cannot do it alone. Government, retailers, manufacturers, licensees, universities, students, unions, consumer groups, human rights groups and every concerned American must move in a new direction and move forward together to make sure that sweatshops are part of our past, and not part of our present or future.

## **About "No Sweat University"**

America's garment industry today grosses \$45 billion a year with university-licensed products generating \$2.5 billion in retail sales. This is a huge market with school and team apparel that is readily identifiable.

The "*No Sweat University: Labor Standards and Codes of Conducts*" forum will provide the university licensing community and others the tools and information they need so that merchandise bearing their school name or logo is not stained by sweatshop labor. The "No Sweat University" is a new and innovative partnership to foster real and lasting change to end sweatshops.

# **The U.S. Department of Labor "No Sweat" Strategy**

## **Enforcement**

The department's Wage and Hour Division conducts targeted enforcement sweeps in major garment centers and conducts investigation-based compliance surveys to determine the level of compliance with labor laws. During the Clinton administration, the department has recovered nearly \$17 million in back wages for more than 51,000 garment workers.

The U.S. Department of Labor has only 950 investigators to protect the rights of garment workers and another 110 million employees in 6.5 million workplaces. Enforcement, alone, cannot begin to address problems rampant in the garment industry. Partnership, education and recognition are also critical components in our effort to eradicate sweatshops.

## **Partnership**

The U.S. Department of Labor has established partnerships with the states of California and New York, national religious leaders and the socially responsible investment community, consumer groups, unions, the academic community and many other organizations and individuals to join in the battle to combat sweatshops.

Participants in the Apparel Industry Partnership – unions, human rights activists and the garment industry – have developed and will follow a code of conduct, company obligations and principles of independent external monitoring.

## **Education**

Through forums, seminars, public service announcements and our Internet web page ([www.dol.gov](http://www.dol.gov)), the department's ongoing education campaign informs workers of their rights; contractors of their obligations to pay minimum wage and overtime; manufacturers on effective monitoring programs; retailers on policies to ensure the goods they sell are not made in sweatshops; and consumers on how they can fight sweatshops.

In addition, the department publishes quarterly the results of its enforcement activities reporting on the contractor shops found in violation of labor law and the manufacturers contracting with those shops.

## **Recognition**

The department is working with and encouraging the industry to develop recognition programs to highlight best practices for others to follow.

RICK SADOWSKI Publisher/President  
WALKER LUNDY Editor/Sr. Vice President  
RONALD D. CLARK Editorial Page Editor  
VICKI GOWLER Managing Editor  
STEVEN DORNFIELD Associate Editorial Editor  
BERNARD H. RIDDER JR. Chairman Emeritus

# OPINION

# BY THE SWEAT OF OTHERS' BROWS

Labor Day 1998 arrives at an extraordinary moment, one of strikes and discord, economic volatility close to home and far away. Today we present two essays by U.S. labor secretaries, separated by decades but not intentions. U.S. Labor Secretary Alexis Herman, writing at the Pioneer Press' request, responds 65 years later to Frances Perkins' classic "The Cost of a Five-Dollar Dress." Herman invites e-mail response ([isweatshops@dol.gov](mailto:isweatshops@dol.gov)) to this commentary and the issues it presents. Today's letters to the editor also mark the sacrifice and difficulty of laboring in search of the American Dream.



**EDITOR'S NOTE:** *This article was published in February 1933, headlined "The Cost of a Five-Dollar Dress," in Survey Graphic magazine. Perkins assumed her post as labor secretary with Franklin Roosevelt's first inauguration a month later and remained in the Cabinet for the duration of his administration.*

**When a deal is too good to be true, it's because exploited laborers pay the price.**

**Frances Perkins**

COMMENTARY

It hangs in the window of one of the little cash-and-carry stores that now line a street where fashionable New Yorkers used to drive out in their carriages to shop at Tiffany's and Constable's. It is a "supper dress" of silk crepe in "the new red," with medieval sleeves and graceful skirt. A cardboard tag on the shoulder reads: "Special \$4.95." Bargain basements and little ready-to-wear shops are filled with similar "specials."

But the manufacturer who pays a living wage for a reasonable week's work under decent conditions cannot turn out attractive silk frocks to retail at \$5 or less. The real cost is borne by the workers in the sweatshops that are springing up in hard-pressed communities. Under today's desperate need for work and wages, girls and women are found toiling overtime at power machines and worktables, some of them for paychecks that represent a wage of less than 10 cents a day.

The sweatshop employer is offending against industry's standards, as well as against the standards of the community. The employer who, in order to pay fair wages for reasonable hours of work, produces dresses in his shop to retail at \$9.50, finds himself in competition with the less conscientious manufacturer whose "sweated" garments are offered at \$4.95.

As we have come to know him in New York, this sweatshop proprietor is a "little fellow," doing business on a shoestring. He must make a quick turnover or go under. Since he cannot hope to meet union conditions or the requirements of the labor law, he goes to some outlying suburb where garment factories are not a feature of the local picture and where state inspectors are not on the lookout for him. Or perhaps he goes to a nearby state -- New Jersey, Connecticut, Pennsylvania, Massachusetts -- where he believes labor laws are less stringent or that he will escape attention.

The goods he makes up are probably cut in a city shop and "bootlegged" to him by truck. His operations are minutely subdivided so that they can be quickly learned and require little skill. His work force is made up of wives and daughters of local wage earners who have been out of work for months or even years and whose family situation is desperate. The boss sets the wage rates, figures the pay slips, determines the hours of work. His reply to any complaint is, "quit if you don't like it."

The Massachusetts Commissioner of Labor and Industries, in a survey of wages paid in Fall River, reports the earnings of more than 50 percent of the women and girls employed on piecework were as follows in one plant:

One employee at 5 cents an hour; one employee at 6 cents an hour; three employees at 7 cents an hour; two employees at 8 cents; 10 employees at 9 cents; one employee at 10 cents; 12 employees at 12 1/2 cents; 13 employees at 13 1/3 cents; 18 employees at 14 cents; 13 employees at 15 cents.

The report adds: "Assuming constant activity by those workers during the 48 hours of the plant's operation, the weekly earnings of the highest-paid workers in the group just cited, namely, those earning 15 cents an hour, would have been \$7.20."

The factories whose payrolls were studied in this survey had come to Fall River from New York and elsewhere, the commissioner points out, "under the double lure of cheap rentals to be found in the discontinued textile mills and a surplus of unemployed female labor, mostly young, unskilled girls."

And he comments, "These plants are for the most part in the charge of men of inferior business caliber, who probably could not survive at all if it were not for their willingness to be entirely ruthless in exploiting labor."

#### Out of the sweatshop

Working conditions, including safety provisions, sanitation, rest-room facilities and so on, are like standards of wages and hours, holding up well in responsible concerns. In the runaway shop, conditions are usually far below standard and the picture of such a plant is a look back to the sweatshops that horrified caseworkers and visiting nurses at the turn of the century.

What is the way out for the conscientious consumer who does not want to buy garments, even at a bargain, made by exploited labor? Common sense will tell the purchaser that someone must pay the price of the well-cut silk dress offered at \$4.95. The manufacturer is not producing these frocks for pleasure or for charity. If the purchaser does not pay a price that allows for a subsistence wage and reasonable hours and working conditions, then the cost of the "bargain" must be sweated out of the workers.

The red silk bargain dress in the shop window is a danger signal. It is a warning of the return of the sweatshop, a challenge to us all to reinforce the gains we have made in our long and difficult progress toward a civilized industrial order.

**Even today, even in America, workers slave in abhorrent conditions for pennies a day. But with consumers' help, U.S. Secretary of Labor Alexis Herman says, sweatshops can be closed down forever.**

**Alexis M. Herman**  
COMMENTATOR

When my predecessor Frances Perkins penned her 1933 essay on sweatshops, the Great Depression was at its climax and one out of four Americans was unemployed.

On Labor Day 1998, Americans are enjoying the healthiest economy in a generation. Our unemployment rate is the lowest it's been in three decades. And to baby boomers and Generation Xers, the Great Depression is often little more than a collection of sad stories from days long ago.

While yesterday's \$4.95 dress signaled the dangerous resurgence of worker abuse and exploitation in Secretary Perkins' day, \$100 bluejeans signal sweatshops' dangerous resilience today. Fashions may change, but while we have made progress, the ugly stain of sweatshops in our country (and around the world) still remains.

Just three years ago, Thai immigrants were discovered in El Monte, Calif., forced to work for less than 70 cents an hour in slavlike conditions to repay the cost of their passage to the United States. Later, talk-show celebrity Kathie Lee Gifford cast an even brighter spotlight on the abhorrent plight of sweatshop workers.

As a result, most Americans know that even today, sweatshops are real -- and that they unravel the fabric of workers' lives and leave them hanging by a thread.

But what can we do about it?

As secretary of labor, I am the "top cop" on the workplace beat, and I am committed to tapping every resource available so that all workers receive a fair paycheck earned with dignity and respect. The Labor Department is vigilant when it comes to labor law enforcement. Over the past six years of the Clinton administration, our crackdown on sweatshops has recovered nearly \$17 million in back wages for more than 51,000 garment workers.

But that is not enough. Enforcement, coupled with innovative partnerships, education, recognition and the full participation of all consumers is our battle plan in today's war against sweatshops.

Many in the garment industry are doing their part in marvelous fashion. The Apparel Industry Partnership -- the first-of-its-kind coalition organized by President Clinton of clothing manufacturers and retailers, consumer groups, unions and human rights activists -- is making

bold strides. The code of conduct, company obligations and principles of independent monitoring they have committed to implement will help us bolt sweatshop doors forever.

But you, the consumer, can do something, too.

In the fashion world, you either follow trends or you set them. Many individuals and organizations are setting innovative trends. Students in the archdioceses of Newark, N.J., Chicago and elsewhere are working with their teachers to develop a curriculum about the history of sweatshops, as well as guidelines that ensure that their school and athletic uniforms are "sweatshop-free." College students are demanding that their institutions develop and implement codes of conduct so their sweat shirts aren't made in sweatshops. Their energy, enthusiasm and information is spreading to other campuses. A new generation of student activism is beginning -- and making a real difference.

Women's groups have started "Let's Go Sweatshopping" efforts in their local malls, asking exactly who makes their favorite garments, and how those garments are made. Churches and synagogues are getting involved. Designers, celebrity endorsers, even top fashion models have joined the campaign.

And the Labor Department is doing something Frances Perkins never imagined: using the Internet to provide a wide menu of information for you, the consumer. Tips on avoiding garments produced in sweatshops and information on responsible manufacturers who recognize the value of fair treatment are at your fingertips. With the click of a mouse, conscientious consumers can access our Web site at [www.dol.gov](http://www.dol.gov) and become part of a virtual battle plan that will banish sweatshops to the history books once and for all.

This new technology does not "antiquate" the sentiments of this country's first woman Cabinet member. Frances Perkins said once that "we can look forward confidently, if we all work together, to the time when there will be increased profits for industry, with workers receiving fair wages and having better working conditions."

For as long as I hold her job, Frances Perkins' picture will hang in my office, and her words will forever be anchored in my heart. More importantly, we all must hold close her vision of an American workplace that values common sense, cooperation and native courage. These are the ideals that will wipe sweatshops forever out of style.

As consumers, clothing is a necessary part of our lives. As Americans, sweatshops should be repugnant to our moral core. Each of us bears an unavoidable responsibility to make sure sweatshops are part of our past, and not part of our present or future.

SECRETARY OF LABOR  
WASHINGTON

October 6, 1998

Dear No Sweat University Participants:

It is a pleasure to welcome you to Washington, D.C. and the Smithsonian Institution's National Museum of American History for No Sweat University: Labor Standards and Codes of Conduct. I am delighted that you are able to participate in this first-of-its-kind forum.

