



March 28, 2006

To the leadership of USAS:

I have read the FLA Watch site with some interest and a lot of concern. Concern because it will mislead and ultimately confuse readers who are trying to understand these issues and concern that you are dividing, not building, the labor rights movement. Every movement for change has elements within it that spend a disconcerting amount of time fighting internecine battles and USAS is unfortunately falling into that trap. Instead of focusing on the real issue—how to defend workers rights—you are devoting a considerable amount of time and energy to attacking the FLA and forcing us to divert resources from our core monitoring activities to defend ourselves. We have the same goals. We may disagree on strategy but we need to remind ourselves that the real issue here is the situation in the factories that supply logoed goods. A healthy debate on how to raise levels of compliance is welcome and necessary, and the critical positions adopted by USAS could help to push the FLA to further improve its methods. FLA-Watch however, with its inaccuracies and distortions, does not contribute to such a debate. Instead it squanders the valuable concern and commitment about labor rights that many students have by obsessing on the FLA instead of getting at the root causes of the problems.

There are too many inconsistencies and errors on the FLA Watch site to respond to them all, but I will highlight a few in order to illustrate my point that this is not a service to the labor rights movement.

- One of your main accusations is that the FLA is company dominated and effectively a case of the “fox guarding the hen-house.” You cite as evidence of this the fact that “six apparel industry representatives sit on the FLA’s board of directors, any three of whom could veto most major FLA organizational decisions—such as whether or not a company can remain a member—through the FLA’s supermajority voting system.” Firstly, let me say that having the companies at the table is a source of strength and not a source of weakness. That presence heightens both their cooperation and their accountability. More importantly, the Charter limits the range of issues that require a supermajority vote and it also means that the NGO representatives could veto any move by company reps to dilute the system. The fact of the matter however, is that the companies have never exercised their veto in the almost five years that I have been at the FLA. Over those five years we have consistently strengthened the monitoring program and FLA-affiliated companies have continued to play leading roles in the corporate social responsibility movement more broadly. There are many companies out there that are doing very little to take responsibility for labor conditions in their global supply chains and I submit that USAS could find more worthy targets than the companies who have stepped up to the plate by joining the FLA.

- Another major objection highlighted on the site concerns the monitoring methodology applied by the FLA. You effectively accuse the monitors of incompetence and cover-ups. However, FLA audits uncover an average of twenty violations per factory. That is hardly a cover-up. Could the auditors do a better job? Always. Are they in collusion with buyers and suppliers? Clearly not. You go on to say that a major shortcoming of our monitoring is the fact that worker interviews are conducted on-site and are therefore invalid because “...in the climate of fear that pervades apparel sweatshops, workers experience a very real threat of reprisal for speaking out. For this reason, it is virtually impossible to get candid information about company practices from workers when management knows who is being interviewed...” However, the examples of “flawed monitoring” that you yourselves cite show that workers reported serious violations such as union blacklisting in the on-site worker interviews. We are very aware that off-site interviews can be more effective but the logistics of conducting off-site interviews (identifying workers, securing their addresses, visiting them outside working hours) make it difficult except in a small number of special cases (such as third-party complaints). The FLA program is designed to cope with long-supply chains containing hundreds of facilities and frankly the problem with on-site interviews is not the location but the skills of the interviewers.
- You go on to characterize our transparency policies as a further act of covering-up because “it conceals the most important piece of information that would be needed to make its reports credible: the name of the factory investigated”. There is a very good reason why we decided not to publish the names of the factories, namely because NGO’s in the exporting countries asked us not to. When we consulted them they expressed concerns that publicly naming factories would increase the risk of existing buyers cutting their ties with the factory concerned and potential buyers steering clear of it. I should point out that other labor rights groups such as the Clean Clothes Campaign do not release names either for the same reasons.
- You highlight our record on freedom of association by saying that in “...most factories monitored (54%), the FLA monitor made no finding whatsoever about whether the right to organize and bargain collectively is respected”. Before I respond to this point let me say that freedom of association is a particularly difficult issue to monitor because the auditor has to decide whether workers could form or join an organization of their own choosing. The absence of a workers organization does not necessarily mean that the right has been violated, just as the presence of one does not mean the right is respected. As such it is more feasible to detect violations of associational rights (such as unfair dismissal of union supporters) than it is to determine whether workers can exercise those rights. You go on to say that the “...rate of factories where no finding was made is even higher in China (70%).” This is a misrepresentation because the FLA Tracking Charts for audits conducted in China clearly note that the legal framework has limitations and that as “...a consequence, all factories in China fall short of the ILO standards in the right to organize and bargain collectively.” In other words we cite every factory in China for noncompliance with the freedom of association code element. This is not to say that we could not be doing a better job of defending and monitoring freedom of association—we could—but I do believe that FLA-affiliated companies are way out in front on this issue. In addition, the FLA and its affiliates have been highly responsive in dealing with third

party complaints on this issue. There are many cases of FLA-affiliated companies distributing letters to workers informing them that they have the right to organize, arranging for NGO's and other organizations to provide training to workers and management on how to respect that right in practice, and even bringing third party complaints themselves when their suppliers violated that right. There are not many multinational companies willing to go to such lengths to make good their code commitments.

- Finally, allow me to comment on your belief that "...schools should ideally maintain sole membership with the WRC and refrain from joining, and lending their credibility to, the FLA and its corporate members." This point implies that the FLA and the WRC are alternatives. They are not. The FLA provides a systematic, ongoing programme that enables companies to work towards compliance in global supply chains by collecting information on violations, mounting remedial actions to address them, and then verifying implementation of that remediation. The WRC provides a complaints mechanism that exists in a constructive tension with the FLA program, but it only conducts a handful of investigations each year and its engagement with the factories is limited in time to the case at hand. We have complimentary roles and schools can benefit by belonging to both, but it is not an either-or situation. The new FLA 3.0 methodology being introduced next year will increase the leverage that colleges, universities and civil society can exercise by providing a forum in which they can engage with companies to define key compliance issues and remedial strategies. FLA 3.0 will pool compliance information from all stakeholders and mount collective remedial actions that address root causes through capacity building. That programme will be of particular benefit to smaller licensees who do not have the resources to conduct major monitoring and remedial programmes on their own.

I remain convinced that USAS has a crucial role to play in the labor rights movement on campuses and I sincerely hope you will continue to raise awareness amongst students on these issues. There are too few groups mobilizing around these issues for us to spend time fighting one another.

Auret van Heerden
President and CEO
Fair Labor Association
www.fairlabor.org