

FAIR LABOR ASSOCIATION
2008 ANNUAL REPORT



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FAIR LABOR
ASSOCIATION™

www.FairLabor.org

September 2009

Board of Directors 2007–2008

Our board of directors includes six representatives of universities, six representatives of non-governmental organizations, six company representatives and an independent chair.

Independent Chair

Adele Simmons, Chicago Metropolis 2020, served from October 22, 2003 until July 31, 2007

Carol Bellamy, World Learning, served from August 1, 2007

Industry Caucus	NGO Caucus*	University Caucus	
Nicole Bassett (2008) Patagonia	Marsha Dickson Educators for Socially Responsible Apparel Business	Bob Durkee Princeton University	<i>Beginning June 2007</i>
Daryl Brown Liz Claiborne, Inc.	Linda Golodner National Consumers League	Carol Kaesebier Notre Dame University	Karen Daubert Washington University
Tim Freer New Era Cap Company	Pharis Harvey Formerly of International Labor Rights Fund	<i>Until May 2007</i>	Maureen Riedel Pennsylvania State University
Art Heffner Phillips-Van Heusen Corp.	Michael Posner Human Rights First	Rick Van Brimmer The Ohio State University	Craig Westemeier University of Texas
Reiner Hengstmann (2007) PUMA AG	James Silk Orville H. Schell, Jr. Center for International Human Rights	Elizabeth Kennedy University of Southern California	<i>Beginning June 2008</i>
Caitlin Morris Nike, Inc.		Derek Lochbaum University of North Carolina	Joe Ebaugh University of Maryland
Gregg Nebel adidas Group	* One NGO seat vacant.		

The Fair Labor Association brings together colleges and universities, civil society organizations and socially responsible companies in a multi-stakeholder initiative to improve the working conditions for thousands of workers around the world.



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MESSAGE FROM THE PRESIDENT

The last couple of years have been a period of transition for the FLA, in more ways than one. The global economic system has been shaken to its core and the impact on workers has been palpable around the world. The work of the FLA has been dominated by controversial factory closures and mitigating the impacts of the crisis. Falling orders have meant that factories have had even fewer resources to ensure that they respect workers rights, especially in cases where factories have had to lay off workers or worse, close their doors. The decision to retrench workers as a means of cutting expenses—no matter how valid it may be—heightens the risk that workers rights could be violated.

Predicting how long economic recovery will take is a difficult task; however, a few implications are already clear. The crisis has highlighted the critical importance of labor compliance methodologies that are focused on prevention and sustainability. I firmly believe that there is potential to prevent labor rights violations through capacity building initiatives, which help companies to develop the policies, procedures and trained staff required to manage highly controversial issues, and that progress and impact can be measured through key performance indicators.

The economic and social turmoil we are witnessing has also tested the FLA methodology and placed a tremendous responsibility on all constituents to navigate the crisis in a way that is consistent with our commitment to



The global economic crisis has highlighted the importance of methodologies that focus on prevention and sustainability.

social responsibility. Worker rights should not be the first victim of recession, and it is essential that companies and factory owners plan for such events in the future by making provisions for retrenchments and closure. One could argue that our duty to behave in a socially responsible manner increases in a period of crisis.

Some industry leaders have stepped up to address the impact that the downturn is having on developing countries, millennium challenge goals and the most vulnerable populations, such as women, children and migrant

workers. Many countries have no or very frail safety nets or social insurance to assist workers who have been laid off or labor market policies to ensure recovery. Women are returning to subsistence farming and migrant workers are finding themselves stranded without a means to return home. China, with over 20 million migrant workers displaced following the Chinese New Year 2009, was one of the few countries that reacted quickly to develop a labor market strategy to save jobs and protect wages, and to maintain social stability.

The FLA and the labor rights community have been grappling for some years with the fundamental challenge of ensuring decent working conditions in jurisdictions where there is no enforcement or respect for labor rights. The FLA started out as a compliance program applied to the first tier of the global supply chain of brands and licensees. The program has expanded to include retailers and suppliers and has added a proactive, preventive system to achieve sustainable compliance through capacity building. The test of sustainability necessarily assesses how companies treat their workers and consumers, in addition to how they manage the natural resources they use. Sustainable compliance will have been achieved when workers and managers in a factory are able to collaborate to ensure that the entire employment life cycle is managed in a code-consistent manner.

We realize that the traditional audit alone cannot bring about sustainable compliance and reduce the overall level of labor rights violations in global supply chains. The audit, when properly conducted, tells us what a factory lacks in order to be in compliance with national and international labor standards and the FLA code. It is at this point that the buyer and the supplier need to start addressing the deficits, be they at the level of policy, procedure, training, or communication. The FLA has been at the forefront of efforts to develop initiatives beyond monitoring to address these issues. Our sustainable compliance system (FLA 3.0) is the most defined and advanced program in that regard. You'll see a great deal about this program throughout the pages of this report; many of the concepts and tools are being infused into new programs where the responsibility for

Local stakeholder engagement is essential to setting priorities of corporate social responsibility and creating sustainable solutions to labor compliance challenges.

compliance is shared among many stakeholders from the customer, such as the college and university affiliates, and buyer level to the local factory and community level. Local stakeholder engagement is essential to the process of determining the priority areas for corporate social responsibility.

Traditional labor compliance audits continue to be a very important due diligence tool for checking and measuring compliance at key points. In this report, we present two years of FLA monitoring data (for 2007 and 2008). The natural tendency would be to compare the data to assess progress, or the lack of it, quantitatively. I caution against that because audits are largely qualitative in nature and represent compliance only within the supply chains tested. I think that they correctly reflect the challenges the labor community continues to face in making a difference in the overall level of labor rights globally, but this belies the impact the FLA and its affiliates have had on the daily lives of over 4 million workers in factories subject to the FLA system over the past two years. In follow-up verifications, we have found a 70 percent plus success rate in remediating tough problems in factories.

Still, even when well done, audits and remediation intervene late in the production process. One can draw a

direct parallel between traditional labor compliance auditing and the quality movement which realized that end-of-line quality controls were ineffective and expensive. The pursuit of quality in the apparel industry, for example, therefore became a question of in-line quality control—sewing the quality into the garment, rather than detecting the mistakes after the fact. Better to make a garment right the first time than to rework it again. The same logic applies to the compliance process. We need to embed compliance in the product, and that process needs to begin well before the cloth is cut.

There are two dimensions to sustainable compliance that are fast coming into focus. The first is that the compliance imperative begins with the buyer. The way the product is designed, developed and sourced all influence the prospects for compliance. Every business unit involved in the process of getting a product made has some influence on the compliance status of the product, although most of those business units are probably not aware of the role they could play or trained to ensure that their influence is not a negative one. Building compliance into the process would therefore involve the education of all the decision makers along the production chain. Further, they need to be equipped with the information and tools to avoid making

The increasing transparency all along the supply chain will place the onus on companies to integrate social, labor and environmental criteria into their business model to prevent violations.

decisions which have a high risk of compromising labor compliance. This is the sort of integrated supply chain management that FLA-affiliated companies should strive to implement and may very well be the next level of competitiveness.

The second dimension to building sustainable compliance into the product is to make sure that the materials used do not already embody violations of human, labor or environmental rights. The issue of Uzbek cotton demonstrates this very clearly. If the cotton used in a garment was picked by forced child labor in Uzbekistan, all the efforts to ensure that the cloth was cut and sewn in a labor compliant manner may only address part of the problem. With enhanced technology and mobility, there is greater transparency all along the supply chain. The more that is known about issues along the supply chain, the more likely we'll be called to engage on these issues. In the near future, it is likely that companies will have to conduct a life-cycle analysis of their products and the material supply chains in order to identify all the risks involved. I hasten to add that this does not mean that brands should take responsibility for all risks, but there is a duty to know and a duty to avoid those risks.

The FLA has a project in progress that is tracing clothing back to the cotton fields and we are also adapting our methodologies for labor compliance to the agricultural sector. This will allow all stakeholders to identify the issues in a supply chain, from child labor concerns in the field to health and safety issues related to pesticide use. The FLA is not expanding its mandate from the factory all the way to the farm. We are testing the capabilities of our tools at different levels of the supply chain and in the process trying to raise the consciousness of companies to be more proactive in their efforts to prevent labor violations, and to expand their engagement with stakeholders and other partners in and around the supply chain to create sustainable solutions. In particular, it's important to get suppliers to assume ownership and responsibility for their compliance programs, which will mean fewer audits by buyers and more collective or coordinated capacity building programs.

Moving to a full life-cycle analysis will obviously take time and additional resources, but the increasing transparency of the supply chain will place an onus on socially responsible companies to take proactive steps to manage the risks present in the life

cycle. There are many examples of life-cycle risks that are likely to demand attention in the short-to-medium term. The prevention strategy also requires the integration of social, labor and environmental criteria into the business model in order to avoid or foresee potential problems along the supply chain. More and more companies are starting to report the carbon footprint of their products, but many commentators argue that water will present us with even bigger challenges than energy. Management of this precious commodity is set to become a very contentious issue as the competition between food production and industry increases, and major exporting countries such as India and China start to deplete their water supplies. Society will have to make some difficult choices. When consumers learn that it takes between 7,000–20,000 liters of water to produce one kilogram of cotton fiber, we may see consumer reactions that may be even more decisive than in the case of labor and human rights. Child labor pricks the conscience of the consumer, whereas the environmental consequences of irresponsible company behavior may interfere with the consumer's quality of life and personal well-being. These labor and environmental issues will almost certainly be combined in the collective conscience and be more powerful than ever.

If sustainable compliance means factories that are self-sufficient in their management of code issues, then the FLA needs to continue to develop the range of tools and materials needed to increase the capacity of the supply chain to meet and maintain our standards. In the course of testing our sustainable compliance methodologies in the Soccer Project over the last three years, we developed a new set of



assessment tools that now provide solutions to a number of the challenges with which we have been grappling. They are a series of web-based tools that allow us to profile a company, group of companies or even an entire supply chain at different levels. They allow us to scale our services, which is vital to the limited compliance capacity of the licensee community and small companies. The FLA's core program, with its internal and external monitoring components, continues to be demanding for many companies, particularly smaller brands and university licensees but is essential for labor compliance. The FLA continuously seeks ways of making the program more affordable and effective to companies of all sizes and

capabilities, including licensees. To date, we have produced web-based tools that allow universities to profile their licensees, licensees to assess their suppliers, Participating Companies to assess their suppliers and suppliers to assess themselves. The FLA online assessment and training portals, with their diagnostic and capacity building tools, are a key resource on the road to sustainable compliance.

We must also not forget that workers have a critical role to play in sustainable compliance and their views should be integrated into the decisions that affect their lives. If workers are aware of their rights and are able to exercise them through organizations of their own choosing and have trusted channels to

communicate grievances, the role of the FLA and its constituents becomes that of enablers rather than enforcers.

AURET VAN HEERDEN
PRESIDENT AND CEO

A DECADE OF PROTECTING WORKERS' RIGHTS

Increasingly studies show that consumers are thinking about how the products they buy impact the world, and that they are willing to change their buying habits for social good. Consumers are looking for information that helps them to make purchasing decisions that support social and environmental sustainability. Even in a recession, consumers feel it is important for companies to be dedicated to a social purpose.

While eco-friendly, organic and fair trade products have demonstrated they have appeal, consumers also place high

priority on a company's commitment to treat its workers decently and be responsible in the communities in which it operates. Consumers want assurances that the brands they buy are not produced in sweatshop conditions.

Ten years ago the Fair Labor Association (FLA) evolved out of a multi-stakeholder partnership which came together to end the use of child labor and other sweatshop practices in apparel and footwear factories. The FLA promotes and enforces a broad Workplace Code of Conduct, based on International Labour Organization (ILO) standards, aimed at protecting

key worker rights. Complementing the FLA code are specific benchmarks that define the level of conformity required to meet the FLA standards. Companies that join the FLA and demonstrate substantial compliance with the code throughout their supply chain are eligible to have their labor compliance programs accredited by the FLA.

As a leader in global monitoring for the past decade, the FLA has made some gains. Today we seldom find children below legal age working in factories that produce for FLA-affiliated companies. These global apparel companies are taking responsibility for



FLA companies are taking responsibility for working conditions in production factories, strengthening their monitoring and working with suppliers on better ways to run their plants and manage workers.



working conditions in production factories, strengthening their monitoring and working with suppliers on better ways to run their plants and manage workers.

The FLA enters its second decade with an even greater commitment to enhance the capabilities of brands, suppliers and workers so that together they can ensure labor standards are consistently upheld. The FLA's multi-stakeholder process is its greatest strength, creating a shared commitment by socially responsible companies, colleges and universities, and civil society organizations to improve working conditions for millions of workers all around the world. The FLA does that through several key program areas:

Monitoring and Verification

Upholding the Workplace Code of Conduct requires due diligence. Companies that join the FLA commit to establishing internal systems for monitoring workplace conditions and maintaining Code standards throughout their supply chains. A core component of the FLA's program is conducting independent and unannounced audits of factories used by FLA affiliates and evaluating compliance with all code elements. The FLA conducts unannounced external inspections all over the world, including: the Americas; Europe, Middle East, and Africa (EMEA); South Asia; South East Asia; and East Asia. In 2007–2008, FLA accredited monitors conducted 239 factory visits in 27 countries across the globe.

FLA Factory Audits and Workers Impacted 2007–2008

	2007	2008
Factories Audited	119	120
Audits (including shared facilities)	132	136
Total Number of Factories	4,179	4,532
Estimated Number of Workers in FLA Factories	3.7 million	4.2 million
Estimated Workers in Audited Factories	106,766	126,136



The FLA external monitoring system is fully transparent and the only one that holds companies publicly accountable. The FLA posts the results of all audits on our website, as well as the action plans that FLA-affiliated companies develop with their supplier factories to correct any issues that are found. Aggregate findings from audits conducted in 2007 and 2008 can be found starting on page 20.

Preventing Labor Violations

The FLA approach isn't simply to police factories, but also to encourage partnership and collaboration among factory owners, buyers, workers and other community stakeholders, such as trade unions and NGOs, to prevent labor violations in factories from happening. The FLA proactively works with local stakeholders, including civil society groups, to uncover the root causes of the most serious and persistent labor problems and to develop sustainable solutions that ensure greater compliance in the future.

The FLA sustainable compliance methodology (FLA 3.0) is designed to

strengthen the capacity of suppliers and workers to, along with buyers, take greater responsibility for code compliance and continuous improvement programs in their factories. In contrast to traditional audits that use "yes or no" check-off formats for determining compliance, the sustainable compliance methodology starts with a stakeholder forum to define priority issues and then conducts assessments that can measure a factory's degree of compliance and incremental progress with labor standards. After testing this approach in China and Thailand (see page 32), the FLA has been rolling this process out in several countries.

Creating Space for Dialogue and Cooperation

A key objective of many projects and undertakings by the FLA is to involve a wider and more diverse set of stakeholders in our efforts to address global issues in labor compliance. The FLA frequently hosts multi-stakeholder forums to provide a respectful environment for different groups to provide their perspectives on the issues and to collaborate on projects and solutions. The FLA forums draw representatives from non-governmental organizations, trade unions, government agencies, suppliers, companies, and universities to exchange experiences, ideas, and possible initiatives to improve working conditions in the supply chain.

The FLA Board held its summer meetings abroad in 2007 and 2008, for example, to facilitate greater participation by international stakeholders and to explore labor compliance challenges in leading export regions. The FLA hosted a Stakeholder Forum in conjunction with the June 2007 Board Meeting in

Santiago, Dominican Republic, to address the challenges of promoting and protecting worker rights following the expiration of the country-specific quota system embodied in the Multi-Fibre Arrangement (MFA).

China's global significance as a trade power and its importance as a sourcing destination for FLA-affiliated companies prompted the FLA to select China as the venue for its June 2008 Board Meeting and the FLA Stakeholder Forum. The FLA also was involved in several initiatives in China, including a project with the Chinese Chamber of Commerce for Import and Export of Textiles (CCCT), to pilot the FLA's sustainable compliance methodology. The Stakeholder Forum, held in Kunshan city (near Shanghai), focused on the opportunities and challenges that China's new Labor Contract Law presented for improving workers' lives.

Expanding Our Reach

The FLA constantly strives to have greater impact and reach with our programs. The FLA engages in special projects to test new strategies for addressing labor standards issues that have proven difficult to solve, tackling labor issues down the supply chain in the cotton fields, or adapting our methodologies to other industries that have yet to confront labor issues in a systematic way, to mention just a few. The FLA collaborates with other multi-stakeholder initiatives to build synergies and maximize the impact of the work we all do.

FLA AFFILIATES: PARTNERS IN LABOR COMPLIANCE

The companies, suppliers, colleges and universities, and collegiate licensees that join the FLA share a commitment to promoting international labor standards. The obligations of company affiliation are demanding. Those who agree to the terms of joining the FLA demonstrate leadership by working in a serious and systematic way to improve the lives of thousands of workers in their supply chains. Active colleges, universities, and NGOs participate in many facets of the FLA's work, including development and promotion of the Workplace Code of Conduct and advising the organization on how to improve its work.