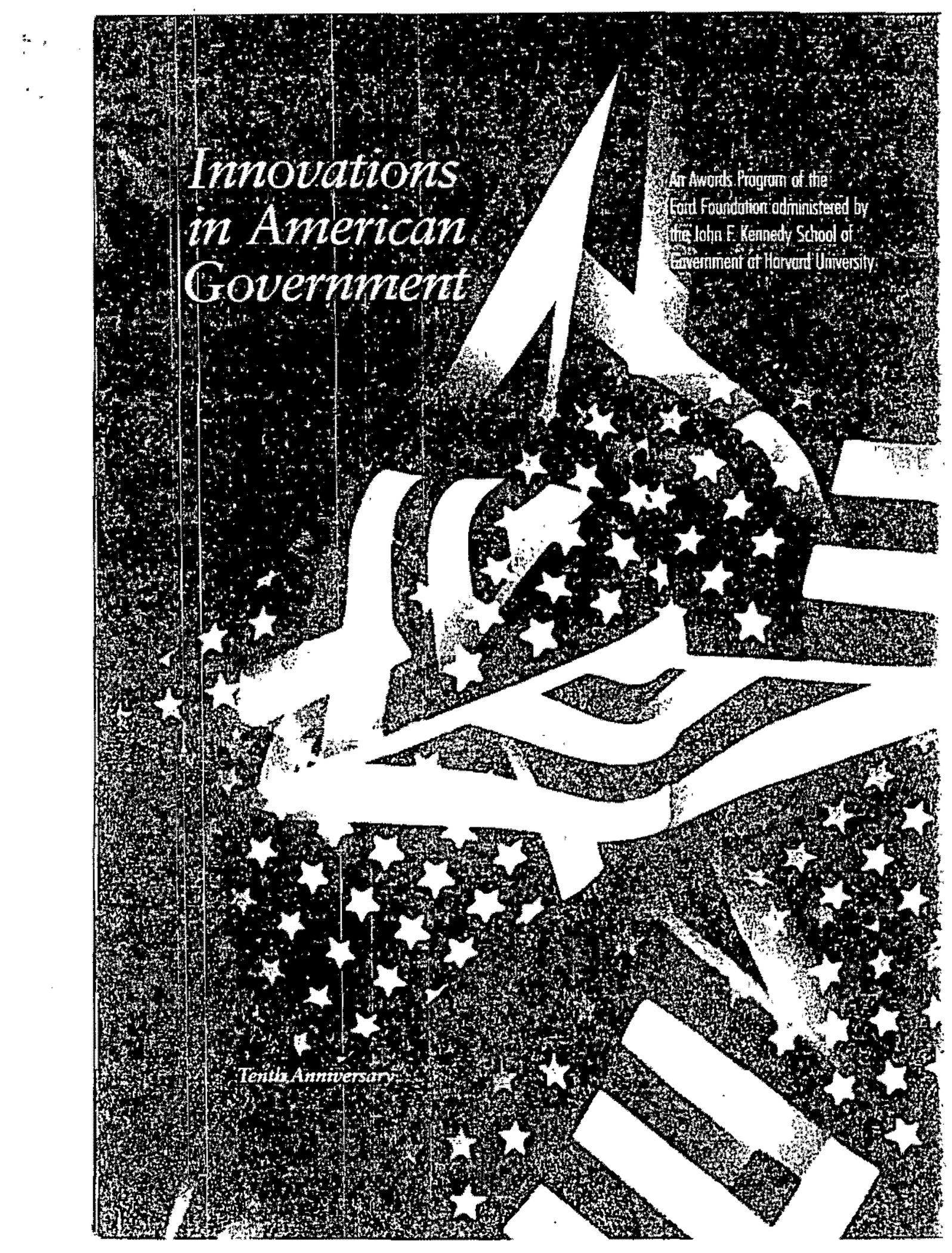
Today's presentations will provide you with a unique opportunity to explore strategies for developing and implementing codes of conduct to prevent labor abuses of workers making college and university apparel and other merchandise. Your involvement sends a clear signal to the academic community and countless others that merchandise bearing your school name or logo will not be stained by sweatshop labor.

Throughout the history of our country, the energy, enthusiasm and activism of the academic community--from student to college presidents--has made a real and significant impact in so many social justice efforts. Now is the perfect time for the battle against sweatshop labor in the garment industry to get "the old college try."

I hope that you find No Sweat University to be rewarding, informative and productive.

Sincerely,

  
Alexis M. Herman



*Innovations  
in American  
Government*

An Awards Program of the  
Ford Foundation administered by  
the John F. Kennedy School of  
Government at Harvard University

*Tenth Anniversary*

*Eradicating  
Sweatshops*



For thousands of garment industry workers in the United States sewing is a way of life that comes with a high price—low wages and unsafe working conditions, both of which result from manufacturers and retailers trying to shave dollars and dimes off the cost of clothes. Just how exploitive those conditions can be was brought starkly home in 1995, when a raid on a sweatshop in El Monte, California, revealed the virtual peonage of immigrant workers being paid less than \$1.00 an hour.

Two years earlier, such sweatshop conditions in major garment centers from Los Angeles to New York City inspired a tough new anti-sweatshop enforcement approach developed by the Department of Labor's Wage and Hour Division. Called "No Sweat," the program aims to eradicate sweatshops by going at the problem in a new way. Rather than having its small corps of 800 investigators chasing tips on possible sweatshop activity—the old way of policing the industry—the division decided to pursue a new high-profile, two-part, top-down approach that hinges on cooperation and publicity. First, division investigators began working with the manufacturers and retailers who buy from sewing contractors and subcontractors to make them aware of the conditions under which some of their clothes were being sewn, even preventing shipments under the federal "hot goods" law to force accountability. Second, the Department of Labor decided to publish lists of manufacturers and retailers who insist on legal and ethical practices among their contractors and subcontractors—and those who do not.

The tactic was effective. Polls show that the vast majority of Americans wouldn't mind paying a little more for clothes sewn under proper working conditions. And since the Labor Department publicity, many retailers and manufacturers have agreed to monitor conditions in garment factories. Besides helping to create a climate for decent working conditions, the Wage and Hour Division has assisted workers financially by collecting \$8.4 million in back wages for more than 29,000 garment workers over the past three years.



**NO  
SWEAT.<sup>SM</sup>**

# TOP 10 DOMESTIC VIOLATIONS FOUND IN GARMENT SHOPS

- Failure to pay the minimum wage
- Paying piece rates that amount to less than the minimum wage
- Missed payrolls
- Failure to pay overtime
- Miscalculation of overtime premiums
- Illegal use of home sewing
- Employment of underage workers
- Failure to maintain accurate time records
- Falsification of payroll records
- Failure to establish regular pay periods



# Garment Initiative Timeline

June 1995 - October 1998

1 9 9 5

JUNE	JULY	AUGUST	SEPTEMBER
<p><b>June 21</b> The Los Angeles Compliance Alliance, a government-industry association was founded requiring its members to monitor contractor compliance and assume responsibility for paying back wages and civil money penalties if contractors found in violation.</p>		<p><b>August 2</b> DOL raids sweatshop in El Monte (CA) and finds 72 garment workers working in virtual slavery for as little as \$.70 per hour.</p> <p><b>August 17</b> DOL files a civil suit in U.S. District Court in Los Angeles seeking to recover \$5 million in back wages for the El Monte sweatshop workers.</p> <p><b>August 23</b> DOL conducts joint raids with INS in Los Angeles.</p>	<p><b>September 12</b> Secretary Reich, at Retail Summit in New York, issues call to nation's retailers to join efforts to eradicate sweatshops.</p> <p><b>September 13</b> Secretary Reich speaks to fashion and ethica students at Marymount University and restates invitation to retailing community to join in sweatshop eradication effort.</p> <p><b>September 14</b> DOL raids 50 garment shops in Los Angeles area finding 48 shops in violation, owing \$568,000 to 600 workers.</p>

**NO  
SWEAT..**

# Garment Initiative Timeline

June 1995 - October 1998

1 9 9 5

## OCTOBER

### October 17

Secretary Reich invites manufacturers to join national effort at a meeting of the American Apparel Manufacturers Association. Also announces manufacturers who have signed compliance monitoring agreements.

### October 30

DOL conducts week-long garment shop raids in New York and finds more than \$200,000 due to nearly 500 workers.

### November 3

Secretary Reich urges major retailers and manufacturers to submit information about programs and systems adopted to help their contractors and suppliers comply with labor laws.

### November 6

DOL announces New York City enforcement action recovering \$30,000 in back wages in record time for 40 employees who produced goods destined for one of the nation's largest retailers.

### November 6

DOL conducts week-long garment raids in Los Angeles.

## NOVEMBER

### November 7

Secretary Reich orders issuance of a subpoena against Karman, Inc., a Denver manufacturer, to obtain information about the destination of "hot goods" made in violation. Days before, DOL obtained a temporary restraining order against the manufacturer to prevent the shipment of "hot goods" in interstate commerce.

### November 17

Marquette University releases poll showing more than 69 percent of consumers polled say they would not shop at retail establishments that sell sweatshop produced goods.

### November 20

DOL begins to receive the first wave of more than 20,000 calls and letters from customers of Working Assets. The firm asked its credit card and long distance customers to contact the department to encourage efforts to end garment worker exploitation.

### November 21

Consumers' coalition announces nationwide education initiative to inform the public about sweatshops.

### November 30

U.S. District Court in Knoxville, TN, grants temporary restraining order against garment contractor, Hall Manufacturing, Inc., and Hase Outdoors, Inc., to prevent the shipment of goods.



# Garment Initiative Timeline

June 1995 - October 1998

1 9 9 5

1 9 9 6

## DECEMBER

### December 5

DOL announces *Trendsetter List*, a list of retailers and manufacturers which have all pledged to help eradicate sweatshops in America and to try to ensure that their shelves are stocked with only "NO SWEAT" garments.

### December 20

DOL announces that GAP, Banana Republic, Old Navy, and GapKids are added to the *Trendsetter List*.

## JANUARY

### January 11

DOL announces that 37 employees of the Hall Manufacturing, Inc. have received \$11,500 in back wages from Hase as a result of DOL "hot goods" Temporary Restraining Order (TRO).

### January 25

DOL announces that NFL Properties is added to *Trendsetter List*.

## FEBRUARY

### February 10

Secretary Reich announces garment worker lock-in and other worker abuses found in enforcement sweeps in Dallas, New York City and Southern California.

### February 28

Administrator Echeveste met with a number of worker advocate organizations in Los Angeles to discuss strategies for identifying violations in garment shops.

## MARCH

### March 11

Administrator Echeveste participates in a forum sponsored by Congresswoman Nydia Velazquez to discuss conditions in the garment industry.

### March 18

Secretary Reich announces the signing of the agreement between Jessica McClintock, Inc., and the Asian Immigrant Women Advocates, ending a 3-year-old dispute.

### March 25

On the 85th anniversary of the Triangle Shirtwaist Company fire, Secretary Reich unveiled public service announcements to raise awareness of the plight of sweatshop workers in the U.S.

**NO  
SWEAT..**

# Garment Initiative Timeline

June 1995 - October 1998

1 9 9 6

## APRIL

**April 12**

Secretary Reich participates in the official opening in San Francisco of the Garment 2000 Teaching Factory. Garment 2000, a consortium of contractors, manufacturers, labor, education and city government officials, was established to train workers and shop owners in new technology and business skills.

## MAY

**May 2**

The Department announces that more than 50 manufacturers have signed monitoring agreements with the Department of Labor.

**May 3**

The Department releases its first ever national report on garment worker abuse. The Department conducted 472 investigations that revealed 222 violations and resulted in the collection of more than \$1.3 million for about 3,600 garment workers.

**May 8**

The Department announces the results of a garment industry compliance survey in the Los Angeles area. The survey found that monitoring programs in the garment business significantly reduced minimum wage and overtime violations.

**May 9**

The Department announces the results of a recently completed survey of garment shops in Southern California, which found that 48% of the shops investigated were monitored by manufacturers. Monitored shops were found to have less than half the violations found in shops not monitored for compliance.

**May 10**

The Department conducts week-long garment raids in Orange and Riverside Counties, CA.

**May 20**

The Department announces that some of the nation's largest retailers received goods produced at three garment factories that have repeatedly violated the Federal minimum wage and overtime laws. J.C. Penney, Talbot's, Macy's East, Specialty Retailers, Charlotte Russe, and Claire's Boutiques were

named. Three garment contractors underpaid 294 workers more than \$245,000.

**May 23**

Upon learning that the firm had failed to pay its workers for several weeks, the Department immediately initiated an investigation of Seo Fashions in New York City. The shop was producing goods under the "Kathie Lee" label sold exclusively by WAL-MART.

**May 31**

The Secretary and Kathie Lee Gifford announce a Fashion Industry Forum in July to bring together some of the biggest names in fashion and entertainment to expand the crusade against sweatshops. The previous week, a garment shop in New York City producing goods with Kathie Lee Gifford's label was found to owe its workers more than \$47,000 in back wages.



# Garment Initiative Timeline

June 1995 - October 1998

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1 9 9 6

JUNE

JULY

**June 11**

Secretary Reich announces that the Department is exploring an international label that would assure consumers that goods they purchase have not been made with child, forced, or exploited labor.

**June 17**

Secretary Reich announces that Talbot's and J.C. Penney instituted new compliance programs that will require their vendors to adopt monitoring procedures that will detect and prevent sweatshop abuses. K-MART was also recognized for expanding its policy to cover not only the compliance of vendors contracted directly by the company, but to expressly obligate its vendors to be responsible for their subcontractors as well.

**June 28**

Secretary Reich announces that the Fashion Industry Forum will be held on July 18th for representatives from all aspects of the industry to discuss strategies to ensure that all garments are made in conditions that are fair and in compliance with labor laws.

**July 18**

More than 300 fashion industry representatives – including retailers, manufacturers, designers, workers, labor, consumer advocates, and celebrity endorsers – participate in a Forum to discuss the challenges embodied in eradicating sweatshops and the importance of working together to identify and implement solutions.



# Garment Initiative Timeline

June 1995 - October 1998

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1 9 9 6

## AUGUST

### August 2

Apparel and footwear industry leaders commit to the President of the United States to participate in a voluntary, non-governmental partnership to develop options to assure consumers that the items they purchase are produced under acceptable labor conditions.

### August 23

The Department releases its 2nd national report on garment worker abuse. The Department conducted 223 investigations that resulted in the collection of nearly \$700,000 in wages for about 2,500 garment workers.

## SEPTEMBER

### September 10

The Department's No Sweat Initiative is named one of the 25 finalists in the 1996 *Innovations In American Government* Awards program by the Ford Foundation and the John F. Kennedy School of Government at Harvard University.

### September 10

The Department invoked the "Hot Goods" provision of the Fair Labor Standards Act to protect workers of a New Jersey textile firm that failed to pay 150 workers at least \$70,000 in wages.

### September 19

A group of "socially responsible investors" representing over \$56.8 billion in assets calls upon all levels of the industry to eliminate sweatshops.

# **NO SWEAT..**

## Garment Initiative Timeline

June 1995 - October 1998

1 9 9 6

### OCTOBER

### NOVEMBER

**October 9**

*New York Compliance Seminar*

The Department begins hosting a series of compliance monitoring workshops to provide the fashion industry with practical information on monitoring programs.

**October 10**

Jewish Council of Women hosts a *New York Sweatshop Conference* featuring Secretary Reich.

**October 16**

*Chicago Compliance Seminar*

**October 27**

The Department releases a comprehensive study of international child labor showing that many manufacturers have developed codes of conduct banning child labor.

**October 22**

More than three dozen national religious leaders join Secretary Reich in a stand against garment sweatshops by endorsing the support of their congregations across the country.

**October 23**

*Los Angeles Compliance Seminar*

**November 4**

The Department announces that a Los Angeles Task Force in October validated an earlier survey that showed the monitoring of contract sewing shops by manufacturers increases compliance with wage and hour laws.

**November 22**

The Department releases its 3rd national report on garment worker abuse. The Department conducted 194 investigations that resulted in the collection of nearly \$800,000 in back wages for about 2,200 garment workers.

**November 26**

Marymount University releases its second annual consumer survey which, similar to last year, shows that consumers say that they would be more likely to shop at stores which sell goods made in compliance with labor laws.

**NO  
SWEAT.**

# Garment Initiative Timeline

June 1995 - October 1998

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1 9 9 6

1 9 9 7

NOVEMBER

DECEMBER

JANUARY

**November 27**

The Department announces the second annual *Trendsetter List* – a directory of 31 garment manufacturers and retailers representing more than 115 apparel lines and thousands of retail stores, that take additional steps to ensure their goods are made in compliance with labor laws.

**December 3**

The Department's "Eradicating Sweat-shops" initiative is named one of the ten winners of the *Innovations in American Government* awards program by the Ford Foundation and Harvard University's John F. Kennedy School of Government.

**NO  
SWEAT.**

# Garment Initiative Timeline

June 1995 - October 1998

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1 9 9 7

## FEBRUARY

### February 18

DOL announces the results of New York and Los Angeles strike forces, recovering more than \$230,000 for 600 workers, and the signing of DOL's compliance monitoring agreement by several manufacturers in Los Angeles and three in New York.

## MARCH

### March 4

DOL issues 4<sup>th</sup> national report on garment abuse announcing the collection of more than \$827,000 in back wages for 2,200 workers. DOL begins evaluating the effectiveness of monitoring programs of the manufacturers that appeared on three of these reports.

### March 25

On the 85<sup>th</sup> anniversary of the Triangle Shirtwaist Company fire, DOL announces the addition of Esprit de Corp, Eddie Bauer, and Phillips-Van Heusen to the Trendsetter List and the "Sweatshop Partnership" with the New York City Fire Department providing for the referral of suspected labor and fire code violations to each other.

## APRIL

### April 14

The Apparel Industry Partnership presents its landmark agreement to the President with some two dozen companies and organizations to adopt an industry code of conduct and to launch new independent monitoring of workites.

**NO  
SWEAT.™**

# Garment Initiative Timeline

June 1995 - October 1998

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1 9 9 7

MAY

**May 14**

DOL announces results of five strike forces in garment centers throughout the U.S. and the recovery of \$320,500 for 500 employees.

**May 27 & 28**

DOL, in partnership with the American Apparel Manufacturers Association, conducts advance Compliance Monitoring Workshops in San Francisco and Los Angeles.

**May 28**

DOL issues 5<sup>th</sup> national report announcing the recovery of \$486,718 in back wages for 1,367 garment workers. Fines of \$52,000 were assessed.

**May 30**

Secretary Herman delivers the keynote address at the Marymount University Academic Search for Sweatshop Solutions Conference and calls for collective action to fight sweatshops.

JUNE

**June 4 & 16**

DOL, in partnership with the American Apparel Manufacturers Association, conducts advanced Compliance Monitoring Workshops in New York City and Charlotte, NC.

**June 24**

Secretary Herman visits the "Garment 2000" training program in San Francisco and announces a \$200,000 grant to help revitalize the City's garment industry.

JULY

**July 26**

The Dallas Apparel Manufacturers Association signs an agreement with DOL committing to monitor all of its production contractors for compliance with labor laws.



# Garment Initiative Timeline

June 1995 - October 1998

1 9 9 7

AUGUST	SEPTEMBER	OCTOBER
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**August 27**

The Department releases its 6<sup>th</sup> national report on garment workers abuse. The Department conducted 268 investigations that resulted in the recovery of the largest amount of back wages ever in a quarter - \$1.2 million - for 2,443 garment workers. Fines of more than \$260,423 were assessed.

**September 22**

Leaders of the socially responsible investment community issued their second call to action challenging the apparel industry to make a commitment to ensure that goods are produced in compliance.

**October 18**

The Department announces the results of the first ever garment industry compliance survey in New York City which found 63% of the shops investigated in violation. The investigations resulted in the recovery of nearly \$400,000 in back wages for 1,360 workers.

**October 16**

Secretary Herman unveils new "No Sweat" garment initiative for teens as the Newark (NJ) Archdiocese kicked off its education initiative designed to raise levels of awareness for young consumers about garment sweatshops.

**October 23**

Secretary Herman issues statement marking a \$2 million settlement El Monte workers won for their work at subminimum wages in slave-like conditions in a sweatshop discovered in August 1995.



# Garment Initiative Timeline

June 1995 - October 1998

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1 9 9 7

1 9 9 8

## NOVEMBER

### November 17

DOL announces that it found 9 children working illegally in a Texas sweatshop and assessed \$32,750 in fines. Seven of the children were under age 14.

## DECEMBER

### December 12

DOL announces back wages of \$214,000 due workers in a New York City sweatshop producing private label goods for four national retailers; three retailers agree to meet with Secretary Herman.

### December 30

The Department releases its 7<sup>th</sup> national report on garment worker abuse. The Department conducted 212 investigations that resulted in the collection of more than \$611,300 in wages for 1,850 garment workers.

## JANUARY

### January 20

Secretary addresses the Executive Committee of the National Retail Federation, to explore how the retail industry can step up its efforts to improve compliance for private label goods.



# Garment Initiative Timeline

June 1995 - October 1998

1 9 9 8

FEBRUARY	MARCH	APRIL
<p><b>February 10</b> Federal court blocks shipment of "hot goods" produced in NYC sweatshop and orders manufacturer Fashion Headquarters, Inc. to consider whether pricing is sufficient to pay workers producing its goods in compliance with labor laws.</p> <p><b>February 18</b> DOL, in partnership with the American Apparel Manufacturers Association, conducts advanced Compliance Workshop in Dallas, TX.</p>	<p><b>March 9</b> Secretary Herman applauds Duke University's Code of Conduct for its 700 apparel licensees.</p> <p><b>March 30</b> The Department releases its 8th national report on garment worker abuse. The Department conducted 221 investigations that resulted in the recovery of \$330,585 in back wages for 1,233 garment workers. Fines of \$49,500 were assessed.</p>	<p><b>April 22</b> Secretary Herman participates in the opening of the Smithsonian Institution's Exhibit: "Between a Rock and a Hard Place: A Dialogue on American Sweatshops, 1820-Present" which looks at the origins of sweatshop production and the complex factors that contribute to its existence today.</p>



# Garment Initiative Timeline

June 1995 - October 1998

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MAY	JUNE	JULY
<p><b>May 27</b> At its first-ever Stakeholders Forum in Los Angeles, DOL announces the results of the 1998 compliance survey of contractor shops (the third since 1994) in the LA area. This survey found no change in the overall level of compliance from the 1996 level of 39 percent, but did show that effective monitoring of contractor shops increases compliance nearly three times that of nonmonitored shops. Also, new businesses and businesses which pay "off the payroll" have lower level of compliance.</p>	<p><b>June 25</b> DOL meets with stakeholders in the New York City area to discuss steps to increase compliance.</p>	<p><b>July 31</b> DOL releases its 9th national report on garment worker abuse. DOL conducted investigations that resulted in the collection of \$855,853 in back wages for 1,518 garment workers.</p> <p>A strike force in the Los Angeles area finds nearly \$118,000 in back wages due more than 200 workers employed by 14 garment contractors.</p>



# Garment Initiative Timeline

June 1995 - October 1998

## AUGUST

### August

A reinvestigation initiative in New York City finds 73% of the contractor shops investigated in compliance and recovers nearly \$70,000 in back wages for over 200 employees who worked in shops found in violation. The department ~~announces~~ fines of \$44,000 for repeated and willful violations.

## SEPTEMBER

### September 14

In lieu of Trendsetters List, DOL will look for innovative ways to recognize "best practices" in the industry.

### September 25

DOL announces that Gotcha Covered, Inc., a Dallas-based manufacturer is permanently enjoined by federal court order to not ship "hot goods." Previously, the manufacturer was suspended from DOL's Compliance Monitoring Agreement for its contractor's repeated violations.

## OCTOBER

### October 8

DOL and the Smithsonian Institution's National Museum of American History host "No Sweat University: Labor Standards and Codes of Conduct" - a first-of-its-kind forum to provide college and university officials, students and representatives from licensing companies and licensees a unique opportunity to explore strategies for developing and implementing codes of conduct to prevent labor abuses of workers making college and university apparel.



PROTECTING  
AMERICA'S  
GARMENT  
WORKERS

# **A Monitoring Guide**

U.S. Department of Labor

**NO  
SWEAT.** SM

October 1998

**NOTE:** This pamphlet provides only general information about the FLSA. It does not attempt to answer all legal questions which may arise under the FLSA. It should not be considered in the same light as official statements of position contained in regulations or in the official opinion letters of the Wage & Hour Administrator. Copies of those publications may be obtained free from the nearest office of the Wage & Hour Division.

# How to Start

## **But first, another reason to start: Hot Goods**

If you're not quite convinced that you want to undertake monitoring of your contractors, here's another reason: "hot goods." Hot goods are items made in violation of the minimum wage, overtime or child labor requirements. The Fair Labor Standards Act (FLSA) hot goods provision makes it illegal for any person (who is not specifically exempt) to ship or sell hot goods in interstate commerce.

That means that you might be ordered by a court to stop shipment or sale of goods you receive from a contractor that violated the FLSA. The Department of Labor (DOL) will not lift its objection to goods being shipped or sold until the contractor's employees have received the back wages owed them and suitable assurances of future compliance are received. Thus, it's in your best interest to ensure that your contractors comply with the FLSA.

## **Some things you can do**

Once you've decided to monitor your contractors, here's how to start:

1. Let your contractors know that you intend to comply with the FLSA and that you expect them to do so, too, as part of their contract with you. Let them know that you intend to monitor their compliance with the Act.
2. Work with your contractor to conduct a pre-contract review of pricing terms. Contractors' pricing terms should be competitive but sufficient to cover the actual costs of producing the goods. A contractor may try to win a contract with you by setting prices too low to pay employees at the required minimum wage or to pay employees overtime for hours worked over 40.
3. Provide your contractors with copies of the DOL publication on the FLSA and a copy of DOL's Wage&Hour poster, which explains the FLSA. Instruct your contractors to display the poster at their worksite (in language spoken by workers if available).
4. Ask your contractors to post a copy of your business card and telephone number at the worksite, along with an open invitation to employees to make inquiries about their rights under the FLSA (in language spoken by workers).

## **Developing Monitoring Agreements**

## with Your Contractors

Contractual agreements govern your relationship with your contractor. You and your garment contractors have many contractual understandings – about quality, prices, delivery time. In the same way, a written contractual agreement is the ideal mechanism to establish both your expectation that a contractor will comply fully with the FLSA and your intent to monitor the contractor's working conditions, either by you or an independent monitor.

At a minimum, such an agreement would require your contractors to comply with the FLSA:

- pay all employees at least the federal minimum wage
- pay employees time-and-a-half for hours worked in excess of 40 per week
- establish specific pay periods
- keep and maintain accurate time, pay and employment records
- comply with child labor provisions
- not use prohibited industrial home work

An enhanced written compliance agreement would be more effective. An enhanced agreement would also require your contractors to:

- use electronic time clocks
- not subcontract work without prior approval from you
- pay employees weekly, on the same day of the week
- pay employees with a payroll check, accompanied by a check stub<sup>1</sup>
- allow unannounced, on-site monitoring visits
- make the following available to monitors upon demand:
  - time records
  - payroll records (individual entry for every employee, every week)
  - information on every employee (name, address, work ID number, social security number)
  - employees to talk privately to monitors on a drop-in basis
  - a management representative and an alternate for the monitors to interview

You may also want to encourage your contractors to use an outside payroll service, and to provide your contractors with an electronic time clock.

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<sup>1</sup> Some states may have specific requirements with respect to the form of payment; for example, New York state law requires employers to obtain a license before paying by check.

# Monitoring a Garment Contractor

Once your contractors have agreed to comply with the FLSA, you will want to know that they are living up to that agreement. On-site monitoring of the contractor's employment practices, by you or an independent monitor, is the best way to be sure your contractor is following the law.