The FLA supports members' efforts by providing innovative, value-added tools, advisory services and training that help them strengthen compliance programs to ensure that international standards are being met throughout their supply chains. The FLA brings credibility to the process of assessing, monitoring, and verifying the implementation of our Workplace Code of Conduct with our independent and transparent processes.

Buyers and Suppliers

FLA-affiliated companies represent a large spectrum of industry. The overwhelming majority of factories in the FLA program are in the apparel sector (approximately 75%), followed by footwear, equipment, and accessories. Other industries represented in the FLA supplier database include collectibles, jewelry, hosiery, paper products, home goods, electronic products, and bags.



The numbers of companies affiliated with the FLA, including collegiate licensees, continued to grow in 2007 and 2008. FLA-affiliated companies fall under different categories: Participating Company, Participating Supplier, Category B Collegiate Licensee, Category C Collegiate Licensee, or Category D Collegiate Licensee. Collegiate licensees produce products for the 208 colleges and universities that were affiliated with the FLA in

2008. Currently, 28 leading companies are Participating Companies and there are 11 Participating Suppliers. In addition, there are 30 Category B Licensees. As of March 2009, 324 Category C Licensees and 530 Category D Licensees are affiliated with the organization. (An online re-registration process has been underway and the FLA expects these numbers to increase based on historical information.) Together, these FLA affiliates have

become partners with the FLA's other stakeholders in implementing the FLA Workplace Code of Conduct and developing and sharing best practices in labor compliance.

Accreditation

Accreditation by the Fair Labor Association is the most advanced recognition of a company's labor compliance program. Participating Companies whose labor compliance programs have been accredited have demonstrated the greatest commitment to implementing the Workplace Code of Conduct. They have undergone over a two- to three-year implementation period extensive performance reviews, including independent factory monitoring, verification of remediation initiatives, and a thorough evaluation of their internal protocols and auditing, as well as comprehensive training through the FLA.

The Board of Directors must vote to accredit the labor compliance programs of Participating Companies. In 2007, the FLA Board voted to accredit the labor compliance programs of Gildan, New Era Cap and PUMA AG. In 2008, H&M and Patagonia joined this prestigious group, which also includes Adidas, Eddie Bauer, Liz Claiborne, Nike, Nordstrom and Phillips-Van Heusen.

Supplier Base

Participating Companies, Participating Suppliers, and Category B Licensees are required to submit to Independent External Monitoring by FLA-accredited monitors. One of the requirements on these affiliates is that they provide the FLA annually with an accurate list of all factories producing applicable brands and update such list quarterly. Additionally, they must also provide the FLA with access letters to facilitate

Top Ten Countries with the Largest Workforce in Factories Supplying FLA Companies

2007

Country	Estimated Number of Workers* (in thousands)	Percent of Total
China	1,587	42.7
Vietnam	507	13.6
Indonesia	291	7.8
Thailand	217	5.8
Bangladesh	145	3.9
India	135	3.6
Cambodia	106	2.9
Honduras	68	1.8
Sri Lanka	58	1.6
Mexico	52	1.4
Top-Ten	3,166	85.2
Rest of the World	551	14.8
TOTAL	3,717	

2008

Country	Estimated Number of Workers* (in thousands)	Percent of Total
China	1,713	37.6
Vietnam	563	12.4
Indonesia	348	7.6
Thailand	243	5.3
Bangladesh	207	4.5
India	158	3.5
Cambodia	145	3.2
Sri Lanka	81	1.8
Honduras	76	1.7
Mexico	46	1.0
TOP-TEN	3,580	84.0
Rest of the World	665	16.0
TOTAL	4,245	100.0

* In some instances, employment levels are estimated since employment information was not available for each factory. In such cases, missing data were extrapolated from factories in that country for which data were reported.

unannounced admission to factories by accredited monitors and other documentation. From each company's factory list, the FLA randomly selects individual factories that will be subject to surprise audits, proportional to a company's number of factories and with consideration to country and production risks.

In 2007, FLA-affiliated companies reported that they sourced from 4,234 factories, located in 81 countries. Approximately 17% of the factories supplied collegiate licensees. The largest concentration of factories supplying FLA companies in 2007 was in China, where 1,679 factories or 39.7% of the total number of factories were located.

In 2008, FLA-affiliated companies reported that they sourced from 4,532 factories, located in 83 countries. Approximately 15% of the factories supplied collegiate licensees. The largest concentration of factories supplying FLA companies was again in China, with 1,718 factories or 37.9% of the total number of factories located in that country.

The FLA estimates that the facilities reported to the FLA as supplying FLA companies employed over 3.7 million workers in 2007 and 4.2 million workers in 2008. As a group, the top-ten locations accounted for over 80% of total employment in factories supplying FLA companies. By far the largest number of workers in factories supplying FLA affiliates was in China: 1.5 million workers in 2007 and 1.7 million workers in 2008.

In managing its due diligence activities, the FLA divides the world into five regions: (1) the Americas, consisting of the United States, Canada, the Caribbean, and Central and South America; (2) Europe, the Middle East and Africa; (3) South Asia, consisting

Distribution of Suppliers by FLA Region
(percent of suppliers)

Region	2005	2006	2007	2008
Americas	18.2	19.1	16.0	16.7
Europe, Middle East and Africa (EMEA)	17.4	11.2	9.9	8.3
South Asia	8.4	7.2	8.3	9.9
East Asia	35.5	45.3	48.0	45.8
South East Asia	20.5	17.2	17.8	19.4

Those who agree to the terms of joining the FLA demonstrate leadership by working in a serious and systematic way to improve the lives of thousands of workers in their supply chains.

among others of India, Pakistan, Bangladesh, and Sri Lanka; (4) East Asia, consisting primarily of China, Hong Kong, Taiwan, and Japan; and (5) South East Asia, consisting among others of Thailand, Indonesia, Cambodia, Malaysia, and Vietnam.

As has been discussed in earlier reports, the expiry of the Multi-Fibre Arrangement (MFA) at the end of 2004 has resulted in geographic shifts in international trade in apparel and textiles that favor China, India, Pakistan, and other countries that formerly were subject to quantitative restrictions from the United States, the European Union, and other large import markets. The shift in sourcing in favor of China is evident from the supplier base of FLA companies.

The table above shows the distribution of the FLA supplier base by FLA region. The share of FLA suppliers located in East

Asia (primarily China) rose from 35.5% in 2005 to 48.0% in 2007, and dropped back to 2006 levels with just over 45% of suppliers in 2008. Over a similar period, EMEA's share fell from 17.4% to 9.3%. South East Asia's share experienced a drop from 20.5% in 2005 to 17.2%, but began to pick up more suppliers in 2007 and 2008. Interestingly, the Americas' share remained relatively stable; this stability masked substantial supplier reductions in Central America and the Caribbean and a steady increase in the number of U.S. suppliers that are FLA Category B Licensees and specialize in production in categories other than textiles and apparel.

TOWARD SUSTAINABLE COMPLIANCE



Each year, the FLA establishes new goals for innovations to expand our reach and improve our programs to have a greater and more lasting impact on the lives of workers. Some big transitions are underway in the way we are providing services, increasing ownership and accountability for code compliance at the supplier level, and expanding our programs to involve a greater number of local stakeholders, as well as a greater engagement of workers themselves. The FLA engages in special projects to test new strategies and seek solutions to systemic noncompliance issues that have proven particularly difficult to remediate. In these projects, we seek to involve a wide range of interested parties in the process of developing new ways to improve code compliance.

As set out in Paul Bailey's paper included in this report (see page 32), the Soccer Project allowed us to develop innovations in sustainable compliance to methodically address the root causes of noncompliance. These innovations informed a new methodology and program, FLA 3.0, which the FLA officially launched in 11 factories in China and Thailand during the second half of 2007. In the first phase of rolling out our sustainable compliance methodology, we held multi-stakeholder forums in China and Thailand to determine priority issues. Grievance procedures and hours of work were identified as core concerns in factories involved with the Soccer Project and a big opportunity for learning.

FLA-affiliated companies are required to have a secure internal communications channel for grievances as part of their

obligations of being in the FLA. We came to recognize the importance of having such a grievance procedure at the factory level so that conflicts could be settled locally more quickly. Caroline Rees's paper "Worker Participation and Engagement," also part of this report (see page 43), highlights the fact that when workers are integrated into a company's grievance procedure, they are more likely to use that procedure to seek resolutions to differences.

Over the years, the FLA has found that excessive overtime also has been a widespread issue in many factories that we have audited, resulting in high levels of noncompliance. Understanding the root cause of this issue is important because noncompliance in this area frequently correlates with adverse impacts on worker health and safety and wages, thus increasing noncompliance

in other code elements. Through our new sustainable compliance methods, the FLA was able to evaluate the issues that have surfaced in our core auditing.

We piloted several new instruments as part of the Soccer Project that are critical to the implementation of a sustainable compliance program. The toolbox for sustainable compliance monitoring differs substantially from the typical audit instrument and general worker interviews that accompany compliance audits. These tools represent a big shift in how we deliver services. The web-based, factory self-assessment tool, which the FLA calls the Sustainable Compliance Assessment Tool or SCAT, allows us to place greater accountability at the factory level and to reach a larger number of suppliers. The worker surveys, or Sustainable Compliance Perceptions tool (SCOPE), is administered confidentially to a statistically representative sample of employees to understand the perceptions of workers at the factory on the same issues. The FLA is thus able to get a 360 degree picture of what's happening in a factory with regard to key code elements.

At the close of 2008, the first participating factories had completed the factory self-assessments (SCAT) and the FLA had administered the worker surveys (SCOPE) regarding grievance procedures and hours of work. Participating factories were provided with access to online capacity building services and instructional materials developed by the FLA to address the issues raised by the SCAT and the SCOPE. Based on the results of their assessments, the factories and buyers worked together on developing the root-cause analysis and capacity building plan.

Analysis: The FLA released reports on our aggregate findings from the SCAT and SCOPE surveys exploring grievance

procedures and hours of work. Through our traditional auditing process, the FLA found that many suppliers did not have effective or systematic grievance procedures. The SCAT and SCOPE identified gaps in perception about these issues between workers and factory managers. Workers had not received quality training of the different grievance channels available. The FLA was encouraged that workers were comfortable bringing forth complaints, whether formally or informally. However, these were largely undocumented complaints and it was unclear whether they all had been addressed. In factories with better training and implementation, there was a lower turnover rate and higher percentage of production delivered on time.

The SCAT and SCOPE on hours of work affirmed many assumptions the FLA carried from our traditional audits. The FLA found that the use of excessive overtime was widespread in participating factories. The problem is likely even greater than we could document since evidence has shown that workers underreport their hours. Migrant workers seemed to experience greater adverse impacts. The SCOPE and SCAT surveys provided considerable evidence that extensive overtime is not an efficient means of retaining workers or improving the quality of production and delivery time.

Capacity Building: The shift from a system that relies only on traditional monitoring to a sustainable compliance model requires changes in operating principles and procedures on the part of brands and their compliance officers as well as of suppliers. The FLA tackled these two challenges in 2007 and 2008 through trainings for brand compliance staff and training of service providers who could ultimately provide capacity building services to suppliers.

The FLA engages in special projects to test new strategies and seek solutions to systemic noncompliance issues that have proven particularly difficult to remediate.



The FLA developed a Foundation Course on FLA 3.0 that was offered to brand headquarter officials in the U.S. and to field compliance officers in China and Thailand. Part of the Foundation Course included root cause analysis and development and use of the balanced score card (BSC) as a management tool.

One of the unexpected challenges that the FLA faced in rolling out FLA 3.0 in China and Thailand was the sparseness of qualified service providers who could provide capacity building services to factories. To fill this gap, the FLA organized Training-of-Trainers (TOT) sessions for local organizations in the two countries that had demonstrated interest in being accredited as service providers for FLA 3.0 on specific compliance topics, such as Grievance Procedures and Dispute Settlement, Hiring, and Discipline.

Local Stakeholder Engagement: One of the most significant aspects of FLA 3.0 is that it combines and integrates

the resources of local stakeholders, suppliers, buyers, and service providers. The initial step in the implementation of FLA 3.0 is the convening of these stakeholders in a forum to identify the priority issues, root causes of noncompliance, and capacity-building needs. Conducting these forums involves a huge amount of work on the part of the FLA to get local stakeholders to meet and share information on compliance issues, to enlist the cooperation of suppliers and to identify and mobilize local and international service providers. In the longer term, these actors will be able to take more ownership and initiative for sustainable compliance. In the short term, the FLA will have to do a lot of capacity building to empower them to play that role.

The incorporation of local stakeholders, in particular, requires a significant effort on the part of the FLA to consult with them, to provide training and to harness their potential as service

providers in remedial programs. This work can only be done at field level. We are working to mobilize new resources for FLA-affiliated companies to assist them in meeting their Charter obligation to consult with civil society organizations. Most importantly, we will integrate local, and particularly worker, voices into our program, thereby enhancing its legitimacy and sustainability.

Expansion: The FLA staff are preparing for expansion of the FLA 3.0 methodology to other geographic regions in 2009 and beyond. Additionally, many service delivery techniques developed for FLA 3.0, namely internet based assessments and capacity building, are being leveraged to help us scale up our services for a large number of companies with limited resources. We kicked off a pilot in 2007 for an Enhanced Licensee Program (see page 15), for example, that targets smaller university licensees that are registered as Category C affiliates.

CASE STUDIES IN INNOVATION

Enhanced Licensee Program Pilot

Engagement with collegiate licensors, licensing agents, and licensees over the years have revealed some significant gaps in code awareness and compliance among university licensees, particularly mid- and small-size companies. The FLA developed an approach to dealing with the labor compliance issues of these licensees while also taking into account the limited resources of these companies and their varying sizes, industries, and business models. As mentioned previously, the FLA has been able to leverage web-based tools developed for FLA 3.0 to help small and mid-size licensees assess their own performance in upholding labor standards and to develop internal labor compliance programs.

The Enhanced Licensee Program (ELP), launched as a pilot project in 2007, is targeted toward smaller, Category C Collegiate Licensees. Category C Licensees are those with total annual revenues under \$50 million, with many of them under \$5 million in annual revenues. Category C Licensees manufacture or source in a large number of product categories, from apparel and footwear to paper products, jewelry, and gifts.

Licensees who enrolled in the ELP were required to commit to five “Building Block” obligations, which include adopting and communicating a code to their suppliers; training internal staff on compliance matters; conducting internal monitoring of suppliers; collecting and managing compliance information; and remediating



The FLA is scaling its services to meet the unique needs of hundreds of small and mid-size licensees by leveraging the web-based tools developed for FLA 3.0.

noncompliances. Additionally, participants were asked to complete the online Licensee Profile and Self-Assessment (LPSA), develop a compliance improvement or implementation plan to address areas needing improvement, begin internal monitoring of an appropriate sample of factories involved in collegiate production, and attend at least one training session on compliance developed by the FLA for university licensees.

ELP Pilot Objectives and

Participants: The Enhanced Licensee Program (ELP) pilot was designed to test the program with a limited number of Category C Licensees. The objective of the pilot was to:

- Learn more about the characteristics of this diverse group of companies
- Test the tools that had been developed and develop new guidance material as required
- Adapt tools to meet the needs of this population before launching to a wider group of licensees
- Elicit feedback from constituents (licensees, licensors and licensing agents) about the operation of the pilot and use the feedback to modify the program for a broader set of companies.

The ELP was piloted beginning in 2007 with approximately 100 licensees and the following ten licensing universities: Princeton University; The Ohio State University; The Pennsylvania State University; The University of Maryland (College Park); The University of North Carolina at Chapel Hill; The University of Texas at Austin; University of California, Los Angeles (UCLA); University of Michigan; University of Notre Dame; and Washington University

in St. Louis. Both the Collegiate Licensing Company (CLC) and the Licensing Resource Group (LRG) were also involved in the pilot group.

The list of pilot licensees was developed in collaboration with the licensing agents and pilot schools. The goal was to enlist a cross-section of licensees of different sizes, industries, and business models, as well as to include both licensees whose main line of business was collegiate licensing and others who supplied mainly other markets. Over 100 Category C Licensees participated in the pilot.

Licensee training, the first step in the ELP, was conducted at University of Notre Dame, University of Maryland, University of California-Los Angeles, and The Ohio State University. The training sessions provided an overview of the principles of labor compliance, requirements of the ELP, and tools and guidance material available to companies participating in the pilot.

Licensee Profile and Self-Assessment

(LPSA): The Licensee Profile and Self-Assessment (LPSA) is a web-based tool designed to measure a licensee's state of compliance with respect to the five building block obligations of the ELP. Taking the LPSA is the second step in the ELP. The FLA launched the assessment tool in February 2008 and 91 licensees completed the LPSA by October 2008.

Results of the LPSA are sent by email upon the licensee's completion of the self-assessment online. Results include a numerical and color-coded score ranging from 1 (or red, signifying a low score) to 5 (or green, signifying a high score) for each of the five obligation areas. In addition to the scores, the results identify areas where the licensee has performed well, areas for improvement, and next steps for the



licensee, which may include submitting documentation to the FLA and reviewing online guidance material and other licensee resources housed on the FLA's Training Portal.

ELP Findings: Through the ELP pilot, the FLA learned a significant amount about the licensees, such as their code awareness levels and capacity for implementing compliance programs. The FLA also learned about the effectiveness of the ELP program and its tools and materials, as well as gained a better understanding of the infrastructure and systems that are needed to provide greater support to licensees. The FLA is continuing the pilot with goals to expand the coverage to all Category C Licensees in the future.

Agriculture Project

The concern about unfair labor practices prevailing in the agriculture sector has been well documented in a range of studies by the International Labour Organization (ILO), independent researchers, international and national labor rights organizations and NGOs, and media campaigns. There are several

reports that highlight the poor working conditions in cotton production in Uzbekistan, Pakistan and India, cocoa farms in Africa and coffee estates in Central America. Some studies have also reported on child labor issues in the hybrid seed production sector in India.

One such media campaign in 2003 regarding the presence of child labor in the Indian cotton seed farms of Syngenta Seeds Inc. led them to the Fair Labor Association (FLA). The FLA and Syngenta began a pilot project in the agriculture sector in 2004 to help them monitor working conditions in their Indian hybrid cotton seed supply chain.

Syngenta Seeds Pilot: Syngenta Seeds Inc. is a Swiss agro-business multinational headquartered in Basel, which ranks third in high-value commercial seeds market in the world and employs over 21,000 people in more than 90 countries. Until 2004, Syngenta was the largest producer of hybrid cotton seeds in the world with business valued at about USD 3 million. It was this line of business that brought Syngenta under fire by the media with allegations of child labor.

The FLA and Syngenta developed a project to map, assess, analyze, monitor and remediate labor rights issues in Syngenta's hybrid seed supply chain. Though the project was initiated in the cotton seed sector, Syngenta sold its global cotton seed business in 2005, and the FLA and Syngenta continued the project in the hybrid vegetable seed sector beginning in 2006.

Over the past two years, the FLA and Syngenta have made significant progress adapting the FLA's independent external monitoring methodology to the hybrid vegetable seed sector. The FLA built an in-depth understanding of the tasks and risks involved in the hybrid seed production. Through this process, the FLA developed and field tested a set of benchmarks and a monitoring system with relevant tools for the agriculture sector, based on ILO conventions and the FLA's Principles of Monitoring.

Following the FLA's 3.0 approach of engaging multiple stakeholders in developing sustainable processes, five stakeholder consultations were held by the FLA and Syngenta at different stages of the process to solicit stakeholders' advice and update them on the progress of the project. Stakeholders prioritized the leading concerns that they hoped to address through the FLA's monitoring and remediation process: child labor, health and safety, and wages and benefits.

Monitoring Syngenta's Supply Chain:

Syngenta began conducting internal monitoring of their farms in 2007 and by 2008, they had monitored a total of 1727 farms. Child labor was identified as a problem during peak season, when more workers were needed for cross-pollination activities. Health, safety and environment (HSE) also emerged as a priority issue. Syngenta discovered that

workers were not aware of the importance of personal protection equipment (PPE) and the importance of using it during chemical application.

In 2008, FLA conducted three unannounced independent external monitoring (IEM) visits of Syngenta's farms. Each IEM was conducted on a cluster of approximately 25 small (0.25–1 acre) farms selected at random from Syngenta's farm lists. Health and safety, code awareness and hours of work emerged as the top three non-compliance issues in external monitoring.

Remediating Issues in the Supply Chain: Syngenta submitted corrective action plans to address the issues uncovered in both internal and external monitoring. To tackle the child labor issue, the FLA and Syngenta invited a selected group of experts to discuss the child labor issue in Syngenta's okra and pepper farms at a consultation held in Hyderabad in November 2007. Based on expert recommendations, Syngenta developed an additional child labor monitoring tool for the farms. They also introduced an incentive scheme and piloted it with their okra growers in April 2008. Syngenta monitored their farms three times in one production season as prescribed by the task and risk mapping. Growers who are found to be in compliance with Syngenta's code at all three monitoring events were given a bonus of up to 5 percent of the total procurement price. The maximum bonus in this incentive program was given if there was an absence of child labor. Additionally, a progressive disciplinary policy was introduced, wherein Syngenta would stop using a grower who, after repeated reminders and remediation, was found delinquent on child labor for two consecutive production seasons. Several awareness-building programs were mounted in the field. Pre-season meetings with the



growers were organized to make them aware of the codes of conduct and Syngenta's relationship with the FLA. Syngenta developed comprehensive health and safety remediation plans. Written contracts with fair working conditions clauses were drawn with growers. A labor monitoring tool was integrated with the existing field crop card (for quality check of the seeds during the production season) and supervisors were trained to look for labor compliance issues while conducting field visits.

As with all FLA monitoring, the progress reports, research studies, monitoring reports and remediation plans for the Syngenta pilot project are published on the FLA website to provide greater transparency to the project. Although there are areas for improvement, the

project has demonstrated that with the appropriate commitment and collaboration, working conditions can be improved in agricultural supply chains. The experience and learning from the Syngenta project suggests ways that the FLA system may be able to go deeper into the supply chain of the apparel sector, such as home-based work, cotton seed production, and more. As the methodology emerging from the Syngenta project is further refined, it also may prove to be adaptable to other supply chains involving small rural land holdings.

Joint Initiative on Corporate Accountability and Workers Rights (JO-IN) Project

Six leading international multi-stakeholder initiatives (Clean Clothes Campaign, Ethical Trading Initiative,

Fair Labor Association, Fair Wear Foundation, Social Accountability International, and Workers Rights Consortium) established the Joint Initiative for Corporate Accountability and Workers Rights (JO-IN) in 2004. The aims of JO-IN are to maximize the effectiveness and impact of multi-stakeholder approaches to the implementation and enforcement of codes of conduct by ensuring that resources are directed as efficiently as possible to improving the lives of workers and their families; to explore possibilities for closer cooperation between the organizations; and to share learning on the manner in which voluntary codes of labor practice contribute to better workplace conditions in global supply chains.

Some significant outcomes of the project include a draft common code of conduct and agreed-upon remediation methodologies to address noncompliances regarding wages, hours of work, and freedom of association, as well as new assessment tools to address complex compliance issues. There has also been significant learning for each the six participating organizations, including considerably greater understanding of each others' approaches and increased collaboration beyond the JO-IN project, such as the creation of a JO-IN Forum that extended collaboration into 2008 and beyond.

Central America Project

The FLA's Central America Project is an example of a project in which the FLA sought to address noncompliance issues specific to a region or country through innovative approaches with broader applicability to the FLA program. The Central America project (CAmP I) began in 2004 with a grant from the Department of State as a means to

develop mechanisms and tools that would produce measurable improvement of workplace conditions in El Salvador, Guatemala, and Honduras. The objective of the project was to enhance workers' rights, particularly the right to equality and non-discrimination, and to promote a culture of compliance in Central America through the application of good practices on equality and diversity, which ultimately would result in better management systems. CAmP I was completed in 2005. One of the outcomes of the project was the development of guidelines of good practice (GGP) regarding hiring, termination, grievance procedures, and disciplinary practices focused on non-discrimination.

In 2006, the U.S. Department of State awarded a second grant to the FLA to continue the program (CAmP II) in Honduras and expand it to the Dominican Republic. A key element in CAmP II was to train other trainers to enable the teachings of the project to continue beyond its conclusion. During CAmP II, representatives of 56 factories (38 in Honduras and 18 in the Dominican Republic) were trained in the GGP, as were 25 representatives of 3 Dominican trade unions and 30 inspectors from the Dominican Secretariat of Labor. Eighteen brand representatives and 15 private service providers attended Training-of-Trainers sessions held by the FLA in Honduras. CAmP II ended in 2007.

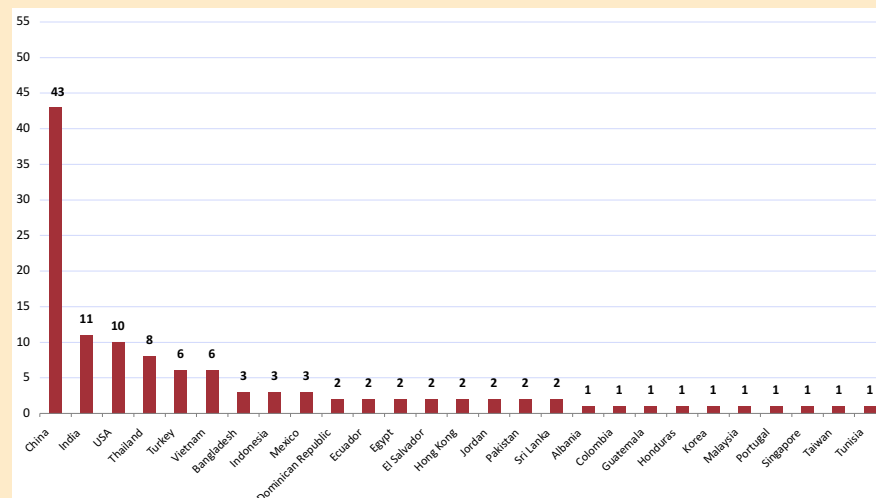
To evaluate the impact of GGP trainings on factories that participated in CAmP II capacity building, the FLA conducted independent external assessment events in five factories that volunteered to be evaluated. In general, the results of the assessment showed that the five factories recorded noticeable improvements around their hiring

policies and procedures. Though more time is necessary to gauge the full impact of the trainings, the assessment showed that the training enabled factory management to recognize the policy and capacity gaps that existed in their factories and the process necessary to make progress towards higher levels of compliance.

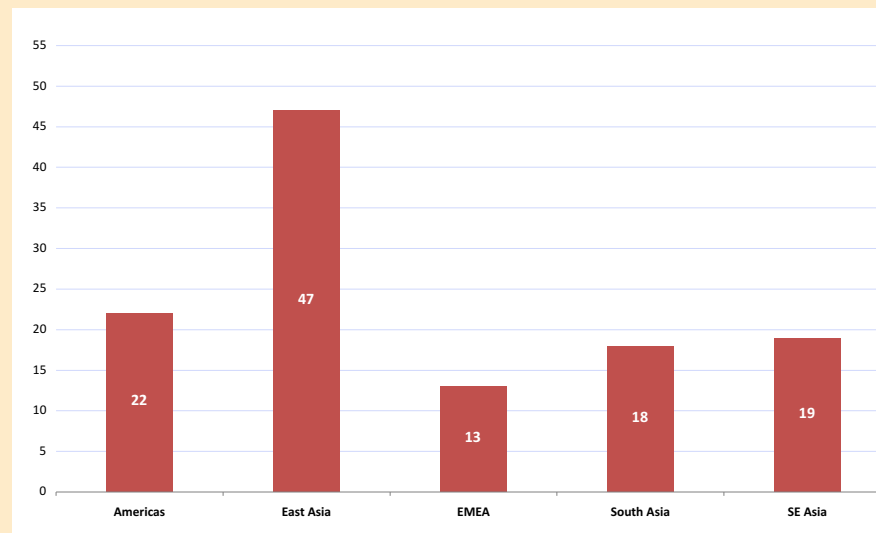
INDEPENDENT EXTERNAL MONITORING

The Fair Labor Association (FLA) is committed to ensuring the implementation of our Workplace Code of Conduct. Upholding that commitment requires due diligence. A core component of the FLA's program is conducting unannounced Independent External Monitoring (IEM) of factories used by FLA affiliates and evaluating compliance of all code elements. Submitting to the FLA's monitoring program is one of the ten obligations affiliated companies are required to fulfill. Transparency is important to the process and thus, the findings for all inspections are posted to our website as Tracking Charts, which can be found at www.FairLabor.org under Public Reporting.

2007 IEMs by Country

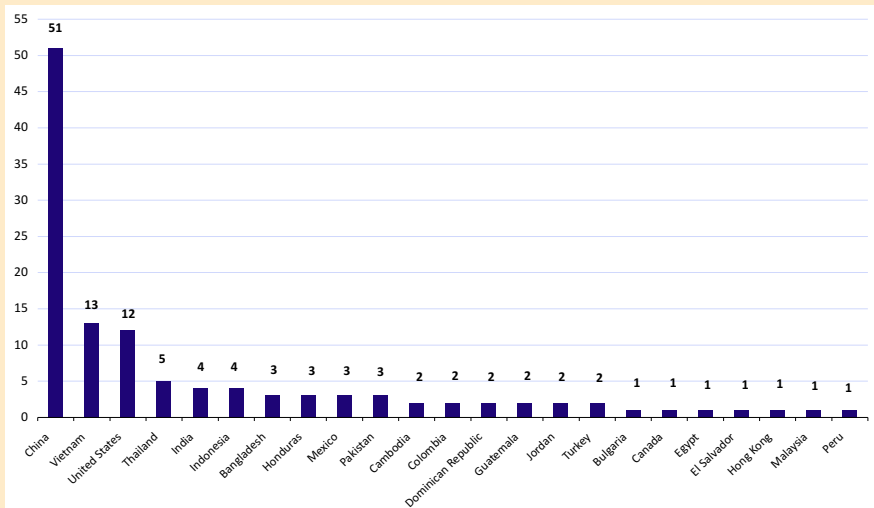


2007 IEMs by Region

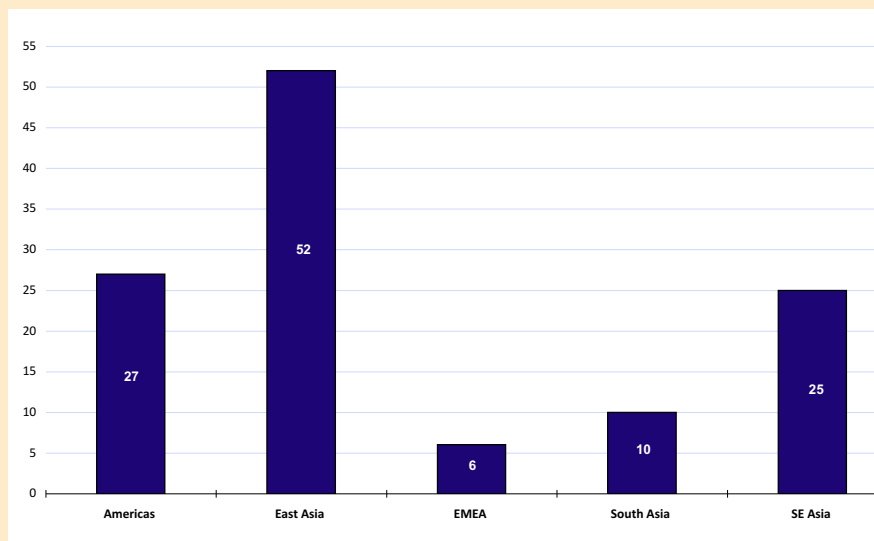


In 2007, FLA-accredited monitors conducted 119 factory visits in 27 countries across all five FLA regions. The shift in business to China has led to an increasing number of IEMs in East Asia. The FLA has seen this shift year over year since expiration of the Multi-Fibre Arrangement (MFA).

2008 IEMs by Country



2008 IEMs by Region



In 2008, FLA-accredited monitors conducted 120 factory visits in 23 countries across all five regions.

CODE COMPLIANCE AND REMEDIATION

The FLA's Workplace Code of Conduct is based on International Labour Organization (ILO)

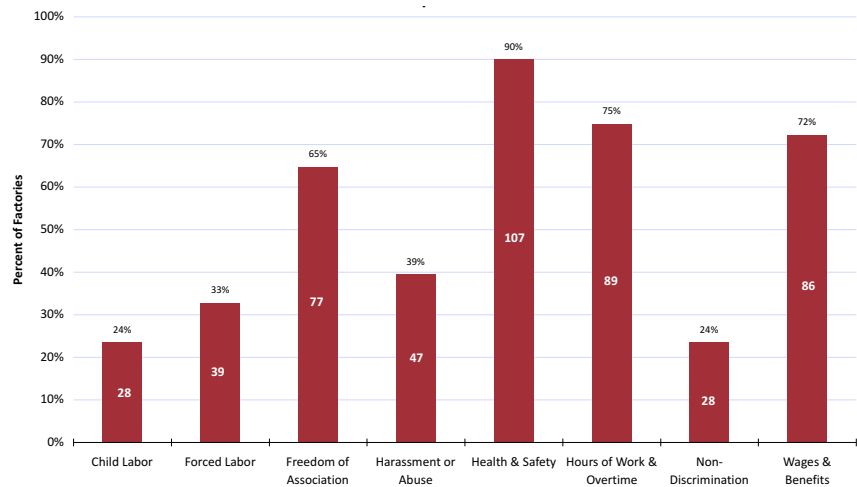
standards. Each code element is supported by specific benchmarks that help us measure a factory's compliance with that code element. The charts on this page show the distribution of noncompliances by code element. At least one benchmark in the Health and Safety code element was breached in 90 percent or more of the factories audited in 2007 and 2008. Noncompliances in factories were also high for Hours of Work, Wages and Benefits, and Freedom of Association.