## Site Visits

An effective monitoring program uses trained individuals with experience in the garment industry to conduct unannounced site visits with contractors at least quarterly (and more often when problems are found). During site visits, review time and payroll records, interview employees, and observe the employees' working conditions to:

- determine the hours worked by employees and actual pay they received
- determine whether any children are working
- establish that the contractor is following labor laws, and
- determine whether the contractor is using subcontractors
- determine whether work is given to home sewers

## Preparing for Site Visits

During the 7 days prior to a site visit, monitors should look for employees entering or leaving the work site before or after hours on week nights and on at least one weekend day. Make notes to check against time cards.

If, for example, monitors observe employees working over the weekend, but the time cards show only Monday through Friday, those records are not credible.

## Conducting a Site Visit

There are two steps to a successful site visit. Walk through the workplace and conduct interviews with employees. Be sure the monitor, or one of the monitors, can speak the workers' language. Talk to the contractor and examine the employment records.

### Step 1: Meeting with the Employer

1. Conduct an initial meeting with the contractor and/or person in charge of payroll. It is important to know how all employees are paid and how wages are determined. Obtain the following information:
  - Is compensation based on a piece rate? Is it hourly, salary, or a combination of both?
  - What are the rates of pay?
  - What is the method of payment, cash or check?
  - What is the frequency of payment?
  - What are the reasons for all deductions?
  - What constitutes a pay period?
  - What are the hours of business operations?
  - What is the method for computing overtime, if any?
2. Determine how much time is necessary to complete work paid at a piece rate. If, for example, an employee is paid \$4 per garment, but on average, it takes 75 minutes to complete, that would be a violation of minimum wage.
3. Check the contractor's records, including
  - time cards/time sheets
  - payroll registers
  - canceled checks
  - piece-rate tickets
  - current addresses and social security numbers for all employees

Take a closer look at records that seem too perfect or have handwritten changes or corrections.

4. Make copies or take notes on some records for a later comparison and future visits.
5. Compare data on time cards/time sheets with information gathered from observing the contractor shop prior to the initial meeting with the employer.
6. Look at all the work orders that are currently "in house." If the orders include women's apparel, it may be necessary to count the goods to assure that they are all at the factory, and not in employees' homes to be worked on.

## **Step 2: Observing and Interviewing the Employees**

1. Walk through the establishment. Count the number of employees for later comparison with the number of time cards.
2. Make arrangements to interview several employees to hear their description of work and pay conditions and to verify the records. These interviews should be confidential. Some typical questions to ask employees:
  - What are your starting and stopping times?
  - How much time do you get for lunch and rest periods?
  - What days do you work?
  - Who keeps your time?
  - Do you have or know of any off the clock work, either at the factory or at home?
  - How are you paid and how often?
  - When were you last paid?
  - What is your rate of pay?
  - What specific goods are you working on?
  - What deductions are made from your paycheck?
  - How is your overtime computed?
  - How is the piece rate figured?
  - Are you told in advance how much you will be paid?
  - Are you given check stubs?
  - Are time records accurate?
  - Were you "coached" for this interview?

It is important to interview employees about recent pay periods since memories often fail as the time grows longer. Analyze the interviews and compare them with the payroll records and information gathered from observing the contractor shop. Get answers for any questions or discrepancies that emerge. This is where even the best schemes can unravel. Look carefully at any employee statement that suggests a violation, even if the other statements indicate compliance.

# Let Us Help

For more information on monitoring, or for technical assistance in setting up your own monitoring program, please contact:

## The Northeast Region

**Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virgin Islands, Virginia, West Virginia**

Bruce Sullivan  
District Director  
26 Federal Plaza, Room 3838  
New York, NY 10278  
(212) 264-8185  
(212) 264-9548 FAX

## The Southeast Region

**Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee**

John Blaine  
Assistant District Director  
800 Briar Creek Road, Suite CC-412  
Charlotte, NC 28205-6903  
(704) 344-6302  
(704) 344-6307 FAX

## The Southwest Region

**Arkansas, Louisiana, New Mexico, Oklahoma, Texas, South Dakota, North Dakota, Montana, Colorado, Utah, Wyoming**

Bruce Cranford  
Regional Garment Coordinator  
525 S. Griffin St. Suite 800  
Dallas, TX 75202  
(214) 767-6895 x 230  
(214) 767-2730 FAX

## The Midwest Region

**Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota,  
Missouri, Nebraska, Ohio, Wisconsin**

Jules Van Rengen  
Acting Deputy Regional Administrator  
230 S. Dearborn St. Room 816  
Chicago, Illinois 60604-1591  
(312) 353-7280  
(312) 353-3835 FAX

**The Western Region**

**Alaska, Arizona, California, Guam, Hawaii, Idaho,  
Nevada, Oregon, Saipan, Washington**

Gerald M. Hall  
District Director  
100 N. Barranca Ave. Suite 850  
West Covina, CA 91791  
(626) 966-0478 x 226  
(626) 955-5539 FAX

**FOR MORE INFORMATION ABOUT THE FLSA, INCLUDING THE POSTER  
AND SAMPLE MONITORING AGREEMENTS:** Please contact the nearest office of  
the Wage & Hour Division, which is listed in most telephone directories under U.S.  
Government, Department of Labor, Employment Standards Administration. For  
information about State or local laws, please contact the State or local agency responsible  
for the enforcement of those laws.

PRELIMINARY AGREEMENT

November 2, 1998

**CHARTER DOCUMENT  
FAIR LABOR ASSOCIATION**

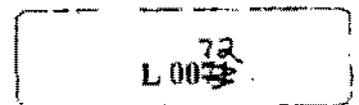
**Prepared by Apparel  
Industry Partnership**

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## INTRODUCTION

The members of the Apparel Industry Partnership announced the creation of the attached "Workplace Code of Conduct" and "Principles of Monitoring" to the President and to the public on April 14, 1997. To achieve the objective of establishing a means to provide the public with confidence about implementation of the Workplace Code and the Monitoring Principles, the members of the AIP hereby set forth a charter document for the formation of a Fair Labor Association.

The Association shall have, inter alia, the following purposes:

- To accredit independent external monitors to conduct independent external monitoring and inspections of Applicable Facilities of Participating Companies;
- To certify whether the Applicable Brands of each Participating Company are produced in Compliance with the Fair Labor Association Standards;
- To continue to address questions critical to the elimination of sweatshop practices; and
- To serve as a source of information to consumers about the Workplace Code, the Monitoring Principles and Participating Companies.

## I. DEFINITIONS

The following capitalized terms shall have the following meanings when used in this Charter:

"AIP" shall mean the Apparel Industry Partnership.

"Alleged Noncompliance" shall mean any significant and/or persistent pattern of noncompliance, or any individual incident of serious noncompliance, with the Workplace Code or Monitoring Principles, alleged by a Third Party.

"Applicable Brands" shall mean the Brands of a Participating Company for which the Company is seeking certification that such Brands are produced in Compliance with the Fair Labor Association Standards.

"Applicable Facilities" shall mean the Facilities of a Participating Company other than its De Minimis Facilities.

"Association" shall mean the Fair Labor Association.

"Association Public Report" shall mean the public report evaluating a Participating Company's Compliance with the Fair Labor Association Standards in the production of Applicable Brands, as more fully described in Section V below.

"Board" or "Board of Directors" shall mean the Board of Directors of the Association.

"Board Member" or "Member" shall mean a member of the Board, including the Chair.

"Brand" shall mean a trademark or logo affixed to a product that is either owned or controlled by a Participating Company or which the Company has the right to use under license.

"Chair" shall mean the chairman or chairwoman, as the case may be, of the Board.

"Charter" shall mean this Charter of the Fair Labor Association.

"Complaint" shall mean a complaint which sets forth a claim of Alleged Noncompliance that is submitted by a Third Party to the Association.

"Compliance with the Fair Labor Association Standards" shall mean the following: (i) effective implementation by a Participating Company of internal and independent external monitoring programs consistent with the Monitoring Principles; (ii) timely remediation by the Participating Company of noncompliance with the Workplace Code or Monitoring Principles found by internal or accredited independent external monitors; and (iii) in situations where monitors have found a significant and/or persistent pattern of noncompliance, or instances of serious noncompliance, with the Workplace Code or Monitoring Principles, the taking of adequate steps by the Participating Company to

prevent recurrence in other Applicable Facilities where such type of noncompliance may occur.

"De Minimis Facilities" of a Participating Company shall mean Facilities (i) with which the Participating Company contracts for production for six months or less in any 24-month period or (ii) in which the Participating Company accounts for 10% or less of the annual production of such Facility. In no event shall De Minimis Facilities constitute more than 15% of the total of all Facilities of a Participating Company.

"Executive Director" shall mean the Executive Director of the Association.

"Facilities" of a Participating Company shall mean, the production or manufacturing facilities of a Participating Company and its majority-owned subsidiaries and of such Participating Company's or its majority-owned subsidiaries' licensees, contractors (where the Participating Company is a manufacturer, including a retailer acting as a manufacturer) and suppliers (where the Participating Company is a retailer, including a manufacturer acting as a retailer), where such Facilities are involved in the production or manufacturing of Applicable Brands. For purposes of this definition, a "contractor" or a "supplier" shall mean any contractor or supplier engaged in a manufacturing process, including cutting, sewing, assembling and packaging, which results in a finished product for the consumer.

"Initial Implementation Period" shall mean the implementation period during which a Participating Company is seeking initial certification that its Applicable Brands are produced in Compliance with the Fair Labor Association Standards. This period shall be for a term of two or three years, at the discretion of the Participating Company.

"Labor/NGO" shall mean consumer, human rights, labor rights, labor union, religious and other public interest organizations, provided that such organizations work on issues related to fair labor standards.

"Monitoring Plan" shall mean the monitoring plan submitted to the Association by each prospective Participating Company that describes with specificity the Company's proposed internal monitoring program and independent external monitoring program.

"Monitoring Principles" shall mean the Principles of Monitoring attached to this Charter.

"Participating Company" or "Company" shall mean a company whose participation in the Association's monitoring process has been approved by the Board.

"Simple Majority Vote" shall mean a vote requiring the approval of at least one more than one-half of all of the Members of the Board, with the Chair voting on the matter.

"Supermajority Vote" shall mean a vote requiring the approval of at least two-thirds of all of the industry Members of the Board and at least two-thirds of the Labor/NGO Members of the Board, with the Chair having no vote on the matter.

"Third Party" shall mean any person or organization other than an accredited independent external monitor.

"Workplace Code" shall mean the Workplace Code of Conduct attached to this Charter.

## II. GOVERNANCE OF THE ASSOCIATION

### A. Structure

The Association shall be formed as a nonprofit association under the laws of a state that has adopted a separate nonprofit association statute. The Association shall seek Section 501(c)(3) status as a tax-exempt organization.

### B. Board of Directors of the Association

The Board of Directors of the Association shall consist of six industry representatives and six Labor/NGO representatives. The initial industry Board Members shall be selected by the industry members of the AIP, and the initial Labor/NGO Board Members shall be selected by the Labor/NGO members of the AIP. Thereafter, new industry Board Members shall be selected by the then-serving industry Board Members in consultation with the companies then participating in the Association's monitoring process. New Labor/NGO Board Members shall be selected by the then-serving Labor/NGO Board Members.

Each Board Member shall be committed to the goals of the Association in eliminating sweatshop practices. Persons employed or retained by, or agents of, accredited monitors or entities whose applications for accreditation are pending shall not be eligible to serve on the Board. Officers and directors of Participating Companies and Labor/NGO organizations may serve as Members of the Board. No more than one Board Member may be from any individual company or Labor/NGO organization. The Board shall adopt appropriate screening and recusal policies in order to address any potential conflict of interest issues.

In addition to the industry and Labor/NGO representatives, the Board shall have one voting Chair, mutually agreeable to, and selected by, the industry Board Members and the Labor/NGO Board Members in accordance with the procedure specified below.

### C. Selection Process and Qualifications for Chair

An initial Nominating Committee to identify candidates to serve as the initial Chair, comprised of three industry members from the AIP and three Labor/NGO members from the AIP, shall be appointed by the co-chairs of the AIP subject to the ratification of the AIP. The initial Chair shall be selected subject to the approval of at least a two-thirds

majority of the industry members of the AIP and at least a two-thirds majority of the Labor/NGO members of the AIP.

Thereafter, a Nominating Committee made up of two industry Board Members and two Labor/NGO Board Members shall be appointed by the incumbent Chair. The Nominating Committee shall actively identify and assess the potential interest of qualified candidates. The Nominating Committee shall submit no less than five names of qualified candidates to the entire Board for consideration. The new Chair shall be selected by the affirmative vote of at least a two-thirds majority of the industry Board Members and at least a two-thirds majority of the Labor/NGO Board Members.

In selecting the Chair, Members of the Board shall seek individuals with the following qualifications:

1. A commitment to the goals of the AIP and the Association in eliminating sweatshop practices;
2. Knowledge of business operations, including, but not limited to, labor issues affecting companies;
3. Independence.

Factors to be considered in determining independence include whether a person or his or her spouse or immediate family has held any position with, or rendered any paid services to, any external monitor, any company in the apparel or footwear industry or any other Participating Company, or any Labor/NGO organization;

4. The Chair must be willing to divest of any directly held (i.e., not held through a mutual fund or in a blind trust) equity securities or any other financial interest in any monitor or any Participating Company. Any nominee must also disclose all such holdings as well as any contributions made at any time during the past three years to any Labor/NGO organization.

**D. Issues for Board Consideration**

The Board shall have responsibility for approving the following matters by the affirmative vote indicated below for each specific matter:

1. The amendment of the Workplace Code and Monitoring Principles: Supermajority Vote;
2. The adoption and amendment of the Bylaws and Articles of Incorporation of the Association: Supermajority Vote;

3. The appointment or removal of the Executive Director: Supermajority Vote;
4. The appointment or removal of senior officers of the Association other than the Executive Director: Simple Majority Vote;
5. The adoption of the annual operating plan and budget for the Association, including the identification of funding sources and the setting of annual assessments for Participating Companies: Simple Majority Vote;
6. Any increase or decrease of the cap on annual assessments for Participating Companies: Supermajority Vote;
7. The adoption and any amendment of the Association's accreditation criteria for independent external monitors: Supermajority Vote;
8. The adoption and any amendment of the Association's baseline monitoring procedures: Supermajority Vote;
9. Any amendment of the range of percentages of Applicable Facilities of Participating Companies required for inspection by accredited independent external monitors on a prospective basis, based on data derived from inspections conducted by independent external monitors during the Initial Implementation Period: Supermajority Vote;
10. The decision whether to accredit a particular external monitor for a two-year period: Simple Majority Vote;
11. The decision whether to renew the accreditation of a particular external monitor for an additional two-year period: Simple Majority Vote;
12. The decision whether to suspend the accreditation of an external monitor for a period determined by the Board: Simple Majority Vote;
13. The decision whether a particular company is eligible to participate in the Association's monitoring process: Simple Majority Vote;
14. The decision whether to certify initially that the Applicable Brands of a Participating Company are produced in Compliance with the Fair Labor Association Standards, based on reports of the Association's accredited independent external monitors, and the approval of the initial Association Public Report regarding such Participating Company: Simple Majority Vote;
15. The decision whether to renew, for an additional one-year period, the certification of a Participating Company's Applicable Brands and the approval of the annual Association Public Report regarding such Participating Company: Simple Majority Vote;

16. The decision whether to suspend the certification of a Participating Company's Applicable Brands and place the status of such Participating Company on a 90-day special review, or to extend such special review period: Simple Majority Vote;
17. In the event that the status of a Participating Company is placed on special review, the decision whether such Company shall have its participation in the Association terminated following the special review period: Supermajority Vote;
18. Any amendment of the "Third Party Complaint Procedure" set forth in Section VIII below by which complaints from Third Parties concerning workplace conditions in Facilities of Participating Companies are addressed by the Association: Simple Majority Vote;
19. The adoption and any amendment of a procedure to address complaints from Third Parties concerning the conduct of external monitoring by specific accredited independent external monitors: Simple Majority Vote; and
20. Other appropriate issues critical to the elimination of sweatshop practices, including any amendment of the "Special Country Guidelines" set forth in Section VII below and any adoption of additional country guidelines: Supermajority Vote.

Each Board Member shall serve a three-year term. The Board shall be staggered so that each year, the term of two industry Board Members and two Labor/NGO Board Members shall expire<sup>1</sup>. The Chair shall serve for a three-year term, and may serve such additional terms as determined through the normal Chair selection process.

E. Executive Staff of the Association

The Association shall employ a full-time professional staff, including an Executive Director. Responsibilities of the staff shall include:

1. Providing information to consumers about the Workplace Code, the Monitoring Principles and Participating Companies;
2. Developing and conducting related public outreach and consumer education programs about the Association;
3. Reviewing applications of independent external monitors for accreditation, and for renewal of accreditation, based on the accreditation criteria set

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<sup>1</sup> The initial Board Members shall agree as to which initial Members shall serve a one-year, two-year or three-year term to begin staggering the terms.

forth in Section III below, and recommending independent external monitors to receive accreditation to the Board of Directors;

4. Reviewing applications of companies to participate in the Association's monitoring process, based on the participation criteria set forth in Section II below, and recommending the eligibility of Participating Companies to the Board of Directors;
5. Upon request, serving as a resource for Participating Companies and NGOs participating in the monitoring process;
6. Establishing a database providing information about local labor laws and about local labor, human rights, religious and nongovernmental organizations in countries of production;
7. Making recommendations to the Board concerning questions critical to the elimination of sweatshop practices;
8. Conducting oversight of accredited independent external monitors, and addressing complaints concerning monitoring activities of independent external monitors; and
9. Addressing complaints concerning workplace conditions in Facilities of Participating Companies, pursuant to the "Third Party Complaint Procedure" set forth in Section VIII below.

### **III. PARTICIPATION CRITERIA FOR COMPANIES**

A company that desires to participate in the Association's monitoring process shall submit to the Association an application consisting of a monitoring plan that describes the company's internal and independent external monitoring programs (as described in more detail in Section V below) and consisting of the agreement of the company to undertake in good faith the following:

1. To adopt, and cause its applicable licensees, contractors and suppliers to adopt, the Workplace Code in the manufacture of its apparel and footwear products;
2. To formally convey the Workplace Code (in the applicable local language) to company factories, and applicable licensees, contractors and suppliers, and communicate the company's commitment to comply with the Workplace Code to senior officers, managers and employees of both the company and its applicable licensees, contractors and suppliers;
3. To implement a system of monitoring that complies with the Monitoring Principles, including utilizing independent external monitors accredited by

"Third Party" shall mean any person or organization other than an accredited independent external monitor.

"Workplace Code" shall mean the Workplace Code of Conduct attached to this Charter.

## II. GOVERNANCE OF THE ASSOCIATION

### A. Structure

The Association shall be formed as a nonprofit association under the laws of a state that has adopted a separate nonprofit association statute. The Association shall seek Section 501(c)(3) status as a tax-exempt organization.

### B. Board of Directors of the Association

The Board of Directors of the Association shall consist of six industry representatives and six Labor/NGO representatives. The initial industry Board Members shall be selected by the industry members of the AIP, and the initial Labor/NGO Board Members shall be selected by the Labor/NGO members of the AIP. Thereafter, new industry Board Members shall be selected by the then-serving industry Board Members in consultation with the companies then participating in the Association's monitoring process. New Labor/NGO Board Members shall be selected by the then-serving Labor/NGO Board Members.

Each Board Member shall be committed to the goals of the Association in eliminating sweatshop practices. Persons employed or retained by, or agents of, accredited monitors or entities whose applications for accreditation are pending shall not be eligible to serve on the Board. Officers and directors of Participating Companies and Labor/NGO organizations may serve as Members of the Board. No more than one Board Member may be from any individual company or Labor/NGO organization. The Board shall adopt appropriate screening and recusal policies in order to address any potential conflict of interest issues.

In addition to the industry and Labor/NGO representatives, the Board shall have one voting Chair, mutually agreeable to, and selected by, the industry Board Members and the Labor/NGO Board Members in accordance with the procedure specified below.

### C. Selection Process and Qualifications for Chair

An initial Nominating Committee to identify candidates to serve as the initial Chair, comprised of three industry members from the AIP and three Labor/NGO members from the AIP, shall be appointed by the co-chairs of the AIP subject to the ratification of the AIP. The initial Chair shall be selected subject to the approval of at least a two-thirds

majority of the industry members of the AIP and at least a two-thirds majority of the Labor/NGO members of the AIP.

Thereafter, a Nominating Committee made up of two industry Board Members and two Labor/NGO Board Members shall be appointed by the incumbent Chair. The Nominating Committee shall actively identify and assess the potential interest of qualified candidates. The Nominating Committee shall submit no less than five names of qualified candidates to the entire Board for consideration. The new Chair shall be selected by the affirmative vote of at least a two-thirds majority of the industry Board Members and at least a two-thirds majority of the Labor/NGO Board Members.

In selecting the Chair, Members of the Board shall seek individuals with the following qualifications:

1. A commitment to the goals of the AIP and the Association in eliminating sweatshop practices;
2. Knowledge of business operations, including, but not limited to, labor issues affecting companies;
3. Independence.

Factors to be considered in determining independence include whether a person or his or her spouse or immediate family has held any position with, or rendered any paid services to, any external monitor, any company in the apparel or footwear industry or any other Participating Company, or any Labor/NGO organization;

4. The Chair must be willing to divest of any directly held (i.e., not held through a mutual fund or in a blind trust) equity securities or any other financial interest in any monitor or any Participating Company. Any nominee must also disclose all such holdings as well as any contributions made at any time during the past three years to any Labor/NGO organization.

D. Issues for Board Consideration

The Board shall have responsibility for approving the following matters by the affirmative vote indicated below for each specific matter:

1. The amendment of the Workplace Code and Monitoring Principles: Supermajority Vote;
2. The adoption and amendment of the Bylaws and Articles of Incorporation of the Association: Supermajority Vote;

3. The appointment or removal of the Executive Director: Supermajority Vote;
4. The appointment or removal of senior officers of the Association other than the Executive Director: Simple Majority Vote;
5. The adoption of the annual operating plan and budget for the Association, including the identification of funding sources and the setting of annual assessments for Participating Companies: Simple Majority Vote;
6. Any increase or decrease of the cap on annual assessments for Participating Companies: Supermajority Vote;
7. The adoption and any amendment of the Association's accreditation criteria for independent external monitors: Supermajority Vote;
8. The adoption and any amendment of the Association's baseline monitoring procedures: Supermajority Vote;
9. Any amendment of the range of percentages of Applicable Facilities of Participating Companies required for inspection by accredited independent external monitors on a prospective basis, based on data derived from inspections conducted by independent external monitors during the Initial Implementation Period: Supermajority Vote;
10. The decision whether to accredit a particular external monitor for a two-year period: Simple Majority Vote;
11. The decision whether to renew the accreditation of a particular external monitor for an additional two-year period: Simple Majority Vote;
12. The decision whether to suspend the accreditation of an external monitor for a period determined by the Board: Simple Majority Vote;
13. The decision whether a particular company is eligible to participate in the Association's monitoring process: Simple Majority Vote;
14. The decision whether to certify initially that the Applicable Brands of a Participating Company are produced in Compliance with the Fair Labor Association Standards, based on reports of the Association's accredited independent external monitors, and the approval of the initial Association Public Report regarding such Participating Company: Simple Majority Vote;
15. The decision whether to renew, for an additional one-year period, the certification of a Participating Company's Applicable Brands and the approval of the annual Association Public Report regarding such Participating Company: Simple Majority Vote;

16. The decision whether to suspend the certification of a Participating Company's Applicable Brands and place the status of such Participating Company on a 90-day special review, or to extend such special review period: Simple Majority Vote;
17. In the event that the status of a Participating Company is placed on special review, the decision whether such Company shall have its participation in the Association terminated following the special review period: Supermajority Vote;
18. Any amendment of the "Third Party Complaint Procedure" set forth in Section VIII below by which complaints from Third Parties concerning workplace conditions in Facilities of Participating Companies are addressed by the Association: Simple Majority Vote;
19. The adoption and any amendment of a procedure to address complaints from Third Parties concerning the conduct of external monitoring by specific accredited independent external monitors: Simple Majority Vote; and
20. Other appropriate issues critical to the elimination of sweatshop practices, including any amendment of the "Special Country Guidelines" set forth in Section VII below and any adoption of additional country guidelines: Supermajority Vote.

Each Board Member shall serve a three-year term. The Board shall be staggered so that each year, the term of two industry Board Members and two Labor/NGO Board Members shall expire<sup>1</sup>. The Chair shall serve for a three-year term, and may serve such additional terms as determined through the normal Chair selection process.

#### E. Executive Staff of the Association

The Association shall employ a full-time professional staff, including an Executive Director. Responsibilities of the staff shall include:

1. Providing information to consumers about the Workplace Code, the Monitoring Principles and Participating Companies;
2. Developing and conducting related public outreach and consumer education programs about the Association;
3. Reviewing applications of independent external monitors for accreditation, and for renewal of accreditation, based on the accreditation criteria set

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<sup>1</sup> The initial Board Members shall agree as to which initial Members shall serve a one-year, two-year or three-year term to begin staggering the terms.

forth in Section III below, and recommending independent external monitors to receive accreditation to the Board of Directors;

4. Reviewing applications of companies to participate in the Association's monitoring process, based on the participation criteria set forth in Section II below, and recommending the eligibility of Participating Companies to the Board of Directors;
5. Upon request, serving as a resource for Participating Companies and NGOs participating in the monitoring process;
6. Establishing a database providing information about local labor laws and about local labor, human rights, religious and nongovernmental organizations in countries of production;
7. Making recommendations to the Board concerning questions critical to the elimination of sweatshop practices;
8. Conducting oversight of accredited independent external monitors, and addressing complaints concerning monitoring activities of independent external monitors; and
9. Addressing complaints concerning workplace conditions in Facilities of Participating Companies, pursuant to the "Third Party Complaint Procedure" set forth in Section VIII below.