FLA affiliates are responsible for working with the factory following an inspection to develop a corrective action plan (CAP) to address the noncompliances, to conduct follow-up visits to ensure the plan is implemented, and to provide status reports to the FLA.

Different forms of noncompliance lead to different approaches and timing regarding remediation plans. Some noncompliances may be relatively easy to fix, such as adding fire extinguishers or recharging them. In these cases, remediation can be carried out quickly and documented through certificates, photographs, and other simple documentation.

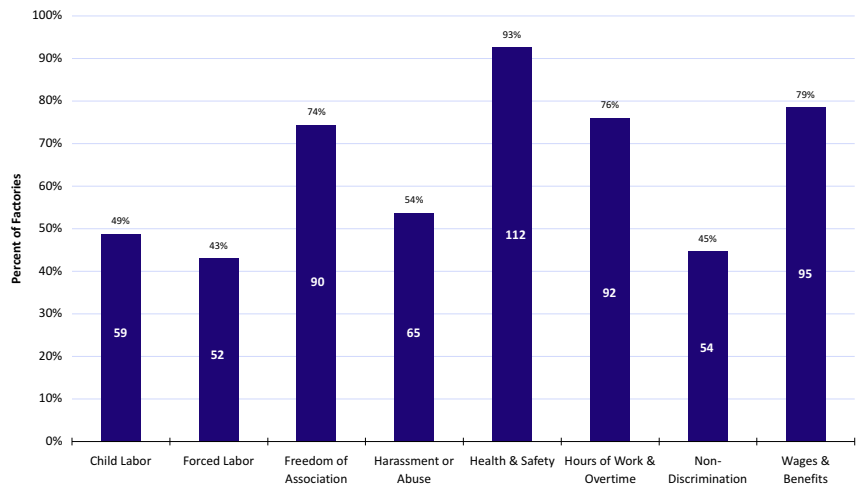
Other noncompliances, however, are more complex and take much longer to remediate, such as violations of freedom of association, discrimination, or excessive hours of work. In the case of excessive hours of work, for example, a corrective action plan might involve better production planning, the

2007 Non-Compliances by Code Element



There were 501 instances in which at least one benchmark of the FLA Workplace Code of Conduct was breached.

2008 Non-Compliances by Code Element



There were 619 instances in which at least one benchmark of the FLA Workplace Code of Conduct was breached.

creation of a new work shift, or even the expansion of a facility or construction of a new one so that additional workers can be recruited. Multi-year remediation plans are common with regard to complex noncompliance issues.

Each code element is evaluated based on a combination of compliance benchmarks:

Substantive benchmarks are considered a direct violation of the rights and duties embodied in the FLA Workplace Code of Conduct.

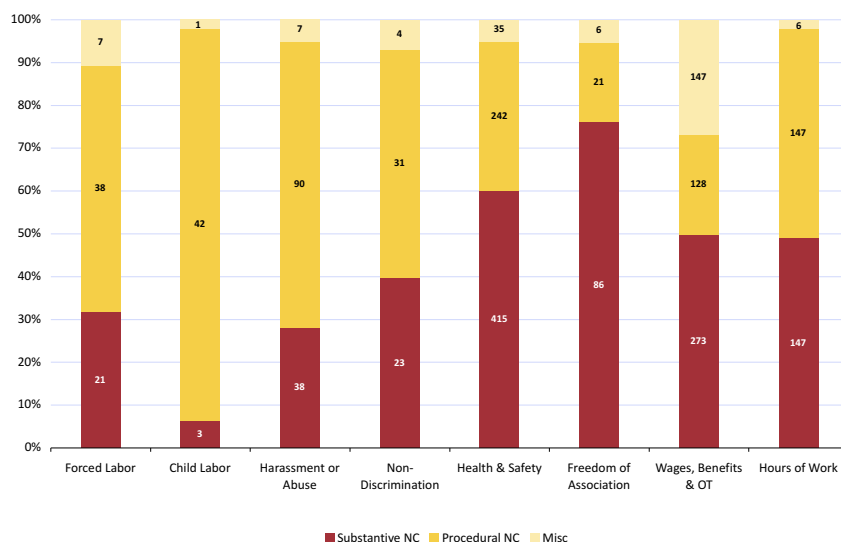
Procedural benchmarks refer to systems or administrative processes whose absence in a factory could lead to the violation of a code provision.

Miscellaneous benchmarks refer to issues that do not fall squarely under existing FLA benchmarks.

This distinction is important because, as you will note, the vast majority of noncompliances with respect to the Child Labor code element were of a procedural or other nature (93% in 2007 and 94% in 2008) rather than a direct violation involving the employment of children. Procedural violations in these two audit cycles included, for example, not having an age verification system that meets FLA standards or ignoring certain legal procedures, such as employing juvenile workers of an eligible age but who have not registered with the local labor bureau or who have not had the physical examination required by law. More details on the FLA benchmarks can be found at www.FairLabor.org.

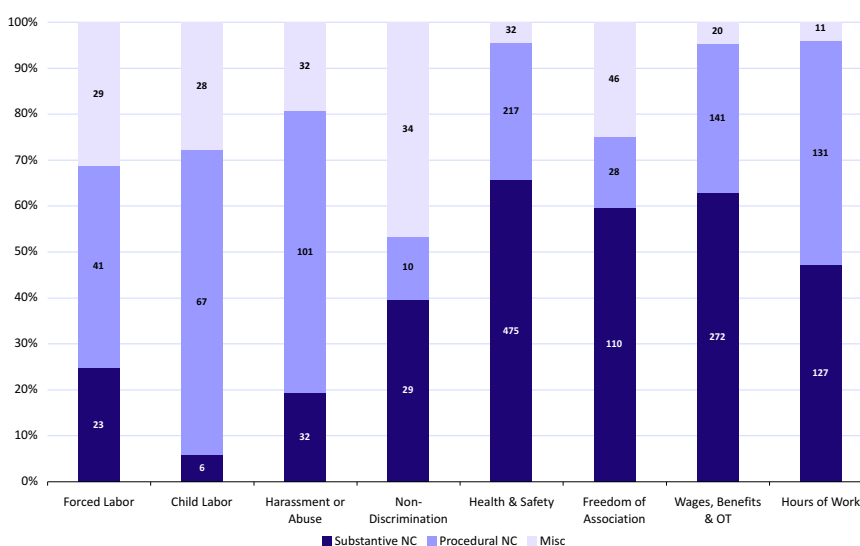
The charts on this page show the distribution of noncompliances by code element for 2007 and 2008.

2007 Procedural vs. Substantive Non-Compliances



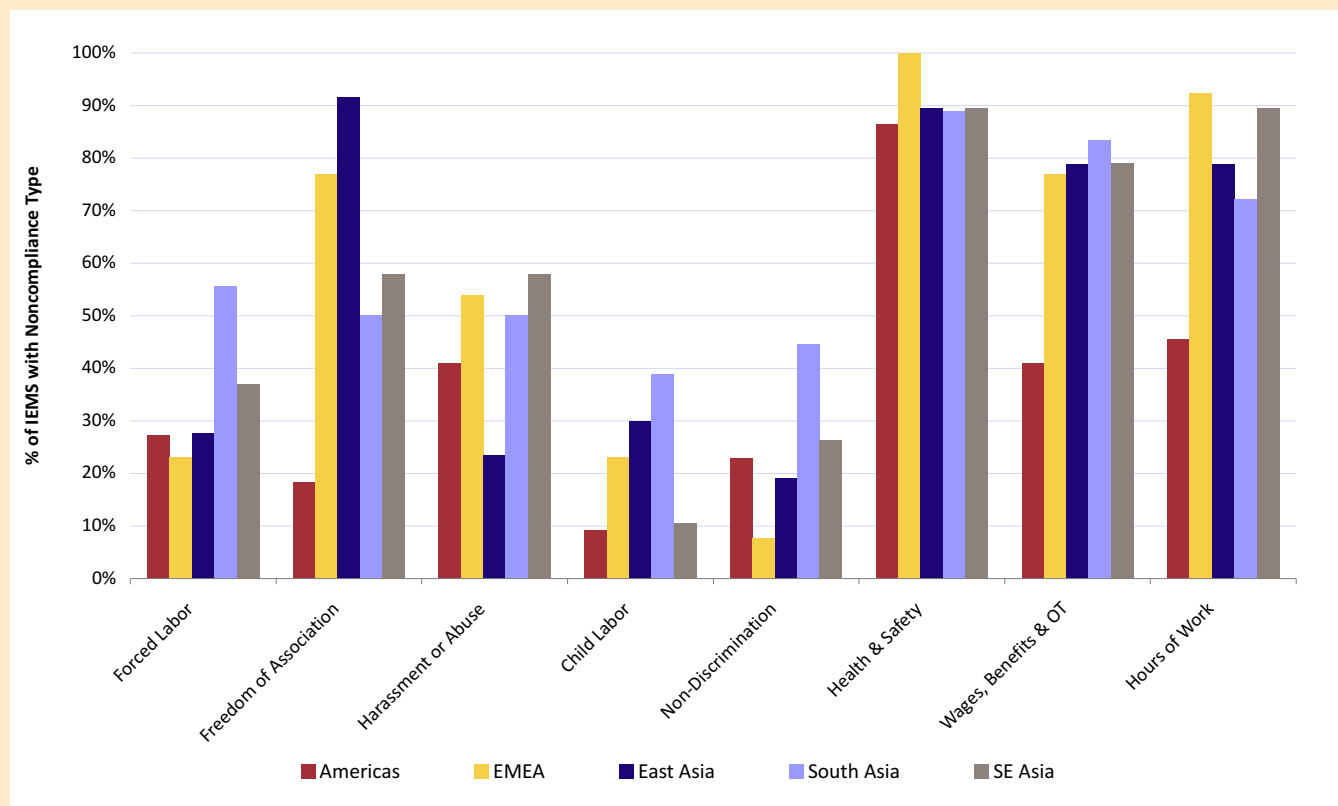
There were 2,040 instances of noncompliance based on benchmarks reported by accredited monitors in 2007, which translates into an average of 17.1 instances of noncompliance per factory inspection.

2008 Procedural vs. Substantive Non-Compliances



There were 2,294 instances of noncompliance based on benchmarks reported by accredited monitors in 2008, which translates into an average of 19.1 instances of noncompliance per factory inspection.

2007 Regional Non-Compliances in Comparison



The Americas: The 22 audits conducted in the Americas resulted in 272 findings of noncompliance, or roughly 12.4 findings of noncompliance per audit. The code element most frequently breached in the Americas was Health and Safety, with at least one breach of the compliance benchmarks associated with this code element identified in 19 out of 22 IEMs.

EMEA: The 13 audits conducted in the EMEA region resulted in 265 findings of noncompliance, or roughly 20.4 findings of noncompliance per inspection. At least one benchmark regarding the Health and Safety code element was breached in each of the 13 audits conducted in the region. Noncompliances were also high for Hours of Work, Freedom of Association and Collective Bargaining and Wages, Benefits, and Overtime, with at least one benchmark in each element breached in at least 10 of 13 inspections.

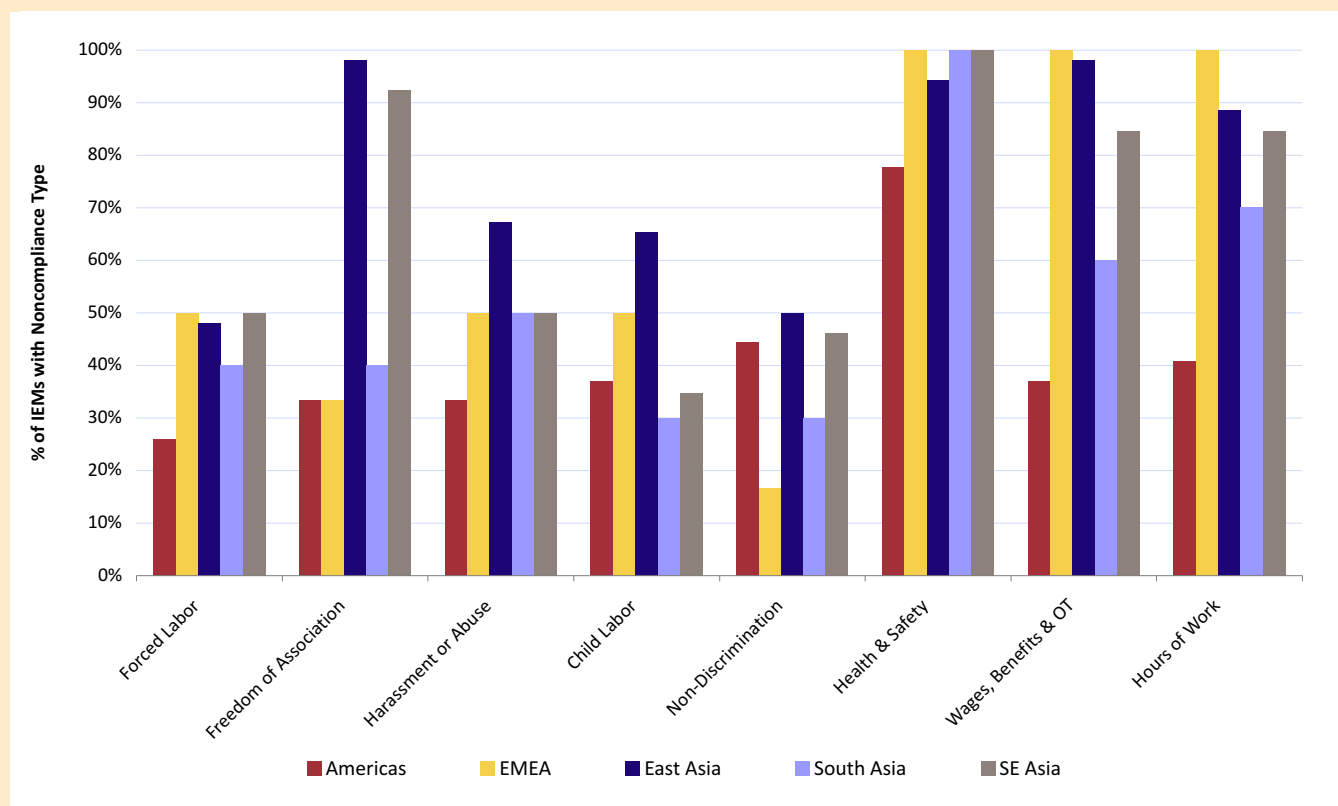
East Asia: The 47 audits conducted in East Asia resulted in 842 findings of noncompliance, or roughly 17.9 findings of noncompliance per audit. For all 43 IEMs conducted in China, FLA-accredited monitors recorded a violation of the benchmark regarding the right to freedom of association;* as a result, 43 out of the 47 audits conducted in this region (91%) had at least one noncompliance with respect to the Freedom of Association and Collective Bargaining code element.

South Asia: The 18 audits conducted in South Asia resulted in 345 findings of noncompliance, or roughly 19.2 findings of noncompliance per audit. In 89% of the audits conducted in South Asia (16 out of 18), FLA-accredited monitors recorded at least one violation of the benchmark regarding Health and Safety.

South East Asia: The 19 audits conducted in South East Asia resulted in 316 findings of noncompliance, or roughly 16.6 findings of noncompliance per audit. One or more of the benchmarks associated with the Health and Safety and Hours of Work code elements were recorded by FLA-accredited monitors as being breached in 17 out of 19 audits (90%), followed by one or more in 15 of the audits for Wages, Benefits, and Overtime (79%).

* Each of the IEMs conducted in China in 2007 and 2008 has the following text included on the corresponding tracking chart to reflect the systemic noncompliance with the FLA benchmark on Freedom of Association: "The Chinese constitution guarantees Freedom of Associations (FOA); however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union—the All-China Federation of Trade Unions (ACFTU). According to the ILO, many provisions of the Trade Union Act are contrary to the fundamental principles of FOA, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. However, the government has introduced new regulations that could improve the functioning of the labor relations mechanisms. The Amended Trade Union Act of October 2001 stipulates that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. Trade unions also have an enhanced role in dispute resolution."

2008 Regional Non-Compliances in Comparison



Americas: The 27 audits conducted in the Americas resulted in 450 findings of noncompliance, or roughly 16.7 findings of noncompliance per audit. The code element most frequently breached in the Americas was Health and Safety, with at least one breach of the compliance benchmarks associated with this code element identified in 21 out of 27 (78%) IEMs.

EMEA: The 6 audits conducted in the EMEA region resulted in 60 findings of noncompliance, or roughly 10 findings of noncompliance per audit. At least one or more benchmarks regarding the Health and Safety; Wages, Benefits and Overtime; and Hours of Work code elements was breached in each of the 6 audits (100%) conducted in the EMEA region.

East Asia: The 52 audits conducted in East Asia resulted in 881 findings of noncompliance, or roughly 16.9 findings of noncompliance per audit. For all 51 IEMs conducted in China, FLA-accredited monitors recorded a violation of the benchmark regarding the right to freedom of association; as a result, 51 out of the 52 audits conducted in this region (98%) had at least one noncompliance with respect to the Freedom of Association and Collective Bargaining code element. One or more benchmarks regarding Wages, Benefits and Overtime was also breached in 51 out of 52 audits (98%) in this region. Noncompliances were also high for Health and Safety and Hours of Work, with at least one benchmark in each element breached in at least 46 of 52 inspections.