### **III. PARTICIPATION CRITERIA FOR COMPANIES**

A company that desires to participate in the Association's monitoring process shall submit to the Association an application consisting of a monitoring plan that describes the company's internal and independent external monitoring programs (as described in more detail in Section V below) and consisting of the agreement of the company to undertake in good faith the following:

1. To adopt, and cause its applicable licensees, contractors and suppliers to adopt, the Workplace Code in the manufacture of its apparel and footwear products;
2. To formally convey the Workplace Code (in the applicable local language) to company factories, and applicable licensees, contractors and suppliers, and communicate the company's commitment to comply with the Workplace Code to senior officers, managers and employees of both the company and its applicable licensees, contractors and suppliers;
3. To implement a system of monitoring that complies with the Monitoring Principles, including utilizing independent external monitors accredited by

the Association for the relevant region or function and disclosing to the Association the identity, the scope of work and the terms of the engagement of such monitors; and

4. To pay annual assessments to the Association. Assessments shall be determined by the Board of Directors of the Association based on a formula related to the annual revenues of each Participating Company. The annual assessment for each Participating Company shall range from a minimum of \$5,000 to a maximum of \$100,000, based upon the annual consolidated revenues of such Company. (An assessment of \$100,000 shall be required of any Participating Company with annual consolidated revenues in excess of \$10 billion.)

The staff of the Association shall recommend to the Board of Directors whether such company is eligible to participate in the Association's monitoring process based on the company's satisfaction of the foregoing. With respect to the company's monitoring plan, the staff of the Association shall review each plan to determine whether it complies with the Monitoring Principles and the requirements for Monitoring Plans set forth in Section V below, assigns specific responsibilities for implementing the commitments contained therein to appropriate officers, establishes a system of accountability, and sets forth an operational structure for implementing the plan.

If the Board of Directors approves the participation of such company in the Association's monitoring process, then the company's Applicable Facilities shall undergo independent external monitoring by accredited independent external monitors to determine whether its Applicable Brands are produced in Compliance with the Fair Labor Association Standards. Such a company shall thereafter be referred to as a "Participating Company".

#### **IV. COMMUNICATIONS TO THE PUBLIC**

In the event that the Board of Directors approves the participation of a particular company in the Association's monitoring process and external monitoring commences, then such Participating Company, as well as the Association, may communicate to the public that such Company is participating in the Association's monitoring process, and such Company and the Association may disclose the Applicable Brands for which the Participating Company is seeking certification that such Brands are produced in Compliance with the Fair Labor Association Standards.

A Participating Company cannot make any public announcement or other communication to the public that all or some of its Brands are produced in Compliance with the Fair Labor Association Standards and shall not have the right to use the service mark of the Association for any purpose unless: (a) such Brands have been certified by the Association to be produced in Compliance with the Fair Labor Association Standards; and (b) the Company continues to satisfy the criteria set forth above for participation in the Association's monitoring process. If these conditions have been met, then the

Participating Company shall be entitled to communicate to the public that such Brands have been produced in Compliance with the Fair Labor Association Standards and shall be entitled to use the service mark of the Association in product labeling, advertising and other communications to consumers and shareholders.

Neither the Board of Directors nor any member of the Association's staff shall disclose to the public any information relating to any Participating Company which is confidential or proprietary, including any detailed information or assessment regarding (i) the overall status of such Participating Company in the Association or (ii) the status of a particular unresolved Complaint relating to a Participating Company, if, in either case, any such information has not already been disclosed to the public by the Company or the Association. However, the status of such Participating Company in the Association, as well as the identification of the Applicable Brands for which it is seeking certification and whether such certification has been obtained shall be publicized by the Association and the Association shall issue public reports with respect to each Participating Company as provided in Section IV. E. below. The Board of Directors shall establish further guidelines for responding publicly to inquiries regarding Complaints from Third Parties. Such guidelines shall preserve the integrity of the process by which the Association investigates Complaints, facilitate the ability of Companies to remediate problems in their Facilities and provide the public with assurance of the independence and integrity of the Association.

## **V. ACCREDITATION CRITERIA FOR EXTERNAL MONITORS**

### **A. Independence of External Monitors**

1. A prospective external monitor shall not be eligible to conduct independent external monitoring for a Participating Company unless such external monitor is independent from such Company as well as its applicable licensees, contractors and suppliers to the following extent:
  - a. Neither the external monitor nor any of its employees personally involved in the monitoring of such Participating Company shall hold any equity or debt securities of, or have any other financial interest in, the Company or any of its applicable licensees, contractors or suppliers;
  - b. Neither the external monitor nor any of its employees personally involved in the monitoring of such Participating Company shall have any business or financial relationship with the Company or any of its applicable licensees, contractors or suppliers that would conflict with or compromise its ability to conduct monitoring for such Company in a neutral, impartial manner; and
  - c. The monitor, or any affiliated company of such monitor, shall not provide other services (excluding financial auditing services) to the Participating

Company, or shall not have provided other services (excluding financial auditing services) to the Company in the twelve-month period prior to its consideration to be an external monitor, if the value of all such other services exceeds \$100,000 or if the value of all services (including any financial auditing services) provided to the Company has or shall account for 25% or more of the monitor's annual revenue. The Association, however, may waive the application of this provision on a case-by-case basis upon a good faith showing that the monitor has established effective mechanisms to eliminate any significant risk to the independence of the monitoring, such as the establishment of ethical walls between those employees providing such other services and those employees that shall be conducting the monitoring (i.e., prohibiting those employees that provide such other services from conducting the monitoring and prohibiting the exchange of information between such other employees and such employees conducting the monitoring). The independent external monitor shall continue to maintain any mechanisms implemented by it to protect the independence of its monitoring.

If accredited by the Association and selected to conduct monitoring for a Participating Company, the external monitor must pledge to continue to comply with the foregoing independence criteria throughout the period that it is engaged in monitoring for such Company.

2. An accredited independent external monitor shall pledge to conduct its monitoring in a neutral, impartial manner and shall pledge that the content of its monitoring report shall be accurate and not misleading.
3. An accredited independent external monitor shall be selected to conduct monitoring for a particular Participating Company by the Company desiring to engage its services.
4. An accredited independent external monitor shall not accept a fee or other compensation for monitoring that is in any way contingent upon the outcome of its monitoring or the content of its monitoring report.

**B. Qualifying Characteristics of External Monitors**

In order to qualify as an accredited independent external monitor of the Association, a prospective external monitor shall:

1. Agree to conduct its monitoring consistent with the Monitoring Principles;
2. Agree to conduct its monitoring utilizing the audit instrument to be established by the Association setting forth baseline monitoring practices for accredited independent external monitors;

3. Demonstrate knowledge of and familiarity with the relevant standards to be applied in the conduct of monitoring, e.g., the Workplace Code, labor law and practice in the country where monitoring shall take place, and knowledge of applicable international labor standards;
4. Demonstrate its capacity to conduct monitoring competently, with particular knowledge of prevailing practices and issues in the country(ies) where accreditation for monitoring is being sought, including:
  - a. Ability to communicate effectively in the language(s) of employees in the workplaces to be monitored;
  - b. Ability to assess the accuracy of quantifiable information, e.g., accounting skills;
  - c. Ability to assess health and safety practices;
  - d. Knowledge of prevailing discrimination issues;
  - e. Knowledge of prevailing labor relations issues;
  - f. Knowledge of the local production system in the industry/country, to assist in detecting unacknowledged outsourcing or homework;
  - g. Knowledge of laws and regulations relating to residency and immigration, to permit monitoring of compliance with forced or coerced labor standards; and
5. Demonstrate its capability to interview and communicate with employees in ways that maintain the confidentiality of information and confidence of those interviewed.

In seeking accreditation, a prospective independent external monitor shall submit to the Association a monitoring plan demonstrating satisfaction of the foregoing criteria. A prospective independent external monitor may seek accreditation to conduct monitoring in defined geographic areas. A prospective independent external monitor also may seek accreditation to perform some, but not all, monitoring functions.

Each accredited independent external monitor must notify the Association of any material change that may affect any of the independence criteria or qualifications of external monitors listed above.

#### C. Accountability of External Monitors

An accredited independent external monitor shall be accountable to the Association for professional misconduct or gross negligence in the conduct of its monitoring or the preparation or content of its monitoring reports. In the event that the Association determines that an accredited independent external monitor has committed such

misconduct or negligence, the Board shall have the authority to remove the accreditation of such external monitor. An independent external monitor shall have the obligation to report to the Association any breach of any mechanism established by such independent external monitor to protect the independence of its monitoring and any steps taken by such independent external monitor to remedy such breach. Independent external monitors shall be accredited for a two-year period, which accreditation can be renewed for successive two-year periods thereafter provided that the external monitor continues to be independent and otherwise qualifies under the criteria set forth above.

**D. Nondisclosure by External Monitors**

Each Participating Company shall have the right to enter into a confidentiality or nondisclosure agreement with its accredited independent external monitors with respect to nondisclosure to any party other than the Company of information deemed by such Company to be proprietary or confidential; provided, however, that any such confidentiality or nondisclosure agreement shall expressly permit the independent external monitors to disclose (i) to the Association, all information concerning the Participating Company, its Applicable Brands and its Facilities as expressly required to be disclosed in this Charter and (ii) to the Executive Director of the Association, all other information which the Executive Director reasonably may require in order to carry out the purposes of the Association.

**VI. THE MONITORING PROCESS**

**A. Monitoring Plan**

Each Participating Company shall submit to the Association for review and approval a Monitoring Plan that describes with specificity the Participating Company's proposed internal and independent external monitoring programs. The Monitoring Plan must describe the strategy and process by which the Participating Company shall implement its monitoring programs in accordance with the Monitoring Principles and whether the Company determines to opt for an Initial Implementation Period of two or three years<sup>2</sup>. The Company shall identify in its Monitoring Plan those Facilities which the Company considers to be De Minimis Facilities, citing the reason for such designation.

The Monitoring Plan of each Participating Company also shall describe which Brands of the Company shall be deemed to be Applicable Brands for which the Company shall seek certification that such Brands are produced in Compliance with the Fair Labor

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<sup>2</sup> Note that the Initial Implementation Period would commence for each Participating Company at the time that the Company's application to the Association to participate in the Association's monitoring process is accepted. (This would be following the formation of the Association and the initial accreditation of accredited independent external monitors.)

Association Standards. During the Initial Implementation Period, the Participating Company shall, at a minimum, designate the following as Applicable Brands:

- (a) The Brand that accounts for the greatest percentage of the Company's annual consolidated revenues;
- (b) Any individual Brand that accounts for more than 30% of the Company's annual consolidated revenues<sup>3</sup>; and
- (c) Any Brand which bears the Company name;

provided, however, that: (i) it shall be within the discretion of such Participating Company to designate as Applicable Brands those Brands under which it produces products under license for Third Parties; (ii) it shall be within the discretion of such Participating Company to exclude particular product lines of an Applicable Brand if such product lines are produced by Third Parties under license from the Company, but in no event may a Participating Company exclude under this provision apparel or footwear product lines which, in the aggregate, comprise more than 30% of such Participating Company's annual revenue derived from such Applicable Brand; and (iii) where a Brand is used across various product lines, the Company shall seek certification for the Brand as used for its apparel and/or footwear product lines and, within its discretion, for other product lines<sup>4</sup>. Following the Initial Implementation Period, the Participating Company shall commit to progressively seek certification for its other apparel and footwear Brands and product lines, with a view toward achieving full participation among all of its Brands and product lines.

Among the information to be provided in each Participating Company's Monitoring Plan shall be: training materials for internal monitors; description of the employees responsible for the conduct of internal monitoring; data on the number and frequency of on-site inspections of Applicable Facilities; and evaluation and reporting forms for internal monitoring. As part of its application, the Participating Company shall provide a list identifying the number of Facilities in each country and, where appropriate, regions of such country. Within ten business days after the acceptance by the Association of the Company's Monitoring Plan, the Company shall provide to the Executive Director of the Association a complete list of its Facilities, disclosing the name, address and owner of each such Facility. The identity of such Facilities shall be maintained in strict confidence by the Executive Director, and such list of Facilities, with the identity of specific Facilities set forth in code, shall be disclosed only to those key staff members of the

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<sup>3</sup> In the event that no single Brand of a Participating Company accounts for 30% or more of the Company's annual consolidated revenues, then the Company and the Association shall reach an agreement as to which Brands of the Company constitute significant Brands which shall be included as Applicable Brands.

<sup>4</sup> In the event that such designated product lines account for less than 30% of the Company's annual consolidated revenues derived from such Brand, then the Company and the Association shall reach an agreement as to which product lines within such Applicable Brand constitute significant product lines to be included in the monitoring process.

Association whose duties reasonably require them to have access to such information and shall be maintained in strict confidence by such staff members, subject to appropriate confidentiality agreements between the Association and its staff members.

A Participating Company shall be required to keep its Monitoring Plan up to date, by notifying the Association of any material changes to its Monitoring Plan. A Participating Company shall report to the Association annually on its ongoing activities to implement its Monitoring Plan with respect to additional Brands. In addition, should a Participating Company at any time acquire any additional Brands, then the Company shall provide the Association with a plan for participation of such Brands in the monitoring process.

B. Internal Monitoring Program

Each Participating Company shall implement an internal Company monitoring program<sup>5</sup> consistent with the Monitoring Principles covering at least one-half of all Applicable Facilities during the first year of the Initial Implementation Period, and covering all of its Facilities during the second year of the Initial Implementation Period. As part of its internal monitoring, the Participating Company shall conduct periodic inspections of an appropriate sampling of Applicable Facilities as described in its Monitoring Plan. Following the first two years of the Initial Implementation Period, a Participating Company shall continue to fully implement the Monitoring Principles in all Facilities and shall continue to conduct internal inspections of its Applicable Facilities consistent with the Monitoring Principles.