South Asia: The 10 audits conducted in South Asia resulted in 342 findings of noncompliance, or roughly 34.2 findings of noncompliance per audit. At least one or more benchmarks regarding the Health and Safety code element was breached in each of the 10 audits (100%) conducted in the region.

South East Asia: The 25 audits conducted in South East Asia resulted in 561 findings of noncompliance, or roughly 22.4 findings of noncompliance per audit. At least one or more benchmarks regarding the Health and Safety code element was breached in each of the 25 audits (100%) conducted in the region. Noncompliances were also high for Freedom of Association and Collective Bargaining, with at least one benchmark breached in 24 of 25 inspections (96%).* Noncompliances were also high for Wages, Benefits and Overtime and Hours of Work, with at least one benchmark in each element breached in more than 80% of the inspections.

* Each of the IEMs conducted in Vietnam in 2008 has the following text included on the corresponding tracking chart to reflect systemic noncompliance with the FLA benchmark on Freedom of Association. "Vietnam has not ratified ILO Conventions 87 or 98. Under Vietnamese law, all unions are required to affiliate with the single trade union, the Vietnam General Confederation of Labor (VGCL), which is affiliated with the Communist Party. With respect to such union monopolies, the ILO Committee on Freedom of Association has stated that 'the rights of workers to establish organizations of their own choosing implies... the effective possibility of forming... [trade unions] independent both of those which exist already and of any political party.' Vietnam's legal framework is therefore not compatible with the ILO Principles on Freedom of Association and, as such, all factories in Vietnam fail to comply with the FLA Code standard on Freedom of Association."

INDEPENDENT EXTERNAL VERIFICATION

The FLA selects a sample of the audits conducted in previous years and arranges for an accredited independent external monitor to revisit the factories to verify that corrective actions were taken to remedy noncompliances. In 2007 and 2008, the FLA conducted 37 Independent External Verifications of corrective action plans for inspections conducted in 2004, 2005 and 2006. In our experience, a two- to three-year period should lapse between the development of a corrective action plan and verification in order to be able to

measure the impact of the more complex remediation plans. Verification reports are posted on the FLA website.

Two important points should be taken into consideration in reviewing the results of the verifications. First, unlike inspections that are selected at random, the verification visits target some factories facing critical and challenging noncompliance issues, such as nonpayment of wages, egregious safety and health violations, freedom of association, and harassment or abuse issues. The FLA targets cases for verification based on the severity of the

issues that emerged from the inspections.

In returning to these factories, FLA-accredited monitors were asked to focus on the original noncompliances or risks of noncompliance identified in the audits and to evaluate progress toward remediation. The monitors were also asked to cite any new noncompliance issues they observed that were not included in the original audit report.

Not surprisingly, the largest number of noncompliances monitors reviewed was in the health and safety area, reflective of the distribution of noncompliances

2007 Verification Audits by Region

Region	Number of Verifications	Percent
Americas	5	26%
EMEA	2	11%
South Asia	8	42%
East Asia	2	11%
South East Asia	2	11%
Total	19	

In 2007, 50% of noncompliances were found to be fully remediated by the FLA affiliate and its suppliers, and in 75% of the issues identified previously, monitors were able to verify full or partial remediation. Within the 19 factories, 82 new findings of noncompliance surfaced during the verification audits, requiring additional remediation steps. The vast majority of the newly-identified noncompliances were also in Health & Safety.

2007 Verification Audit Results by Code Element*

Code Element	Complete / Verified	Improved / Pending	No Change	Risks Addressed	Risks Not Addressed	No. Original	% Success Rate	New Findings
Code Awareness	16	6	7	5	1	35	77%	4
Forced Labor	7	5	4	0	1	17	71%	3
Child Labor	6	1	1	0	0	8	88%	0
Harassment or Abuse	66	29	26	3	1	125	78%	6
Discrimination	2	0	0	1	1	4	75%	3
Health & Safety	109	34	36	3	2	184	79%	43
Freedom of Association	0	1	5	1	4	11	18%	1
Wages & Benefits	36	13	19	5	1	74	73%	6
Hours of Work	13	13	24	2	0	52	54%	9
Overtime Compensation	8	6	1	0	1	16	88%	5
Miscellaneous	3	3	0	1	0	7	100%	2
Total Verifications	266	111	123	21	12	533	75%	82
% By Status	50%	21%	23%	4%	2%	n/a	n/a	n/a

*The table has been revised to correct for calculation errors in the original version.

for all inspections in general. Since the verification audits were weighted toward reevaluating situations where complex and critical issues had emerged in the inspections, there were a higher number of cases involving harassment or abuse than one finds overall in general inspections.

Verifications illustrate a challenge with using a monitoring system alone for due diligence. An unannounced, external audit of a factory provides a snapshot of issues within the factory at a point in time. In revisiting factories to verify remediation of past noncompliances, monitors often

identified additional or new noncompliances. As we have come to understand the limitations of monitoring, the FLA has been at the forefront in developing a sustainable compliance methodology (FLA 3.0) that we believe will have significant impact for change at the factory level.

In revisiting factories to verify remediation of issues found in past audits, FLA-accredited monitors were able to verify full or partial remediation of over 70% of the noncompliances and risks.

2008 Verification Audits by Region

Region	Number of Verifications	Percent
Americas	2	11%
EMEA	5	28%
South Asia	3	17%
East Asia	7	39%
South East Asia	1	5%
Total	18	

In 2008, 41% of noncompliances were found to be fully remediated by the FLA affiliate and its suppliers, and in 74% of the issues identified previously, monitors were able to verify full or partial remediation. Within the 18 factories, 107 new findings of noncompliances surfaced during the verification audits, requiring additional remediation steps. The vast majority of the newly-identified noncompliances were also in Health & Safety.

2008 Verification Audit Results by Code Element*

Code Element	Complete / Verified	Improved / Pending	No Change	Risks Addressed	Risks Not Addressed	No. Original	% Success Rate	New Findings
Code Awareness	11	6	11	4	0	32	66%	0
Forced Labor	4	2	1	4	0	11	91%	6
Child Labor	8	2	1	1	2	14	79%	8
Harassment or Abuse	8	4	0	3	1	16	94%	7
Discrimination	1	1	0	5	1	8	88%	3
Health & Safety	86	39	42	9	5	167	77%	59
Freedom of Association	8	4	7	5	1	25	68%	1
Wages & Benefits	12	12	6	4	1	35	80%	9
Hours of Work	14	9	9	4	1	37	73%	4
Overtime Compensation	2	5	8	2	0	17	53%	9
Miscellaneous	1	0	1	0	2	4	25%	1
Total Verifications	155	84	86	41	14	380	74%	107
% By Status	41%	22%	23%	11%	4%	n/a	n/a	n/a

*The table has been revised to correct for calculation mistakes in the original version.

Completed: The corrective action plan (CAP) for non-compliances was fully implemented in a verifiable manner.

Improved: Progress was made on noncompliances but not all steps had been completed.

No Change: No progress was made on the CAP.

Risks Addressed: Steps had been taken to address procedural issues that could lead to noncompliance.

Risks Not Addressed: Steps were not taken to address procedural issues that could lead to noncompliance.

% Success Rate: Completed plus improved remediation on non-compliances plus risks addressed.

THIRD PARTY COMPLAINTS

The FLA provides a grievance channel for third parties in cases where there is persistent or serious noncompliance with the FLA Workplace Code of Conduct in a production facility used by any FLA-affiliated company. Any person, organization, or company may file a complaint with the FLA as all stakeholders have a role in improving corporate accountability for labor rights.

When the FLA receives a third party complaint that meets the criteria for FLA involvement, it asks the FLA-affiliated company involved to review the complaint and inform the FLA about its findings. When needed, the FLA commissions independent monitors to investigate the allegations and make recommendations for remediation of any noncompliances. The FLA facilitates the remediation process with a focus on correcting noncompliances, addressing conditions that led to the violations, and making sure working conditions are fair and decent. The FLA-affiliated company agrees to develop a corrective action plan in cooperation with the supplier and other stakeholders, to oversee implementation of the plan and to conduct the first level of verification. All findings, corrective action plans and case updates are posted to the FLA website to uphold transparency and accountability.

Factory closures, and the complex set of issues associated with such actions, dominated Third Party Complaints received by the FLA in 2007 and 2008. Plant closures were, to a significant extent, related to the expiration of the Multi-Fibre Arrangement, a country-



specific quota system that governed patterns of trade and investment in the textile and clothing industry for three decades, and the onset of the current economic downturn. Third Party Complaints and other complex cases brought to the attention of the FLA were disproportionately in the Americas. All investigative reports, corrective action plans, and case summaries are available on the FLA website. Among the Third Party Complaints processed by the FLA in 2007–2008 were:

Cimatextiles, S.A., Guatemala

Guatemalan trade unions filed a Third Party Complaint in May 2007 alleging that local factory management threatened to close the Cimatextiles, S.A. factory in violation of workers' freedom of association rights, and that management also had used intimidation and violence against workers at Cimatextiles and at the neighboring

plant Choishin.

Working with FLA-affiliated company Liz Claiborne, Inc., a buyer at both factories, the FLA requested accredited monitor COVERCO (Comisión para la Verificación de Códigos de Conducta) to investigate the allegations. COVERCO found that factory management had not respected the trade union's legitimacy and its right to negotiate a new collective bargaining agreement. Factory management had also failed to consult with the union as the collective bargaining agreement required and had not paid the correct severance payment to workers. At the time of the investigation, Cimatextiles was temporarily closed.

Liz Claiborne developed and implemented a remediation plan based on the recommendations in the COVERCO report. However, since the factory failed to restart operations as scheduled in September 2007,

remediation activities were focused on the neighboring Choishin factory. Choishin management signed an agreement with the union indicating that they would offer former workers of Cimatextiles first right of refusal on any employment opportunities that became available at Choishin. The agreement was signed by both parties in the presence of the local Labor Ministry. Choishin negotiated severance payments with the union and signed an agreement to this effect on November 6, 2007. Choishin provided benefit payments to all workers with special needs, including workers on maternity leave and breastfeeding.

Liz Claiborne engaged a consultant to review hiring and termination practices and grievance procedures at all of its suppliers in Guatemala. The consultant also conducted training at each factory, as well as follow-up visits in May 2008, to verify that corrective actions had been implemented at each of the factories. The FLA verified that the corrective action plan was implemented and closed the Third Party Complaint.

Hermosa Manufacturing, El Salvador

The FLA continued its efforts to address the issues that arose from the 2006 closure of Hermosa Manufacturing, which were first reported in the FLA's 2007 Annual Public Report. The FLA had created an emergency fund, with financial contributions provided by FLA affiliates and non-affiliates, for the purpose of providing assistance to retrenched workers while efforts continued to hold the government of El Salvador and the factory owner responsible for carrying out their legal obligations. The Fundación de Estudios para la Aplicación del Derecho (FESPAD), a non-governmental organization (NGO) based in El



Salvador, completed distribution of the funds to former Hermosa workers in January 2007.

Upon the request of the FLA the Maquila Solidarity Network (MSN) conducted an independent review of the emergency fund and issues surrounding the closure of Hermosa Manufacturing. MSN released its report in June 2007, which included recommendations for continued support of the Hermosa workers and suggestions of preventative measures that could guard against a similar situation in the future.

The MSN report documents extensive outreach by FLA-affiliated companies that sourced from Hermosa to the government of El Salvador to ensure that the rights of workers embodied in domestic law were realized. FLA affiliates have continued efforts in this area, including encouraging U.S. government officials to use government-to-government channels to apply additional pressure on the government of El Salvador to fulfill its legal obligations to the workers. FLA-affiliated company adidas Group wrote an open letter to the Government of El Salvador, which was published in two leading newspapers in the country,

calling on the government to fulfill its promises made in earlier dialogues with the company. As a result, some progress has been made in the provision of health services to chronically ill workers and a job fair was scheduled for former Hermosa workers.

In September 2007, the FLA engaged a labor attorney in El Salvador to serve as Ombudsman to establish effective dialogue with the various stakeholders involved in the case. The Ombudsman engaged with Salvadoran government and civil society organizations to seek redress for the violations of workers rights affecting Hermosa workers, particularly those who remain unemployed. He also established a dialogue with garment factories that could be the source of employment for former Hermosa workers and has observed the hiring process at one of the factories.

The Ombudsman also worked with the Instituto Salvadoreño de Formación Profesional (Salvadoran Professional Training Institute, INSAFORP) and Albert Einstein University to create an opportunity for former Hermosa workers to refresh their skills, particularly with respect to operating sewing machinery, gain familiarity with English as a second language and develop computer proficiency. The program began on March 30, 2008, with FLA companies providing financial contributions to cover costs of transportation, meals and basic food items for the 40 displaced workers attending the sessions.

The FLA has worked with affiliated and non-affiliated companies in El Salvador to put into place non-discriminatory hiring policies and procedures in local supplier factories, including conducting training for factory owners and management on nondiscriminatory



hiring practices. The FLA also reviewed its audit instrument and made modifications to ensure that local factories that produce for FLA-affiliated companies not only deduct and record in their books social security and other legally-mandated contributions, but that such payments are actually received by the relevant agencies.

Jerzees de Choloma, Honduras

In September 2007, the FLA received a third-party complaint from workers at the Jerzees de Choloma (JDC) factory in Honduras, a plant operated by FLA-affiliated company Russell Corporation. Among the allegations were charges of mandatory overtime, abusive behavior by managers and supervisors, discrimination and dismissal of workers trying to form a union, and closure of the plant as a reaction to efforts by workers to form a union. The FLA contracted with an FLA-accredited monitor to conduct an independent audit. While the independent monitor

did not find evidence to support the allegation that the plant closure was conducted in order to avoid formation of a union, the October 2007 report found that the factory was not in compliance with the FLA Workplace Code of Conduct in the areas of freedom of association, harassment or abuse, and health and safety, and recommended steps to remediate such issues.

Russell Corporation adopted a comprehensive corrective action plan (CAP) to address the compliance failures and extended the scope of coverage of the CAP to all of its suppliers. In February 2008, an independent external audit verified the implementation of the CAP. The report indicated that Russell management had been “proactive” in the correction of freedom of association issues (FOA). Among the numerous steps, they had issued a statement that the company recognized and respected the right of employees to FOA and collective bargaining, had incorporated FOA

training in the hiring process of all employees, eliminated questions regarding prior participation in associations from hiring forms, reinstated 63 union members at the Jerzees de Honduras factory at the same level of seniority and provided back pay, recognized the union and started a dialogue and collaboration with the union. Russell also implemented anti-harassment or abuse and discrimination policies and procedures at Jerzees de Choloma and Jerzees de Honduras and took disciplinary measures against supervisors who had been found to engage in harassment and abusive treatment of workers.

In addition, Russell Corporation developed a written retrenchment policy based on objective, nondiscriminatory criteria to ensure compliance with domestic law with regard to notice, severance, benefits for certain workers that receive special treatment, and other requirements. Managers were trained on the new policies. Russell gave hiring priority to Jerzees de Choloma workers at other Russell facilities in the Choloma area* and facilitated reemployment of retrenched workers in non-Russell factories in the Choloma region.

BJ&B, Dominican Republic

The BJ&B sports hat factory in Villa Altagracia, Dominican Republic, was the subject of one of the first Third Party Complaints handled by the FLA in 2002. The complaint centered on violations of freedom of association of workers attempting to form of union. After prolonged engagement, the union was formed and a collective bargaining agreement concluded, but over time the

* It's important to note that at the time the FLA drafted the 2008 Annual Report, the Russell Corporation had closed in 2009 the Jerzees de Honduras factory, where many of the Jerzees de Choloma workers had been rehired. Russell Corporation attributed their decision to a downturn in business, however, new allegations of violations with regard to freedom of association surfaced. The results of the FLA's investigation into these allegations will be reported in the FLA's 2009 Annual Report.

situation at the factory deteriorated as orders declined. In February 2007, management of BJ&B announced the closure of the factory because of economic considerations. There was a great deal of controversy over whether the company had met the spirit and the letter of its collective bargaining agreement obligations with regard to the closure. Although no new Third Party Complaint was filed, the FLA engaged in efforts to achieve a just resolution for workers through FLA-affiliated company Nike, which had contracted with the BJ&B facility, and to promote dialogue between workers and management. The FLA participated in a meeting convened by the International Textile, Garment and Leather Workers' Federation in Santo Domingo, Dominican Republic, that included the factory's owners, unions, brands and the Worker Rights Consortium (WRC). Following the meeting, the FLA released a joint statement with the WRC that included a series of recommendations concerning severance for the workers. Ultimately, the union and management reached an agreement that resulted in additional severance payments for workers.