Within 60 days of its completion of any internal inspection report of an Applicable Facility, a Participating Company shall provide to the Association a standardized report on each such inspected Applicable Facility, which report shall include: (a) a description of the manner in which the inspection was conducted by the Company's internal monitors at such Applicable Facility; (b) a description of the status of the Company's implementation of its internal monitoring program at such Applicable Facility; (c) a description of any significant and/or persistent patterns of noncompliance, or instances of serious noncompliance, with the Workplace Code or Monitoring Principles found at the Applicable Facility by the internal monitor, (d) a description of the remedial steps taken by the Company at such Applicable Facility in response to instances of noncompliance with the Workplace Code or Monitoring Principles found by the internal monitor; and (e) a description of remedial actions taken by the Company to prevent the recurrence of such noncompliance at the Applicable Facility.

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<sup>5</sup> Note that, consistent with the Monitoring Principles, if a Participating Company does not have the resources to implement an internal monitoring program using its own employees, such Company may delegate the implementation of such internal monitoring program to accredited independent external monitors.

C. External Monitoring

A Participating Company shall have fully implemented, as of the end of the Initial Implementation Period, an independent external monitoring program consistent with the Monitoring Principles, using independent external monitors accredited by the Association and covering all Applicable Facilities. As part of this program, accredited independent external monitors shall conduct periodic inspections of at least 30% of the Participating Company's Applicable Facilities during the Initial Implementation Period. Credit shall be given to a Participating Company if one of its Applicable Facilities is already subject to independent external monitoring conducted on behalf of another Participating Company using the same Facility, provided that the independent external monitor for such Facility is independent (as determined by Section V. A. above) of the Company receiving such credit. As in the case of internal Company monitoring, De Minimis Facilities need not be included for inspection in a Participating Company's independent external monitoring program.

In the list of Facilities that the Participating Company shall provide to the Association as part of its Monitoring Plan, the Company shall suggest specific Applicable Facilities that should be given priority for inspections conducted by accredited independent external monitors, taking into account the risk factors set forth below. Such list shall be representative across the Participating Company's Applicable Brands, and shall be modified by the Company as necessary to reflect any material changes in the Monitoring Plan or in the Company's business. The Executive Director of the Association shall have the authority to modify the inspection list proposed by the Company based upon the risk factors set forth below; however, to the extent the list proposed by the Company appropriately reflects the risk factors set forth below, there shall be a general presumption in favor of the Participating Company's suggested list of Applicable Facilities. During the Initial Implementation Period, the Executive Director shall not substitute any Applicable Facility for one recommended by the Company unless the Company has implemented its internal monitoring program at such substitute Applicable Facility. Any such decision by the Executive Director shall be made in consultation with the Participating Company.

Risk factors to be considered in making such determinations include:

- Any record at a particular Applicable Facility of unremediated, substantiated violations of the workplace standards set forth in the Workplace Code or of credible complaints with respect to such violations;
- The risk of noncompliance presented in the country (or, where appropriate, region of such country) in which the Applicable Facility is located; and
- Size of the Applicable Facility, in terms of the number of employees, volume of production, and percentage of the Participating Company's production sourced at such Applicable Facility.

Following the Initial Implementation Period, independent external monitors accredited by the Association shall continue independent external monitoring annually of the Applicable Facilities of each Participating Company. Each Participating Company shall agree to inspections by accredited independent external monitors on an annual basis of 10% of Applicable Facilities<sup>6</sup>; provided, however, that, the Association may adjust this percentage upward or downward on a sliding scale to a maximum of 15% and a minimum of 5% annually based upon its evaluation of the factors set forth below for the determination of Compliance with the Fair Labor Association Standards.

The Association shall gather information and consult with experts in sampling techniques during the first three years of the Association's existence in order to determine whether the level of independent external monitoring to be undertaken by a Participating Company after the Initial Implementation Period is sufficient for the purposes of the Association's ability to certify Compliance with the Fair Labor Association Standards. The Board of Directors shall consider such information and may modify such percentage of independent external monitoring by a Supermajority Vote of the Board.

**D. Costs of Inspections by External Monitors**

Each Participating Company that completes its Initial Implementation Period during the first five years of the Association's existence shall be reimbursed by the Association for a portion of the Company's total direct cost of required inspections of Applicable Facilities by accredited independent external monitors in the Initial Implementation Period as specified below, provided that the Participating Company provides the Association with all appropriate documentation of the services rendered by the accredited independent external monitors and the costs incurred by the Company. Thereafter, each Participating Company shall bear the full costs of Applicable Facility inspections by accredited independent external monitors.

For each such eligible Participating Company, the Association shall reimburse such Participating Company for a portion of its total direct cost of required inspections of Applicable Facilities by accredited independent external monitors during a Participating Company's Initial Implementation Period as follows:

Year 1 of the Initial Implementation Period:	50%
Year 2 of the Initial Implementation Period:	45%
Year 3 of the Initial Implementation Period:	30%
(if applicable)	

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<sup>6</sup> This percentage would not include follow-up inspections of any Applicable Facilities in connection with the remediation of any instances of noncompliance with the Workplace Code or Monitoring Principles found at such Applicable Facilities, but the Association may give credit, if appropriate, for a full re-inspection of an Applicable Facility.

Except for the partial funding to be provided by the Association for inspections by accredited independent external monitors in the Initial Implementation Period, each Participating Company shall otherwise bear all costs relating to the implementation of its internal and independent external monitoring programs, including the costs of any follow-up inspections of Applicable Facilities in connection with the remediation of any instances of noncompliance with the Workplace Code or Monitoring Principles found at such Applicable Facilities.

#### E. Reporting Requirements

Each accredited independent external monitor conducting external monitoring inspections for a Participating Company shall provide to such Participating Company an initial standardized report on each Applicable Facility inspected by such independent external monitor. Within 60 days of the submission of each such report to the Participating Company, the accredited independent external monitor shall provide to the Executive Director of the Association a standardized report on each such inspected Applicable Facility, which report shall contain the initial standardized report provided to the Participating Company and shall include: (a) a description of the external monitoring conducted by such accredited external monitor at such Applicable Facility; (b) a description of the Company's internal monitoring program at such Applicable Facility; (c) a description of any significant and/or persistent patterns of noncompliance, or instances of serious noncompliance, with the Workplace Code or Monitoring Principles found at the Applicable Facility by the accredited independent external monitor, (d) a description of the remedial steps taken by the Company at such Applicable Facility in response to instances of noncompliance with the Workplace Code or Monitoring Principles found by the accredited independent external monitor; and (e) a description of remedial actions taken by the Company to prevent the recurrence of such noncompliance at the Applicable Facility.

In addition to the standardized reports on internally and externally inspected Applicable Facilities provided to the Association by the Company and the accredited independent external monitors, each Participating Company shall provide to the Association every twelve months a standardized report describing the activities of such Participating Company to fully implement the Workplace Code and Monitoring Principles. The report shall summarize the activities and findings of the Participating Company's internal monitoring program and the activities and findings of its accredited independent external monitors. The report shall describe the steps taken by the Participating Company to prevent the noncompliance found by either external or internal monitors in the Company's Applicable Facilities from recurring in other Applicable Facilities where such type of noncompliance may occur. The report also shall include the information described in subparts (iv) through (x) below and shall describe the remedial actions taken by the Company in response to any significant and/or persistent patterns of noncompliance, or instances of serious noncompliance, with the Workplace Code or Monitoring Principles found by either internal or accredited independent external monitors at Applicable Facilities.

The staff of the Association shall use the Participating Company's report, and the reports on inspected Applicable Facilities prepared by the Company's accredited independent external monitors, to prepare a standardized Association Public Report evaluating Compliance with the Fair Labor Association Standards in the production of the Company's Applicable Brands, which report shall contain:

- (i) A finding as to whether the Company has effectively implemented internal and independent external monitoring programs consistent with the Monitoring Principles;
- (ii) A finding as to whether the Company has timely remediated instances of noncompliance with the Workplace Code or Monitoring Principles found by internal or accredited independent external monitors;
- (iii) A description of the Company's Applicable Brands, and the annual consolidated revenues or percentage of apparel and footwear sales of the Company attributable to each such Applicable Brand<sup>7</sup>;
- (iv) A list of the countries and, where appropriate, regions of such countries, in which the Company's Applicable Brands are produced, manufactured or supplied;
- (v) A summary of the Company's internal monitoring process, including the level of training of internal monitors, materials provided to internal monitors and the administration of the internal monitoring process;
- (vi) The identity of the accredited independent external monitors used by the Company and the countries and, where appropriate, regions of such countries in which such independent external monitors conducted inspections of Applicable Facilities;
- (vii) The number of Applicable Facilities subject to inspection by accredited independent external monitors during the period and a list of the countries and, where appropriate, regions of such countries where such inspections occurred;
- (viii) A summary of specific aspects of the Participating Company's internal or independent external monitoring programs that are particularly innovative or exemplary;
- (ix) A summary and assessment of any significant and/or persistent patterns of noncompliance, and instances of serious noncompliance, with the

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<sup>7</sup> To the extent such information is confidential or proprietary for private Companies, the Association will not disclose such information to the public, and will work with such Companies to substitute other meaningful information in the public report which is not confidential or proprietary.

Workplace Code or Monitoring Principles found in the production of any Applicable Brands, identifying, where appropriate, specific countries and evaluating such information in the context of the human rights situation in the particular country (based on information contained in reports on country practices from governmental and intergovernmental organizations); and

- (x) A summary and assessment of the remediation steps taken or initiated by the Company to prevent the recurrence of any significant and/or persistent patterns of noncompliance, or instances of serious noncompliance, with the Workplace Code or Monitoring Principles, found in the production of any Applicable Brands.

The content and public release of such Association Public Report shall be subject to the approval of the Board of Directors of the Association. The Association Public Report shall be released to the Participating Company five business days prior to its public release. The report shall exclude information determined by the Association, in consultation with the Participating Company, to be of a proprietary or confidential nature.

All reports and other confidential or proprietary information provided to the Association by Participating Companies and accredited independent external monitors (other than reports intended for public dissemination) shall be disclosed only to those staff members of the Association whose duties reasonably require them to have access to such information and shall be maintained in strict confidence by such staff members. Employees of the Association shall be required to execute confidentiality and nondisclosure agreements with respect to such information.

#### F. Determinations of Compliance

At the end of the Initial Implementation Period, and annually thereafter, the Executive Director of the Association shall advise the Board of Directors whether the production of the Applicable Brands of a Participating Company should be certified to be in Compliance with the Fair Labor Association Standards and shall recommend the level of accredited independent external monitoring to be undertaken by the Company in the following year. In making such determinations, the Executive Director and the Board of Directors shall evaluate the following factors:

- Effective implementation by the Participating Company of internal and independent external monitoring programs consistent with the Monitoring Principles;
- Timely remediation by the Participating Company of instances of noncompliance with the Workplace Code or Monitoring Principles found by internal or accredited independent external monitors; and

- In situations where monitors have found a significant and/or persistent pattern of noncompliance, or instances of serious noncompliance, with the Workplace Code or Monitoring Principles, the taking of adequate steps by the Participating Company to prevent recurrence in other Applicable Facilities where such type of noncompliance may occur.

#### G. Special Review

If a Participating Company fails to meet or maintain the participation criteria set forth in Section II above, or if the Company fails to achieve or maintain Compliance with the Fair Labor Association Standards with respect to its Applicable Brands, the Company's status may be placed on a 90-day period of special review by the Board of Directors. During a Company's special review period, neither such Participating Company nor the Association shall identify the Company as being in Compliance with the Fair Labor Association Standards. Upon the expiration of the 90-day special review period, the Board may extend such special review period for such time as the Board reasonably believes the Company needs to effectively address the issues which required such special review period or otherwise to achieve Compliance with the Fair Labor Association Standards with respect to its Applicable Brands. During such extended special review period, the Company shall have the status of a Participating Company.

#### H. Termination of Participation

Following any period of special review, whether or not such period has been extended by the Board, the Board of Directors may terminate the participation of a Participating Company in the Association's monitoring process if the Company has not effectively addressed the issues which required such special review period and the Board determines that the Participating Company is still not in Compliance with the Fair Labor Association Standards with respect to its Applicable Brands. The fact that a Company's participation has been terminated shall be made public by the Association.

### **VII. DEPARTMENT OF LABOR WAGE STUDY**

The Association shall request that the Department of Labor undertake, and complete within six months, a study of the relationship between wages and basic needs of employees in the apparel and footwear industry around the world and in the United States. The outline for the study shall be as follows:

1. To the extent publicly available, minimum and prevailing wages from relevant countries shall be compiled. The compilation shall rely on data from the International Labor Organization, World Bank and other existing resources;
2. To the extent publicly available, this study shall compile data on the market basket of goods used to establish the poverty level in apparel and

footwear producing countries. Data from the International Labor Organization, World Bank and other existing sources shall be used to see in which countries the minimum wage and prevailing wage, including mandated non-wage benefits such as an earned income tax credit, reaches or exceeds the established poverty level;

3. Using the publicly available data, the study shall compare minimum and prevailing wages with employees' basic needs, as reflected by the poverty level, for relevant apparel and footwear producing countries;
4. To the extent publicly available, the study shall compile existing research on methodologies designed to measure the level of purchasing power of wages and benefits needed to meet basic needs of employees in apparel and footwear producing countries.