Estofel S.A., Guatemala

Eight former workers at Estofel S.A. factory in Guatemala City, Guatemala submitted a Third Party Complaint to the FLA in May 2008 alleging a range of labor violations at the factory, including failure to pay the full severance benefits owed workers when the factory closed in November 2007. The FLA first learned of the closure from a labor rights organization and from FLA-affiliate Phillips-Van Heusen (PVH), which had been sourcing from Estofel up until a few months before

the closure. PVH had been contacted by workers at the plant and by Guatemalan labor rights organization COVERCO to assist with collecting full severance payments. PVH pressed Estofel and its business partner, Singaporean company Ghim Li, for full payment.

University of Washington (UW) students, who were conducting field study in Guatemala in February 2008, became concerned about possible violation of workers rights at the plant as well. An affiliate of the FLA and the Worker Rights Consortium (WRC), UW asked the two organizations to work together to seek compensation for approximately 1,000 workers owed benefits as a result of the closure. The FLA and the WRC organized an ad-hoc multi-stakeholder group to manage the resolution of the case. The group included affiliates Hanesbrand, which licensed Champion to GFSI, Inc., GFSI, Inc.; PVH and the University of Washington.

COVERCO, an FLA-accredited independent monitor, was engaged by the group to determine the amount of the severance due each dismissed worker consistent with Guatemalan law. COVERCO verified the payroll records of 974 employees; examined settlement records, payment vouchers and bank deposit records; and established the benefits entitled to all employees, as well as indirect labor benefits that apply only to the workers who were pregnant or breastfeeding.

COVERCO verified that the factory had significantly underpaid the benefits to workers. Through negotiations, Estofel agreed to pay all benefits, except indirect labor benefits, within a specified time frame. COVERCO was engaged to coordinate the worker outreach, which was challenging given



the time that had lapsed since the closure of the factory. COVERCO was able to reach nearly 95 percent of the workers and distribution of payments began in December 2008, with 871 workers receiving additional severance totaling approximately \$526,000 (accounting for the fluctuation in exchange rate). This was an extremely successful and unprecedented outcome for this type of collaborative effort.

Details about the Third Party Process and related reports can be found on the FLA website.

Sustainable Compliance in the Soccer Products Industry: Report on the FLA Soccer Project

PAUL J. BAILEY

The Soccer Project, launched in 2005, was designed to test the sustainable compliance methodology of the Fair Labor Association (FLA). The project capitalized on the interest generated by the 2006 World Cup in Germany to focus attention on labor conditions in the production of a range of products—balls, boots, clothing, accessories—for major brand-name companies affiliated with the FLA.

The FLA's sustainable compliance methodology, also known as FLA 3.0,¹ has as its immediate objective to strengthen the capacity of suppliers to improve and eventually achieve self-sustainable compliance with respect to the FLA Workplace Code of Conduct. It aims at identifying the root cause(s) of persistent and serious non-compliances and devising the means to overcome these problems. It involves the enhancement of monitoring through the addition of a developmental approach and consists of three elements: (1) needs assessment; (2) capacity building; and (3) measurement of progress with respect to identified systemic noncompliance issues. A number of different tools and training modules that have been developed for FLA 3.0 have been extensively tested in the Soccer Project: they include web-based self-assessments, workkey survey tools, training courses, instructional materials, and indicators.

The FLA Soccer Project is being conducted in 17 factories, 9 in Thailand and 8 in China, that supply products (balls, apparel, equipment) associated with the soccer industry to FLA-affiliated companies. On the basis of FLA's previous monitoring experience over the past five years and a series of stakeholder consultations, two compliance issues were selected which had proven difficult for participating factories to address in the past, namely, hours of work (HoW) and grievance procedures (GP).

This report takes an objective look at what the FLA Soccer Project set out to do, how it proceeded, what it accomplished (or did not), the lessons learnt, and what still remains to be done. As such it represents more the views of an "outsider" or external viewer, but stops short of being a full evaluation. It is based on the abundant record-keeping and report-writing by FLA staff that chronicles the transparency and progress of the project to date. It does not repeat extensively material that is readily available elsewhere, such as in the interim report on the project published by the FLA in August 2006.²

The report is structured as follows. The first part provides some necessary background on the soccer project, including the soccer products supply chain, labor standards in China and

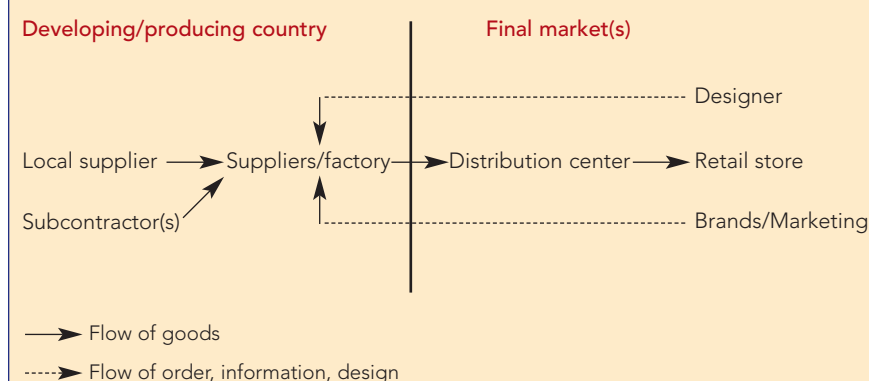
Thailand, and factories where the project has been implemented. The second part describes the set of project activities with brands, owners, suppliers, and other stakeholders while the third part discusses achievements of the project regarding two priority areas identified by stakeholders, hours of work (HoW) and grievance procedures (GP). The fourth part sketches areas for further work and next steps while the fifth draws some lessons from the project. The sixth part presents some general conclusions.

I. Background on the Soccer Project

Diagram 1 depicts the functioning of the supply chain for soccer products. Local suppliers and subcontractors located in developing/producing countries are responsible for the production of soccer products. Design and marketing of products typically occur in final markets. Product flows to distribution centers and retail stores in final markets, most often developed countries.

The conditions under which soccer products are manufactured have been the subject of considerable attention by labor rights organizations for a number of years. For example, some ten years ago, in response to the criticism about the use of child labor in Pakistan, a Memorandum of Understanding was

Diagram 1: Soccer industry supply chain



signed between the industry in Sialkot (Pakistan), ILO and UNICEF at a time when children at home in this region produced the majority of the world's soccer balls, drawing attention for the first time to this industry.³ The industry has since expanded to other production sites such as in China, Indonesia, Taiwan and Thailand.

Concerns persist about conditions of work, low pay and long hours in the industry, not to mention the absence of trade unions and collective bargaining and a host of other industrial relations issues. Since the FLA Workplace Code of Conduct mirrors to a large extent the principles embodied in the ILO's core labor Conventions, Table 1 can serve as a proxy indicator of where China and Thailand—the two countries that host factories in the Soccer Project—stand, in terms of their

commitment by having ratified international standards, on the principles of freedom of association, non-discrimination, forced labor and child labor.⁴

Non-ratification of Conventions 87 and 98 helps explain the weak position of trade unions in these countries and perhaps the absence of a culture that would support the submission of grievances by workers. Likewise, non-ratification by China of the Conventions on the elimination of forced and compulsory labor might also help explain the propensity to resort to excessively long hours and virtually mandatory overtime without a clear differential for additional hours worked.

The Soccer Project was conducted in eight factories in China, of which six

supply *Nike* and two *adidas*. All of the *Nike* factories produce footballs and three of them also make accessories. One *adidas* supplier makes only footballs and the other only apparel. They range considerably in size and employ between 500 and 6,800 workers (average 1,800, with most under 1,300 employees) for a total of about 15,000 workers (almost two-thirds of whom are women). The number of down stream sub-contractors varies greatly from factory to factory: the larger the number of suppliers, the greater the dependency on them for components, and the higher the chances of a break down in the supply chain. The two *adidas* factories are the largest. One *Nike* factory producing footballs and accessories has declined to participate in the HoW segment of the project because of pressures of peak production coinciding with important activities of the project.

There were initially ten factories in the Soccer Project in Thailand, seven producing for *Nike* and three for *adidas*. The *Nike* supplier factories only produce apparel, while one *adidas* supplier produces footballs and two apparel. They employ between 460 and 3,600 workers (average 1,900) for a total of about 17,000 workers, 80% of whom are women. The largest factory

Table 1. Ratification of ILO Core Conventions by China and Thailand

		China	Thailand
Freedom of Association and Collective Bargaining	C.87		
	C.98		
Elimination of Forced and Compulsory Labor	C.29		26.02.1969
	C.105		02.12.1969
Elimination of Discrimination in Respect of Employment and Occupation	C.100	02.11.1990	08.02.1999
	C.111	12.01.2006	
Abolition of Child Labor	C.138	28.04.1999	11.05.2004
	C.182	0.8.08.2002	16.02.2001

Table 2. Principal Soccer Project Activities, 2005–2008

Year	Activity/Country	T-o-T	Brands	Factory Owners	Suppliers	CSO/NGO	Workers
2005	Initial consultations (C, T)		√		√		
	Training on BSC Pilot 1(C)				√		
	Master training on BSC (for FLA staff) (C)	√					
	BSC self-assessment and in-depth review (C,T)				√		
2006	Training on BSC Pilot 2 (C)				√		
	Analysis of training (C)				√		
	NGO Forum (C, T)					√	
	Initial meeting with key stakeholders		√	√			
	Gap analysis and identification of training needs (C, T)				√		
	Feedback on training needs (C, T)				√		
	Training on Guidelines of Good Practice (C, T)				√		
	Training on BSC (C, T)			√			
	Foundation Course (C)		√				
	Training on Guidelines of Good Practice (C)	√					
	Worker interviews (focus group discussions) (C,T)						√
	Training on Improving Working Time Management (C)			√			
2007	Training on Guidelines of Good Practice (C)				√		
	Training Workshop on Guidelines of Good Practice (C)					√	
	Training on grievance procedures and Guidelines of Good Practice (T)	√					
	Training on grievance procedures (C), (two sessions)	√					
	Training on dispute settlement (C, T)				√		
	Training on grievance procedures and Guidelines of Good Practice (T,C)	√	√				
	Training on SCAT				√		
	Meeting with CSOs (T)					√	
	Training on Guidelines of Good Practice (C, T)	√					
2008	Application of SCAT (C, T)				√		
	Training on hours of work (C, T)				√		
	Root cause analysis (C, T)		√		√		
	Application of SCOPE (C, T)					√	√

C- China
T- Thailand

producing apparel for *adidas* is no longer participating due to its closure in mid-2007. Two *Nike* apparel-producing suppliers are not participating in the HoW component of the project.

II. Project Activities

Project activities with brands, owners, suppliers, and other stakeholders were conducted in a highly transparent fashion. This “process” included: communication with brands, factory owners and suppliers, focus group discussions with workers, meetings, factory visits, consultations with NGOs and trade unions, buyers and suppliers, workshops, training sessions, evaluations and newsletters. Principal Soccer Project activities, by stakeholder involved, for the period 2005–2008 are shown in Table 2.

The project initially held consultations with suppliers in Bangkok on October 17, 2005, and in Shanghai on October 19, 2005. The Bangkok consultations were attended by 12 suppliers and representative buyers (FLA-affiliated companies), while the Shanghai consultations were attended by 7 suppliers. The agenda and format of both consultations were similar: (1) presentations on issues related to corporate social responsibility and labor compliance by invited academics and local and international experts and practitioners; (2) description of the FLA Sustainable Compliance Program and of the Soccer Project methodology and implementation procedures and timelines by FLA staff; and (3) open discussion on any aspect of the FLA Soccer Project.⁵

The FLA also held a series of stakeholder forums to engage its other constituents on the project's goals and objectives and implementation process. The first two civil society consultations were held in March and April 2006 in

Hong Kong and Bangkok, respectively. The top five problems identified by the NGO Forums held in Hong Kong and Bangkok were:

- Excessive and forced OT.
- Delays/defaults in wage payment, wage deduction without prior notice, minimum wage not guaranteed, wages far below living wage in some areas.
- Occupational disease, poor working conditions, accidents and injuries at work.
- Absence of trade unions, or workers' self-governing organizations.
- OT payments not guaranteed, OT premiums not paid.

These well-documented activities of the project—meetings of brands, owners, suppliers, stakeholders; assessments, trainings, measurement of progress—demonstrated a very transparent process in which all had the possibility to be involved. In 2007, the emphasis of activities was on capacity building; with the FLA making capacity building services available to suppliers directly and also training (through Training-of-Trainers) private sector organizations and individuals who would be able to provide quality training services to factories. In 2008, the FLA began to apply measurement tools to develop baselines against which to measure the impact of its capacity building activities.

The Soccer Project has been the laboratory in which the FLA tested and refined a number of tools in its sustainable compliance toolbox. These tools are:

- **SCAT—Sustainable Compliance Assessment Tool:** A SCAT is an on-line questionnaire with multiple-choice questions. It is a

self-assessment filled out by the supplier on the Assessment Portal. The results of the SCAT will show the supplier the strengths and weaknesses in their organization on the chosen issue. A different SCAT is developed for each Priority Issue (see below for Priority Issues).

- **SCAT+:** The SCAT+ is the tool used by an assessor during external verification of results after a capacity building period has taken place. It covers the same areas as the SCAT, but the SCAT+ also includes additional check lists and verification of documents.

- **SCI—Sustainable Compliance**

Indicator: SCIs are indicators developed to measure and record the progress made during Capacity Building phase of a Priority Issue. SCIs can be downloaded from and uploaded to the Assessment Portal. SCIs are filled out by the supplier. A SCI is basically a key performance indicator (KPI).

- **SCIM—Sustainable Compliance**

Instructional Material: A SCIM can be a face-to-face training, written documentation, or an interactive on-line course with examples and videos. SCIMs are developed for each Priority Issue either by the FLA or in collaboration with local service providers. Local SCIM trainings exist on issues such as: Dispute Settlement (Grievance Procedures), Hiring and Discipline. More SCIMs will be added over time.

- **SCOPE—Sustainable Compliance**

Perceptions: SCOPes are worker interviews done by a local service provider. The SCOPE and the SCAT (or SCAT+) results together give a more complete picture of a supplier's situation. A different SCOPE is developed for each Priority Issue. The

questions are multiple-choice ones, and the result is given as a degree of compliance.

III. Soccer Project Priority Areas

The consultations with buyers, suppliers, and civil society representatives led to the identification of two priority issues for the Soccer Project: grievance procedures (GP) and hours of work (HoW). These were not only two major items where non-compliance had been consistently detected in past monitoring, they were also regarded as key to improving code compliance in other areas. Good grievance procedures are vital to the implementation and effectiveness of the code of conduct since they provide a channel for workers to resolve issues of noncompliance and give management feedback on how the code is being implemented and experienced. Excessive hours of work often lead to numerous other code violations, including underpayment of wages and overtime premiums, denial of rest days and holiday periods and can lead to occupational safety and health problems. They also have serious consequences for workers in terms of fatigue and work/life balance.

All factories taking part in the training needs assessment for China indicated that they were interested in participating in trainings offered by the FLA on the topics of “Balanced Scorecard Strategy Development” and “Grievance Procedures.” Four factories were interested in training on “Productivity Improvement.” A number of other training needs were brought up by the factories, including communication/leadership skills at different management levels, HRM, supply-chain management, and life skills for workers.

Before getting into the specifics of the

two different areas treated, it is important to note that—as with all pilot projects—one of the goals is to evaluate the process and tools and ensure that they work in the desired way, and if necessary make changes.

This is also true for the Soccer Project and some of the tools and processes have changed during the course of the project. To give a concrete example of the first priority issue treated, Grievance Procedures, worker input was handled by focus group discussions

carried out by a local organization. For the second priority issue, Hours of Work, this part of the process had evolved into a standardized worker survey (SCOPE) that mirrors the self-assessment the factory management takes and that is filled out by a statistically viable sample of the entire workforce. Hence—the issues treated in the project have not been handled in strictly the same fashion.

Box 1: Excerpt from FLA Principles of Monitoring

Reporting and remediation of noncompliance

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 and workplace standards, with security that they shall not be punished or prejudiced for doing so.

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

Grievance Procedures (GP)

Unlike HoW, which is anchored on the FLA Workplace Code of Conduct and regarding which outcomes are readily quantifiable (i.e., maximum 48 hours + 12 hours OT per week, with one day off in seven), GP relate to Obligations of FLA Companies and to the Principles of Monitoring (see above) and there is no quantifiable blueprint on what a GP should look like and how to achieve it. The greater involvement of human rights, labor, religious or other leading local institutions, as recommended by the FLA, might help in developing best practices models, but additional training and information may be required.

The overall importance attached to GP varies and workers' needs differ considerably depending on whether or not the workforce is largely composed of migrants. In factories with mostly migrant workers, the demand for a functioning grievance system is more explicit and workers made various suggestions during the focus group discussions held early on in the project.

Workers' involvement in the design and implementation of a GP is generally very low. Even in factories with employee representatives, opportunities for participation are rare. A vast majority of workers expressed their preference for a grievance system formed jointly by labor and management. They also expressed interest to have greater worker involvement in the grievance resolution process.

Even in factories where workers stressed the importance of GP, the majority had rarely used the existing system, for varying reasons. Interviewees stressed the following points as areas for improvement: a faster and more transparent process of resolution; a "better attitude" among managers towards workers lodging

Box 2 : FLA Workplace Code of Conduct

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.

grievances; and more worker participation in the process of resolving grievances.

Although most factories had established more than one grievance channel, many of them were used only nominally by workers, for varying reasons. Nearly all depended almost entirely on their line managers to resolve grievances, although none of the factories provided training to managers on conflict or grievance resolution or had any explicit protocol for dealing with such cases.

After the initial results, training sessions on Guidelines of Good Practice, Grievance Procedures and Dispute Settlement, as well as Balanced Score Card, have been held in both countries, and a period of capacity building has taken place in the factories. In order to measure the impact of the project so far, the FLA decided to meet with the factories in late 2007 to discuss how the project was perceived and what changes had taken place.

Two workshops were held in China and Thailand the first week of December 2007 where representatives of the brands and factories could discuss their experiences, what they had learned, what had changed and what had been challenging. A few items stand out because they were mentioned in most groups in both countries:

- Their way of thinking in regards to GP had changed. While earlier they saw "no grievances" as good, they now understood that this is not necessarily the case. The phrase "change in mentality" came up several times.
- GP in factories changed and were now more detailed although quite a few informal channels were still in place (and not always documented),
- They still had difficulties in "motivating" workers to submit grievances.
- Difficulties were also encountered in training personnel who receive and handle grievances.

Hours of Work (HoW)

The selection of HoW as one of the priority issues served to demonstrate how the FLA 3.0 methodology could be used not to accuse companies of working excessive hours but to get at the possible root cause(s) of the phenomenon, and eventually devise remedial solutions. This root cause analysis was initially conducted through a self-assessment completed by management followed by an in-depth review with FLA staff. Workers attitudes were gathered through focus group discussions, at the beginning of the project, and again early 2008 involving a second generation of the self-assessment tool and the standardized worker survey.

In many countries, laboring 60 hours per week is legal. Shift work is largely unknown. Therefore workers commonly arrive at 06:00–07:00 in the morning and go home at 18:00 or 19:00 in the evening—or later—when the job is done. Under such a system, it is unclear to the worker when his or her regular hours end and when OT begins and at what (increased) rate of pay this OT is compensated. As a starting point, a clearly printed pay slip indicating when normal hours have been reached and when OT begins would be a major step in helping workers understand what they are getting from their extra efforts.

If higher wages or productivity incentives could be established, workers could reach their income targets in a shorter period of time and would not have to seek more OT in a factory or move to another that offers more OT. This would reduce labor turnover and the knock-on effects of that mentioned above. If the wage is too low in the first place, OT in and of itself will not solve the problem, but rather productivity increases, based on incentives.

Employers in China and Thailand have generally been slow to link excessive HoW to work organization and productivity/quality issues. Greater use of LEAN production methods, TQM, and team work could significantly reduce working hours without necessarily reducing wages. Studies have shown (in China) that productivity can be increased by 40% to 50%, if any of the above methods are used.

While productivity increases are of interest to employers as a means to reduce excessive OT, workers are only interested if decreases in HoW result in the same or higher income. The main problem here is converting the low levels of production efficiency into higher quality, better paid work. A



solution might be (1) to carry out case studies on where improvements have taken place (i.e., to highlight best practice); (2) for FLA to provide support in the short term for specific measures; and (3) to establish an action plan for each participating factory.

1. One of the issues that surfaced was that workers at factories supplying FLA participating companies wanted to work more hours and were leaving these factories to get more overtime (OT) hours elsewhere, or in some cases not even accepting offers of employment from factories supplying FLA participating companies when they learned about the 60 hour work week limit provided for in the FLA Workplace Code of Conduct.

The resulting high turnover of workers creates a vicious circle that undermines production efficiency and hence requires the remaining workers to work longer. It also adds to costs and increases the likelihood of wages and benefits not being paid in full or on time. Since workers are often drawn from rural areas far from the factory, replacing them is a cumbersome and costly process and if a factory is not

certain about future order levels, management may prefer to simply work the existing workforce longer and harder rather than hire additional workers who may be surplus to requirements in a few months time.

According to the information available from the initial workshops, an FLA suggestion to provide productivity incentives as a means of both reducing OT and retaining workers was not immediately accepted. The argument that excessive OT contributed to low productivity, absenteeism, high turnover and safety and health problems did not seem convincing to the factory owners. It should be noted that in other countries, OT is frequently built into a contract to allow workers to earn more, or workers can delay (or slow down) work to necessitate OT. Where most workers are migrants and are far away from home without their families, OT is often the preferred alternative of workers to sleeping in a company dormitory, or engaging in drinking, gambling, and so on. In many industrialized countries a higher rate of taxation on OT earnings acts as a disincentive on excessive hours, but this is obviously not the case regarding China and Thailand.

One question that arises, but cannot be fully answered, is whether the original wage (based on 48 hours + 12 hours OT) allows workers to meet their basic needs, without having to resort to additional excessive OT, or, whether they are merely working for the short term to amass as large a nest egg as possible quickly and then to return home. It is also distressing to note that 60 hours per week (i.e., 48 hours + 12 hours) increasingly appears to be regarded as the norm, and only work beyond 60 hours per week as OT. Responses to the self-assessment indicating “80+” hours per week suggest a 16-hour work day in a five-day week, 13 hours a day in a six-day week, and 11.5 hours a day in a seven-day week. Furthermore, one factory cited the practice of informing workers of pending overtime—beyond that allowed by the FLA Code or the law—and then obtaining a government permit to legalise the extra hours

Some issues with respect to HoW that arose from the experiences of Chinese workers include:

- None of the eight factories in China had a functioning system for involving workers in the development of a company policy on HoW.
- All eight factories relied on some OT beyond 60 hours/week during peak seasons or for rush orders.
- The worker interviews highlighted the relationships between pay systems and extent of OT: workers in factories and units receiving hourly wages expressed a stronger demand for more OT than workers in factories with a piece-rate pay system.
- A clear link between more OT and the level of motivation of workers could not be established during the interviews.
- Interview questions related to the relationship between the method of production and extent of OT revealed that workers in factories that adopted a LEAN management system expressed a stronger demand for OT than workers in factories with other methods of production.
- The collective piece-rate pay system tends to only consider the existing wage level and not an actual OT premium payment.
- All eight factories used local minimum wage levels as the reference when calculating OT, rather than the actual or average wage.

2. A second issue mentioned regarding the need for OT was problems with the supply chain.

There were often delays in placing or confirming orders, or last minute changes in specifications. This delayed the start of production and led to backlogs that needed to be made up through extra-hours of work in order to meet shipment deadlines. In addition, components often arrived late or were not up to standard. Finally, power cuts frequently disrupted production.

If orders or components had arrived on time, presumably OT would not have been required. However, there are a number of actors involved in the supply chain who would all have to make changes to their systems for placing or filling orders. At this point in time there is no forum or process for resolving conflicts between the systems of the buyer, the supplier and the sub-suppliers, so the only option is to increase the capacity of each actor to plan and execute orders and to make them aware of the impact their decisions have on the other actors. The FLA may provide a platform for this capacity building and awareness raising.

Finally, dealing with delays resulting from power cuts is a more complex issue and beyond the scope of the FLA Code of Conduct—but it is a real problem. A quick fix might be the installation of solar panels or other alternative forms of electricity generation to keep essential operations moving, but there is a question of size, capacity, availability of fuel, cost and the resulting pollution.

Ideally, improving supply chain management would help productivity all the way around, but there are limits regarding how far the FLA can realistically go to change the situation in the short run. If delays in delivery are due to mismanagement, this could be corrected, or at least improved, through capacity-building. If however, they are due to the supplier not delivering components on time or goods of poor quality for whatever reason, remediation is much more complex.

IV. Next Steps

At the December 2007 workshops to evaluate progress, training modules were reviewed. Most participants opined that the module on the Balanced Score Card (BSC) was the most complicated and that just training compliance personnel was not enough. BSC is a strategic tool and top management needs to be committed to it and trained before it could be put in place.

On HoW, it has been noted that there is less OT in factories with piece rate systems, although additional pieces over the norm are not compensated at a higher rate. This suggests that the piece rate system deserves a closer look because of its potential to affect overtime.

With regard to GP, more thought should be given to what exactly various models might look like. It was mentioned on



many occasions that most complaints were to the immediate supervisor, who was ill-prepared or trained to deal with them. This suggests the need for more and better training. One point that is unclear is the level and degree of conflict resolution and the number of filed grievances that get solved. More emphasis should be placed on the actual solution of complaints.

A possible way forward might be, in discussion with the various actors, to establish measurable targets (action programs) for each participating factory with respect to HoW and GP, along the lines of:

- What can be implemented immediately, or at least in the short-term (e.g., six months) by the factories on their own, without assistance;
- What could be implemented within a year (or other reasonable medium-term time frame) with some external assistance, training, etc.; and
- What could be aimed at over the long-term assuming sufficient resources and assistance were available?

For example, with respect to HoW, the following steps might be taken: (1) provide each worker with an easy to

understand pay slip, indicating regular hours worked and OT (plus rates if possible); (2) if OT rates are not being paid, do so; and (3) introduce a shift system, or piece-rate system to comply fully with FLA requirements.

With respect to GP, one might ask for: (1) examples of successfully resolved conflicts; (2) what worked and why, and if this is replicable, and (3) what didn't work and why not.

Since the workshops in 2007, the suppliers all agreed to start over with HoW; factory management filled out the web-based self-assessment in early 2008. This was followed by the worker surveys and each factory received the results for analysis.

Since then the FLA has also held two training sessions on its developed Hours of Work training module—one each in China and Thailand in May. After the training session the factories have developed capacity building plans with concrete measures and are in the process of implementing those plans while using indicators to record the progress.

Still to be carried out late in 2008 is the independent external assessment that will complete the cycle of both Grievance Procedures and, at a later stage, HoW. The first independent external assessments are planned for the second half of 2008.

V. Lessons Learned

Overall the project has shown that it is possible to go beyond mere auditing to engage stakeholders, buyers, and suppliers, using qualitatively different tools in a sustainable fashion. The participative approach—involvement with suppliers and brands as well as local stakeholders—proved to be workable. Moreover, the application of the methodology through the

soccer project provided the opportunity to develop an array of methods and tools (self-assessments/worker interviews; capacity building materials, training of trainers (TOTs), tools such as SCAT/SCIM/SCOPEs and web-based portals) that can serve as the backbone for the broader implementation of FLA 3.0.

Participants were particularly positive about the quality of the training and trainers, their ability to learn more about the FLA and the new cooperative relationship among factories and between factories and the FLA. GP training received the most comments, and this module was rated between “very useful” and “OK.” For other modules, the responses on their usefulness differed. Nevertheless, on the whole, more training was desired. In response to the question of whether the training on GP made a difference, the comments on the whole were positive and included the following: great improvement, deeper understanding of contents and handling of grievances and complaints; more harmony, improved confidence level of workers in relation to submitting a grievance, reduction of complaints; for other respondents, the training on GP made no difference. On how FLA managed the project, the responses were quite varied, ranging from a few “well,” many “OK,” some “don't know” or blank, and a few “not so well.” Others commented that the project is still ongoing and that they looked for continuous improvement. In addition, there were requests for follow-up after training, that activities be conducted as planned in order not to avoid confusing the participants, and for more communication.

Training continued to be the most desired follow-up item, with more

wanted rather than specific changes in how it was provided (with the exception that more time was requested during the training to digest what was being provided). Additional items requested included: training on HR Management/Workplace standards, more local issues, e.g., new Chinese Labor Contract Law, and hours of work.

Other lessons learned from the Soccer Project include:

- The need for confidence building was identified as a crucial factor. It appears to have taken some time to convince companies that they were not being monitored for non-compliance using the policing model, with all the negative implications this would have.
- It also took some time and effort to get the idea across to factories that this was not just another activity with punitive implications, but rather one aimed at identifying the root cause(s) of a problem, so as to devise remedial action to eliminate or reduce it and prevent re-occurrence in the future.

More emphasis needs to be placed in clarifying objectives and expectations at the outset. At numerous points in the project, staff and trainers realized that not all participants were clear on the objectives and this detracted from the benefits of the training.

- There was a lack of clarity in the trainings regarding terms like “policy” and “procedures.” There may have been difficulties with translation or there may be a lack of equivalent concepts in local languages. Other terms that were difficult to get across were “efficient communication” and “properly supervised.”
- Although FLA Soccer Project staff consistently tried to convince suppliers and owners that reducing HoW to the

legal limits will have a positive impact on performance, productivity, occupational safety and health, and well-being of workers, the message has been slow in getting through. Once factories become convinced that productivity gains can be achieved, despite a reduction in working time, and workers (through incentives/bonuses) see that there will be no loss of income if targets are met, it may well be possible to remain within the upper working time limits set by the FLA Code. Nevertheless, additional training material will need to be developed, utilized and monitored.

- Eventually, the high cost of recruiting and training new workers may wake employers up to the benefits of retaining their existing workforce, but this would have to be done without meeting the workers’ desire for increased OT.
- The ultimate problem with the issue of long hours may well be that developing countries are not yet attuned to the 8-hour day, 40-hour, 5-day week, plus limited O/T as required. Changing this perception may require/necessitate societal changes. In addition, long hours seem to be as much of if not more of a push-pull factor than anything else. Workers want longer hours as much as, if not more than, employers.
- On the whole, there was probably no single root cause for lack of compliance with the OT and GP provisions of the FLA Code or other benchmarks, but rather a number of root causes, each of varying weight and some more amenable to remedy than others.
- The lack of worker involvement in the establishment of HoW and GP systems may well explain the inadequate functioning of such

systems. Realistically however, ordinary workers, and especially migrants, should not be expected to have sufficient knowledge of such complex industrial relations issues. It is probably fair to say that the absence of strong trade unions or other forms of worker representation contributes to this state of affairs.

- The factories involved in the Training Needs Assessment (TNA) for China provided extensive feedback on the first generation sustainable compliance assessment tool (SCAT), which they found partly too general or unclear and partly too similar to an audit tool. As a result, the FLA has revised the tool. As the Soccer Project served as a pilot for FLA 3.0, the evaluation and revision of tools has been an important part of the process.

VI. Conclusion

This report on the FLA soccer project takes an objective look at what this sustainable compliance project set out to do, how it proceeded, what it accomplished (or did not), the lessons learned, and what still remains to be done. As such it represents more the views of an “outsider” or external viewer, but stops short of being a full evaluation.

As with any work in progress, it is difficult to step in at any given point and take a single snap shot of where a project is at, knowing full well that the camera is still rolling and events are unfolding. In addition, an analysis of written documentation can only go so far and would need to be supplemented by additional insider comments from actual participants in events, to the extent possible.

On the whole, targeting on a single economic sector—the soccer industry—

serves to focus attention on the problem at hand. Once correctly understood, the new FLA 3.0 methodology will contribute to fostering a sustainable compliance culture rather than one based on monitoring only for violations to expose non-compliance (the so-called “name and shame” mentality) which did not identify the root cause behind the non-compliance, nor provide any guidance on how to correct it. The previous approach also encouraged companies to devise strategies to avoid detection (the proverbial “cat and mouse” game) rather than to change or modify behavior. On the whole FLA is changing from an auditor to be an active partner; sustaining the momentum for change will be a significant challenge.

Calls for additional training, the expansion to other items in the FLA Workplace Code of Conduct, inclusion of more than just soccer industry-producing factories, increased involvement and dialogue between all parties in the supply chain (sub-contractors, suppliers, factories, brands, consumers) and improvement of communications, etc., must be viewed positively. The challenge will be to respond to these requests.

Overall, the root-cause-analysis approach succeeded, but with the consequence of usually pointing to multiple causes not just one, all of which would need to be dealt with, but for which additional detailed individual training modules would need to be developed. The problem here will be delineating what falls within FLA’s existing mandate, and because of the size and number of the problems, and presumably limited resources, to prioritize what can be done and where to start on a step-by-step basis.

Endnotes

1. For more information on FLA 3.0 see, http://www.fairlabor.org/about/fla_30_-_toward_sustainable_compliance
2. FLA Soccer Project Interim Report (August 2006).
3. The agreement is generally known as the Atlanta Agreement. See <http://www.imacpak.org/atlanta.htm>.
4. The information on ratification of ILO conventions originates from <http://www.ilo.org/ilolex/english/docs/declworld.htm>
5. See http://www.fairlabor.org/docs/Soccer_Supplier_Consultation_2005.pdf

About the Author

Paul J. Bailey is a consultant and researcher with 28 years of experience working for the International Labour Organisation. He was a research coordinator for twelve years focusing on multinational enterprises, served as ILO Director for two years in Dhaka and two years in Manila. He has a wide range of expertise and written extensively on corporate social responsibility, and has conducted on-site inspections in the ship breaking, automotive and garment industries. He has undertaken projects in Bangladesh, China, India, Pakistan, Philippines, Thailand, Turkey and the USA.