In its effort to continue to address questions critical to the elimination of sweatshop practices, the Association shall review this and any other pertinent and necessary data and consider their implications, if any, for the Workplace Code.

#### VIII. SPECIAL COUNTRY GUIDELINES

Implementation of some of the standards contained in the Workplace Code may be problematic in certain countries where the rights embodied in the standards are not fully recognized or enforced either through law or practice. Despite these difficulties, one of the principal goals of the Association is to promote and encourage positive change in these countries so these standards become fully recognized, respected and enforced. When deemed necessary and appropriate by the Board, the Association shall provide Participating Companies with appropriate country guidelines to address such special problems. The Association staff also shall provide to Participating Companies periodic reports on country practices from sources such as the International Labor Organization and the annual U.S. State Department human rights country reports.

With regard to the standard on freedom of association and collective bargaining contained in the Workplace Code, the Association expects all Participating Companies to address this issue by taking steps to ensure that employees have the ability to exercise these rights without fear of discrimination or punishment. Such steps include contracting with factory owners that understand and recognize these rights and who shall not affirmatively seek the assistance of state authorities to prevent workers from exercising these rights. The resort to violence by either employers or employees shall be considered inconsistent with the right to freedom of association and collective bargaining, as provided by ILO Conventions 87 and 98.

## IX. THIRD PARTY COMPLAINT PROCEDURE

The Association shall establish and implement a process to allow Third Parties to report any significant and/or persistent pattern of noncompliance, or individual incident of serious noncompliance, with the Workplace Code or Monitoring Principles with respect to any Facility of a Participating Company.

### A. Standard for Complaint

To initiate a Complaint of Alleged Noncompliance with respect to a Participating Company, a Third Party must provide information detailing with specificity the Alleged Noncompliance and shall include any evidence or other supporting information. The Complaint must contain reliable, specific and verifiable evidence or information that the Alleged Noncompliance has occurred. In assessing the reliability of any Complaint, the Association shall consider the reliability of any past Complaints made by the Third Party. In the event that such a Complaint is submitted to the Association, the Association shall inform the Company of the contents of such Complaint. The Association shall inform any Third Party which files a Complaint that it may elect to have its identity kept confidential, and the Association shall honor such request.

### B. Meeting the Standard

If the Executive Director believes that a Complaint of Alleged Noncompliance does not meet the foregoing standard, the Complaint shall be returned to the Third Party which submitted the Complaint, with an explanation that the Complaint does not contain sufficiently reliable, specific and verifiable evidence or information about the Alleged Noncompliance. If the Executive Director believes the evidence and other supporting information provided in a Complaint contains reliable, specific and verifiable information about the Alleged Noncompliance, the Executive Director shall review available internal and external monitoring reports relating to the Facility or Facilities in question to determine whether the Alleged Noncompliance is addressed therein and already has been remediated by the Participating Company.

### C. Remediating the Alleged Noncompliance

If the Executive Director determines that the Alleged Noncompliance was addressed in the monitoring reports and remediated by the Participating Company, the Complaint shall be returned to the Third Party which submitted the Complaint, with an explanation that the Alleged Noncompliance already has been adequately remediated by the Participating Company.

If the Executive Director determines that the Alleged Noncompliance has not been addressed in the monitoring reports or remediated by the Participating Company, and decides to proceed, the Complaint, with any supporting evidence, shall be forwarded to the Participating Company for review. The Participating Company and its accredited independent external monitor shall report to the Executive Director within 45 days as to whether the Alleged Noncompliance occurred. If the Alleged Noncompliance did occur,

the Participating Company and its accredited independent external monitor must report how the Company has remediated such noncompliance, and whether the Company has developed an effective means of preventing and remediating such noncompliance in the future.

If the Executive Director is satisfied that the Participating Company has adequately remediated the Alleged Noncompliance, the Complaint shall be returned to the Third Party which submitted the Complaint, with an explanation that the Alleged Noncompliance raised in the Complaint was adequately remediated by the Company.

#### **D. Additional Monitoring**

If the Executive Director is not satisfied with the Company response, the Executive Director and the Participating Company may ask a mutually agreed upon accredited independent external monitor to investigate the Alleged Noncompliance. If the Alleged Noncompliance is verified by such accredited independent external monitor, the Participating Company shall remediate the noncompliance, and such remediation must be verified by the monitor. The monitor shall write a report of its findings to the Executive Director.

If the Executive Director invokes this procedure and requires additional independent external monitoring, then, at the option of the Executive Director: (i) the Participating Company shall receive credit for such additional external monitoring against the overall level of external monitoring that a Participating Company is required to undertake during the period in which the additional external monitoring occurs; or (ii) the Association shall reimburse the Participating Company for such additional external monitoring.

After remediation of the noncompliance has occurred, the Complaint shall be returned to the Third Party which submitted the Complaint, with an explanation that the Alleged Noncompliance has been adequately remediated by the Participating Company.

### **X. ASSOCIATION RESOURCES**

The members of the AIP recognize that the Association must secure a multi-year financial commitment that allows it to carry out its responsibilities as set forth in this Charter. While the long-term economic viability of the Association shall depend on funding from Participating Companies based on assessments scaled according to each Company's annual consolidated revenues, the Association also shall seek assistance from the government, foundations and other non-profit sources.

## WORKPLACE CODE OF CONDUCT

The Apparel Industry Partnership has addressed issues related to the eradication of sweatshops in the United States and abroad. On the basis of this examination, the Partnership has formulated the following set of standards defining decent and humane working conditions. The Partnership believes that consumers can have confidence that products that are manufactured in compliance with these standards are not produced under exploitative or inhumane conditions.

**Forced Labor.** There shall not be any use of forced labor, whether in the form of prison labor, indentured labor, bonded labor or otherwise.

**Child Labor.** No person shall be employed at an age younger than 15 (or 14 where the law of the country of manufacture<sup>8</sup> allows) or younger than the age for completing compulsory education in the country of manufacture where such age is higher than 15.

**Harassment or Abuse.** Every employee shall be treated with respect and dignity. No employee shall be subject to any physical, sexual, psychological or verbal harassment or abuse.

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

**Health and Safety.** Employers shall provide a safe and healthy working environment to prevent accidents and injury to health arising out of, linked with, or occurring in the course of work or as a result of the operation of employer facilities.

**Freedom of Association and Collective Bargaining.** Employers shall recognize and respect the right of employees to freedom of association and collective bargaining.

**Wages and Benefits.** Employers recognize that wages are essential to meeting employees' basic needs. Employers shall pay employees, as a floor, at least the minimum wage required by local law or the prevailing industry wage, whichever is higher, and shall provide legally mandated benefits.

**Hours of Work.** Except in extraordinary business circumstances, employees shall (i) not be required to work more than the lesser of (a) 48 hours per week and 12 hours overtime or (b) the limits on regular and overtime hours allowed by the law of the country of manufacture or, where the laws of such country do not limit the hours of work, the

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<sup>8</sup> All references to local law throughout this Code shall include regulations implemented in accordance with applicable local law.

regular work week in such country plus 12 hours overtime and (ii) be entitled to at least one day off in every seven day period.

Overtime Compensation. In addition to their compensation for regular hours of work, employees shall be compensated for overtime hours at such premium rate as is legally required in the country of manufacture or, in those countries where such laws do not exist, at a rate at least equal to their regular hourly compensation rate.

\* \* \*

Any Company that determines to adopt the Workplace Code of Conduct shall, in addition to complying with all applicable laws of the country of manufacture, comply with and support the Workplace Code of Conduct in accordance with the attached Principles of Monitoring and shall apply the higher standard in cases of differences or conflicts. Any Company that determines to adopt the Workplace Code of Conduct also shall require its licensees and contractors and, in the case of a retailer, its suppliers to comply with applicable local laws and with this Code in accordance with the attached Principles of Monitoring and to apply the higher standard in cases of differences or conflicts.

## PRINCIPLES OF MONITORING

### I. OBLIGATIONS OF COMPANIES<sup>9</sup>

#### A. Establish Clear Standards

- Establish and articulate clear, written workplace standards<sup>10</sup>
- Formally convey those standards to Company factories as well as to licensees, contractors and suppliers
- Receive written certifications, on a regular basis, from Company factories as well as contractors and suppliers that standards are being met, and that employees have been informed about the standards
- Obtain written agreement of Company factories and contractors and suppliers to submit to periodic inspections and audits, including by accredited external monitors, for compliance with the workplace standards

#### B. Create An Informed Workplace

Ensure that all Company factories as well as contractors and suppliers inform their employees about the workplace standards orally and through the posting of standards in a prominent place (in the local languages spoken by employees and managers) and undertake other efforts to educate employees about the standards on a regular basis

#### C. Develop An Information Database

- Develop a questionnaire to verify and quantify compliance with the workplace standards
- Require Company factories and contractors and suppliers to complete and submit the questionnaire to the Company on a regular basis

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<sup>9</sup> It is recognized that implementation by companies of internal monitoring programs might vary depending upon the extent of their resources but that any internal monitoring program adopted by a Company would be consistent with these Principles of Monitoring. If companies do not have the resources to implement some of these Principles as part of an internal monitoring program, they may delegate the implementation of such Principles to their accredited external monitors.

<sup>10</sup> Adoption of the Workplace Code of Conduct would satisfy the requirement to establish and articulate clear written standards. Accordingly, all references to the "workplace standards" and the "standards" throughout this document could be replaced with a reference to the Workplace Code of Conduct.

D. Establish Program to Train Company Monitors

Provide training on a regular basis to Company monitors about the workplace standards and applicable local and international law, as well as about effective monitoring practices, so as to enable Company monitors to be able to assess compliance with the standards

E. Conduct Periodic Visits and Audits

- Have trained Company monitors conduct periodic announced and unannounced visits to an appropriate sampling of Company factories and facilities of contractors and suppliers to assess compliance with the workplace standards
- Have Company monitors conduct periodic audits of production records and practices and of wage, hour, payroll and other employee records and practices of Company factories and contractors and suppliers

F. Provide Employees With Opportunity to Report Noncompliance

Develop a secure communications channel, in a manner appropriate to the culture and situation, to enable Company employees and employees of contractors and suppliers to report to the Company on noncompliance with the workplace standards, with security that they shall not be punished or prejudiced for doing so

G. Establish Relationships with Labor, Human Rights, Religious or Other Local Institutions

- Consult regularly with human rights, labor, religious or other leading local institutions that are likely to have the trust of workers and knowledge of local conditions and utilize, where companies deem necessary, such local institutions to facilitate communication with Company employees and employees of contractors and suppliers in the reporting of noncompliance with the workplace standards
- Consult periodically with legally constituted unions representing employees at the worksite regarding the monitoring process and utilize, where companies deem appropriate, the input of such unions
- Assure that implementation of monitoring is consistent with applicable collective bargaining agreements

H. Establish Means of Remediation

- Work with Company factories and contractors and suppliers to correct instances of noncompliance with the workplace standards promptly as

they are discovered and to take steps to ensure that such instances do not recur

- Condition future business with contractors and suppliers upon compliance with the standards

## II. OBLIGATIONS OF ACCREDITED EXTERNAL MONITORS

### A. Establish Clear Evaluation Guidelines and Criteria

Establish clear, written criteria and guidelines for evaluation of Company compliance with the workplace standards

### B. Review Company Information Database

Conduct independent review of written data obtained by Company to verify and quantify compliance with the workplace standards

### C. Verify Creation of Informed Workplace

Verify that Company employees and employees of contractors and suppliers have been informed about the workplace standards orally, through the posting of standards in a prominent place (in the local languages spoken by employees and managers) and through other educational efforts

### D. Verify Establishment of Communications Channel

Verify that the Company has established a secure communications channel to enable Company employees and employees of contractors and suppliers to report to the Company on noncompliance with the workplace standards, with security that they shall not be punished or prejudiced for doing so

### E. Be Given Independent Access to, and Conduct Independent Audit of, Employee Records

- Be given independent access to all production records and practices and wage, hour, payroll and other employee records and practices of Company factories and contractors and suppliers
- Conduct independent audit, on a confidential basis, of an appropriate sampling of production records and practices and wage, hour, payroll and other employee records and practices of Company factories and contractors and suppliers

F. Conduct Periodic Visits and Audits

Conduct periodic announced and unannounced visits, on a confidential basis, of an appropriate sampling of Company factories and facilities of contractors and suppliers to survey compliance with the workplace standards

G. Establish Relationships with Labor, Human Rights, Religious or Other Local Institutions

- In those instances where accredited external monitors themselves are not leading local human rights, labor rights, religious or other similar institutions, consult regularly with human rights, labor, religious or other leading local institutions that are likely to have the trust of workers and knowledge of local conditions
- Assure that implementation of monitoring is consistent with applicable collective bargaining agreements and performed in consultation with legally constituted unions representing employees at the worksite

H. Conduct Confidential Employee Interviews

- Conduct periodic confidential interviews, in a manner appropriate to the culture and situation, with a random sampling of Company employees and employees of contractors and suppliers (in their local languages) to determine employee perspective on compliance with the workplace standards
- Utilize human rights, labor, religious or other leading local institutions to facilitate communication with Company employees and employees of contractors and suppliers, both in the conduct of employee interviews and in the reporting of noncompliance

I. Implement Remediation

Work, where appropriate, with Company factories and contractors and suppliers to correct instances of noncompliance with the workplace standards

J. Complete Evaluation Report

Complete report evaluating Company compliance with the workplace