Worker Participation and Engagement: The Key to Long-Term Improvements in Labor Rights Implementation

CAROLINE REES

In June 2008, Professor John Ruggie, the UN Secretary-General's Special Representative for Business and Human Rights, presented his third report to the UN Human Rights Council. It sets out a three-part framework through which to take forward the business and human rights agenda. The framework—which has received the broad support of business, government and civil society organisations and was welcomed by the Council—comprises three principles: the State duty to protect against human rights abuses by business; the corporate responsibility to respect human rights; and the need for more effective access to remedies.¹

For leading companies in all sectors, the idea that they have a responsibility to respect human rights—to 'do no harm'—is neither novel nor conceptually challenging. Many already reflect a commitment to respect human rights through a company policy statement or adherence to an external set of standards, such as the Global Compact's² human rights principles or an existing Code of Conduct.

Yet moving from the idea of a responsibility to respect human rights to delivering this in practice across a company's operations is much less straightforward. It is not simply a

negative obligation of refraining from certain actions. It frequently requires proactive policies and procedures to be in place. But what exactly are they? Or, as Ruggie asks: "how do companies know they respect human rights? Do they have systems in place enabling them to support the claim with any degree of confidence?" "Most," he concludes, "do not."³

That is not to say that companies have been idle in the face of the challenge. Indeed, there has been much experimentation. One sector leading the way has been the apparel industry, which was the target from the early 1990s of a series of high-profile campaigns alleging human rights-related abuses in their supply chains. As a result, individual brand companies developed their own in-house codes and practices. Subsequently, codes of conduct covering labor rights sprang up through multi-stakeholder initiatives, such as those of the Fair Labor Association, Social Accountability International, the Ethical Trading Initiative and the Workers Rights Consortium.⁴

Traditional approaches to ensuring compliance

In most of these initiatives, the primary focus was on ensuring compliance with

standards through monitoring and auditing systems, sometimes accompanied by verification and/or social performance reporting. Yet the limitations of auditing and monitoring have become increasingly clear over time.⁵ Major brand companies have found that they lead to only limited improvements in suppliers' compliance with their codes of conduct.⁶ The conclusion increasingly being drawn is that such systems are important but insufficient to the task of improving labor rights implementation. What, then, is needed to make the difference?

One of the obvious features of any monitoring or auditing system is that it is a top-down process, typically defined and controlled by the management of a company, even if external providers may implement parts of it on their behalf. These systems are designed to account to company management, shareholders and/or interested third parties (often western consumers, NGOs and investors) regarding the company's impacts on the labor rights of workers in its supply chains. Those impacted—the workers themselves—remain largely passive objects in the process, with at most a few of them the occasional subject of an auditor's interview.

This is a huge missed opportunity. For

the management of a factory and the companies that source from it, having a means to receive on-going, self-initiated feedback from workers on their concerns is equivalent to having a finger on the pulse of a factory's performance with regard to labor rights. Without this feedback loop, problems are missed that may escalate and impact operations through reduced productivity and staff retention, increased errors, accidents, strikes or worse. This is true whether or not every concern is well-founded. For example, complaints that result from workers having misunderstood information on their paychecks can be easily resolved; left unaddressed, the continuing sense of grievance is no less a potential problem for the factory than if the paychecks were in fact wrong.

Worker Participation: The role of effective, rights-compatible grievance mechanisms

It is only by developing effective day-to-day communications between management and workers that this obvious gap can be filled. And a core component of this must be an effective mechanism through which workers can voice concerns and complaints, without fear of retaliation and with confidence in being heard. It is this bottom-up approach, empowering the voice of the workers themselves, that must complement more traditional top-down systems such as auditing and monitoring.

It is not the proposition here that effective grievance mechanisms in factories are the panacea for the challenges a company faces in ensuring compliance with labor standards. Indeed, where these mechanisms are seen to work best, the evidence suggests they are typically part and parcel of wider practices of open and trusted communications between workers and

factory management. Other systems are also essential to ensure the company is respecting rights, such as the wider due diligence process set out in Professor Ruggie's report to the UN. However, such is the potential importance of effective grievance mechanisms that—as the Ruggie report also reflects—they merit attention in their own right.

This has been the intent behind a project at the Corporate Social Responsibility Initiative (CSRI) of Harvard Kennedy School entitled “Corporations and Human Rights: Accountability Mechanisms for Resolving Complaints and Disputes.” Launched by the CSRI in January 2007 in collaboration with Professor Ruggie's

mandate, and based on an extensive range of multi-stakeholder consultations, the project has explored what models of grievance mechanism exist at the company, industry, multi-stakeholder, national, regional and international levels. The CSRI project has engaged stakeholders in identifying what makes grievance mechanisms effective or ineffective in practice, in what circumstances and why.⁷

The first phase of the project culminated in the publication of a Guidance Tool for companies and their external stakeholders on developing rights-compatible grievance mechanisms at the operational level.⁸ The Guidance Tool sets out seven principles, supported by a

Harvard Kennedy School's Corporate Social Responsibility Initiative

The CSRI project has now begun a second phase of work, aimed at facilitating access to information about the kinds of grievance and dispute resolution mechanisms that exist in different countries and sectors. The lack of such information has been identified by all stakeholder groups as a barrier both to accessing these mechanisms and learning from them. In its first year, the project undertook an initial mapping of some existing mechanisms, yet this represents the tip of an iceberg. Questions remain about the wider array of grievance mechanism around the world, how they work, how to access them, what processes and outcomes they can provide, and what expert resources (advisory services, mediators, etc.) can assist their use. Equally, progress in improving and learning from such mechanisms is hindered by the lack of information about different models, what has worked where, when and why; what outcomes they are producing and what they might mean for corporate policies and procedures that can avoid repeat disputes.

The project will seek to address this gap by developing an open-source, web-based resource and learning network in the form of a 'wiki'. This will be a virtual resource where individuals and organisations around the world can find, post, edit and discuss information about grievance mechanisms and the resources that support them. It will focus on building high quality information about grievance mechanisms, but will not itself be a place to lodge grievances. The project is being developed in support of the mandate of the UN Secretary-General's Special Representative on Business and Human rights, Prof. John Ruggie, and in collaboration with a variety of interested organisations and networks of mediators, companies, NGOs, academics and others. A beta version will be launched in fall 2008.

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number of guidance points and more detailed explanatory text. It deliberately leaves scope for companies and their stakeholders to develop processes in line with their size, sector, local culture, needs and challenges, within the framework of the principles. For example, in small and medium-sized companies they can be implemented with a relatively light touch and low cost.

The seven principles, read in the context of workers' rights, require that a grievance mechanism be:

- 1. Legitimate and trusted:** The grievance mechanism should be perceived as legitimate by the workers who may need to access it, and should be jointly designed and overseen by the management and workers concerned.
- 2. Publicised and accessible:** The grievance mechanism should be publicised to, and readily accessible by, all workers who may need to access it.
- 3. Transparent:** The grievance mechanism should operate on a presumption of transparency of process and outcomes, while allowing for dialogue to remain confidential and, where requested, for complainant confidentiality.
- 4. Based on engagement and dialogue:** The grievance mechanism should focus on engagement and dialogue between the parties, with the aim of identifying sustainable, rights-compatible solutions that are acceptable to all.
- 5. Predictable in terms of process:** The grievance mechanism should provide predictability in terms of the key steps and options within the process, should be time-bound where appropriate and provide for agreed outcomes to be monitored.

6. Fair and empowering: The grievance mechanism should seek to redress imbalances in power, knowledge and influence between the management and workers to enable informed dialogue, a shared responsibility for outcomes and a process based on respect.

7. A source of continuous learning: The effectiveness of the mechanism should be measured and cumulative lessons from complaints should be reviewed to identify systemic changes needed to either management practices or the workings of the grievance mechanism.

Evidence gathered in the course of the CSRI project shows that in many instances companies—whether major brand companies or supplier factories—do have some form of 'complaints' or 'grievance' mechanism in place for supply chain workers. Indeed many codes of conduct require that they do so, as does that of the FLA. However, in practice these mechanisms often provide only the 'front end' of an effective grievance mechanism—namely access (a complaints box, hotline, or worker or management contact point) and internal assessment or investigation of a complaint.

Both these steps are important, provided they protect the complainant from retaliation. Yet that is typically where the process ends: the management decides on some action to be taken and may—though does not always—inform the complainant of that response. If those bringing the complaint support the outcome, that may be fine. If they don't, this centrally-controlled process, with management as the sole arbiter of the outcome, makes the company both defendant and judge in the eyes of the complainant. The process can quickly

lose legitimacy and the complaint may compound into an on-going sense of grievance. Furthermore, since there is rarely any systematic recording of complaints—starting with the most minor concerns raised with supervisors on the factory floor—there is also no capacity to spot trends and patterns that point to systemic problems and enable improvements that can prevent the same grievances from recurring. Such 'front-end' grievance mechanisms can ironically exacerbate rather than resolve grievances, counter to the interests of all concerned.

Engaging workers directly in raising and resolving grievances

Little surprise, then, that emerging research appears to confirm that grievance processes are most effective—for workers and management alike—where they provide for dialogue and are embedded in management systems that encourage worker-management interaction.

Project Kaleidoscope was a collaboration between 2002 and 2007 involving McDonald's, Walt Disney and seven organisations concerned with labor rights issues, including investor groups. It sought to improve working conditions in facilities in corporate supply chains through a system dubbed 'Dynamic Social Compliance'.⁹ This consists of two components: "two-way communications—bottom-up, as well as top-down—that seek to engage key stakeholders, including workers and supervisors, as well as managers, in collaborative efforts to identify issues, develop solutions and monitor progress...[and] an internal compliance management system that registers and responds to the many internal and external factors that can affect compliance at the facility level."¹⁰

The project—focused on 10 factories in China—showed that “[b]etween 78% and nearly 100% of workers surveyed at the participating factories said conditions had improved since the systems-based approach was implemented.” It equally found that “[t]he factories see value in actively managing the compliance process. They perceive its advantages for their business interests.”¹¹ While this project was not focused on grievance mechanisms, procedures to address workers’ concerns through two-way communications and a collaborative search for solutions were central to the systemic changes it introduced.

Meanwhile, the FLA, which has led the way among multi-stakeholder initiatives in recognizing the importance of the quality of grievance mechanisms, has conducted preliminary research specifically on this issue.

In the course of 2007, the FLA conducted a review in five Thai and six Chinese factories supplying either Adidas or Nike, using the SCOPE and SCAT tools developed under FLA 3.0.¹² They surveyed workers and management on their perceptions and experience of grievance mechanisms in the factory. The results showed a fairly strong correlation between the integration of workers in a grievance procedure and the successful implementation of that procedure. “In other words, workers who feel integrated in the factory’s operations and the grievance procedures are much more likely to actually use the different channels and voice their concerns.”¹³

The business case for effective grievance mechanisms

But why is this good news for factory management? An increased rate of complaints is not, at first blush, an appealing prospect for most managers.

However, the evidence from the FLA SCOPE survey also bore out the view that effective grievance mechanisms contribute to improved economic performance. Those factories that had better grievance mechanisms, which integrated workers into the management of grievances and saw high uptake of the mechanisms, had lower turnover rates and rarely lost workers to other or better paid factory jobs. In turn, factories with a low worker turnover rate reported that they delivered almost 98% of their production on time, while factories with a high turnover rate (above 8%) said they delivered only around 80% of their production on time.¹⁴ Furthermore, although complaints initially increased with worker integration into grievance procedures, once there was a high level of integration, it flattened and even declined. The report ascribes this to the fact that in factories with high worker integration, there were also other channels for workers to voice their opinion, problems and discontent.¹⁵

This is a preliminary set of findings from the early months of important work by the FLA, and it will need further corroboration over time. There are other variables in play that no doubt contribute to the positive correlations found. But it begins to build a solid business case, as well as the rights-based case, for effective grievance mechanisms that meet the Principles described above.

Indeed, the conclusions of the FLA review chime with the findings of Business for Social Responsibility, a non-profit membership organisation, which has developed the concept of ‘Beyond Monitoring,’ comprising four pillars for advancing sustainable supply chains. The four pillars—developed in consultation and collaboration with companies and other stakeholders—consist of ‘buyer internal alignment,’ ‘supplier ownership,’ ‘empowerment of

The results showed a fairly strong correlation between the integration of workers in a grievance procedure and the successful implementation of that procedure.

workers’ and ‘public policy frameworks’. The third of these pillars is described as:

*“Empowerment of Workers who take a stronger role in asserting and protecting their own rights. This will develop through an increasingly informed and participatory workplace, with access to secure communications channels, effective means of raising and resolving disputes, and opportunities for skills development.”*¹⁶

While the report notes that buyers cannot impose worker empowerment strategies on their suppliers, it underlines that they have a role in providing support for the ability of suppliers to manage an empowered workforce and helping them to see it as promoting profitability. The Guidance Tool on Rights-Compatible

Grievance Mechanisms likewise underlines the important role as well as responsibilities of sourcing companies in not just requiring their suppliers to put effective grievance mechanisms in place, but supporting their efforts to do so and ensuring backup processes are in place where serious grievances are not resolved locally. Companies such as Nike and Gap Inc are increasingly adopting this kind of supportive, capacity-building approach with suppliers in pursuit of their own corporate responsibility goals.¹⁷

Conclusion

A grievance mechanism is only one tool for measuring and ensuring compliance with standards and thereby advancing the implementation of workers' rights. Yet it is a crucial one that has to date received inadequate attention. The emerging evidence supports the view that effective mechanisms that help identify grievances early and engage workers in finding sustainable solutions can contribute positively to productivity and staff retention. Most significantly, as Professor Ruggie notes in his report to the UN,¹⁸ "An effective grievance mechanism is part of the corporate responsibility to respect." It is an essential tool, not an optional extra, for any responsible company.

Endnotes

1. "Protect, Respect and Remedy: a Framework for Business and Human Rights—Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie". UN document A/HRC/8/5, p.5
2. See <http://www.unglobalcompact.org/AbouttheGC>
3. "Protect, Respect and Remedy," p.9, emphasis added.
4. While the apparel industry was one of the first to be singled out for criticism, other industries with complex international supply chains have faced similar challenges, and a number of the initiatives created in response cover a variety of industries seeking to address the labor rights of supply chain workers.
5. See, for example, Locke, Richard, Fei Qui, and Alberto Brause. 2006. "Does Monitoring Improve Labor Standards? Lessons from Nike." Corporate Social Responsibility Initiative, Working Paper No. 24. Cambridge, MA: John F Kennedy School of Government, Harvard University; Ascoly, Nina and Ineke Zeldenrust. 2003. "Considering Complaint Mechanisms: An Important Tool for Code Monitoring and Verification." Center for Research on Multinational Corporations, Amsterdam; Bendell, Jem. 2004. "Barricades and Boardrooms: A Contemporary History of the Corporate Accountability Movement". Geneva: UN Research Institute for Social Development; Utting, Peter. 2005. "Corporate Responsibility and the Movement of Business" in Development in Practice Volume 15, Numbers 3 & 4. Routledge, June 2005
6. See, for example, Nike. "Innovate for a Better World: Nike FY05–06 Corporate Responsibility Report", p.6; Gap Inc. "What is a Company's Role in Society? Gap Inc. 2005–2006 Social Responsibility Report," p.26; Reebok. "Our Commitment to Human Rights: Reebok Human Rights Report 2005," p.42. Nike FY05–06 Corporate Responsibility Report
7. For more on this project and the publications it has produced, see http://www.hks.harvard.edu/m-rcbg/CSRI/pub_workpapers.html or <http://www.business-humanrights.org/Documents/HarvardAccountabilityMechanismsproject>
8. Corporate Social Responsibility Initiative. 2008. "Rights-Compatible Grievance Mechanisms: A Guidance Tool for Companies and Their Stakeholders." Corporate Social Responsibility Initiative Working Paper No. 41. Cambridge, MA: John F. Kennedy School of Government, Harvard University.
9. Project Kaleidoscope Working Group. 2008. "Project Kaleidoscope: A Collaborative and Dynamic Approach to Code of Conduct Compliance," p.1
10. Ibid., p.2
11. Ibid., p.3
12. SCOPE (Sustainable Compliance Perceptions) is a tool developed by FLA to evaluate sustainable compliance issues from the workers' perspective using standardised quantitative questionnaires. SCAT (Sustainable Compliance Assessment Tool) is a parallel FLA tool to elicit views from factory managers on a self-assessment basis.
13. Fair Labor Association. 2008. "SCOPE Report: How a Functioning Grievance Procedure May Positively Impact a Factory's Performance" at: <http://www.fairlabor.org/3results>.
14. Ibid.
15. Ibid.
16. Business for Social Responsibility. 2007. "Beyond Monitoring: A New Vision for Sustainable Supply Chains," p.5
17. Nike. 2006. "Innovate for a Better World: Nike FY05–06 Corporate Responsibility Report," p.13; see also description of Gap Inc.'s engagement with grievance mechanisms related to their supply factories in Lesotho in: Rees, Caroline and David Vermijs. 2008. "Mapping Grievance Mechanisms in the Business and Human Rights Arena." Corporate Social Responsibility Initiative Report No. 28. Cambridge, MA: Harvard Kennedy School, pp.13–17
18. "Protect, Respect and Remedy," p. 24.

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