

MITIGATING ABUSIVE LABOR CONDITIONS

Contemporary Strategies and Lessons Learned

November 2003

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ABOUT THIS PUBLICATION

Growing concern in the United States has given life to a number of diverse and experimental approaches to mitigate abusive labor conditions, often referred to as “sweatshops,” in the apparel industry both in the United States and overseas. The U.S. State Department, through its Bureau of Democracy, Human Rights, and Labor, has led this effort through both policy guidance and targeted funding. Additional initiatives have been implemented by USAID, the Department of Labor, and the Office of U.S. Trade Representative, to name a few. These and other programs may also be funded and managed by apparel companies themselves, by civil society groups such as unions and advocacy organizations, or by government agencies in other countries. This paper describes a sample of the existing anti-sweatshop programs, assesses the strengths and weaknesses of each, and provides a set of recommendations for future directions in combating sweatshops.

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ACKNOWLEDGMENTS

This document represents a tentative analysis of the effectiveness of the anti-sweatshop programs generated by widespread consumer concern about the conditions under which the products they consume are produced. Encouragingly, this consumer movement has spurred unions, multi-national companies, NGOs, and factory owners to search for effective, sustainable solutions to the endemic problems of sweatshops. The hard work and dedication of the practitioners in the trenches—working day to day to find solutions—was the reason we felt it important to undertake this review to see what, if anything, USAID could learn from their experiences and thereby make more strategic use of the scarce resources available to fund these efforts.

This paper builds on the work started by the Department of State's Bureau of Democracy, Human Rights, and Labor (DRL), which hosted a roundtable of practitioners, academics, government officials, and others involved in anti-sweatshop work in December 2001. This roundtable raised a number of critical issues about the scope and depth of the sweatshop problems in the developed and developing world and questions about lessons learned and best practices to be gleaned from the programs being conducted to eradicate sweatshops. USAID's intent with this paper was to research and elaborate on these questions and offer observations about what can be learned at this relatively early stage of anti-sweatshop programming.

To the extent that this paper adds to our understanding of sweatshops and how to attack them, it is largely due to the advice and counsel of all the individuals who contributed to this project. It was the practitioners upon whom we relied to guide us through our research and, as importantly, to understand the challenges they face on the ground. Among those who provided invaluable information to the research were Cedric Bagtas, Terry Collingsworth, Ben Davis, Tom DeLuca, Erich Hahn, Neil Kearney, Charles Kernaghan, Shawn MacDonald, Alice Tepper Marlin, Scott Nova, Michael Posner, Lejo Sibbel, Rut Tufts, Aurret van Heerden, and Ineke Zeldenrust. The expert officials in U.S. government agencies and multi-lateral institutions, including Charles Bodwell and Ivanka Mamic of the International Labor Organization; and Lewis Karesh, Michaela Meehan, Kevin Wilcutts, and Anne Zolner of the U.S. Department of Labor contributed their time and showed interest in this project. The information and perspective they provided greatly enriched our thinking on the subject. Writings of Dara O'Rourke of Massachusetts Institute of Technology and Richard Freeman of Harvard University formed the basis for much of our research.

Throughout the process of research and writing of this paper, DRL provided support and advice, particularly Scott Carpenter and Maria Pica. Among those at USAID who assisted and advised on the paper are Gary Hansen and Adriana Barsotti-Kaplan in the Office of Democracy and Governance.

A special appreciation must be extended to people who were essential to our understanding of the sweatshop problem, its many complexities, and the various programs being implemented to eradicate this scourge. Mark Hankin of the American Center for International Labor Solidarity has provided much of the intellectual underpinning for understanding the breadth and depth of this problem in the developing world. Mary Sullivan, formerly of the State Department and currently with the U.S. Trade Representative, provided essential information necessary to understand the anti-sweatshop programs funded and support by DRL. Sandra Polaski, formerly of the State Department and currently with the Carnegie Endowment for International Peace, offered both her guidance but also her critical judgment about the findings, conclusions, and recommendations contained in this report. Our editor, Karen Farrell, made our narrative a lot easier to follow.

Research for this paper was conducted by a three-person team based in Washington, DC, from December 2001 to April 2002. At the outset of this project, the researchers participated in a two-day State Department meeting, “Partnership to Eliminate Sweatshops: Dialogue on Best Practices,” to identify the prevailing issues among the anti-sweatshop groups who attended. The research team then studied background documents and conducted detailed semi-structured interviews in Washington, DC; New York, NY; and Boston, MA. The team interviewed, among others, members of the anti-sweatshop NGO community, USAID and State Department grantees, government officials at State and DOL, ILO personnel, and academics who are recognized experts in the field.

Email was used to interview non-U.S. based informants. The researchers studied existing literature to describe the historical context of U.S. anti-sweatshop efforts. The internet was used extensively to research U.S. legislation and trade agreements, ILO conventions, and the activities of anti-sweatshop groups. In analyzing the findings, the research team identified five distinct approaches to mitigating abusive labor conditions, described each, and, drawing from interviews, literature, and professional experience, ascertained the strengths and weaknesses of each approach. Recommendations were made based on these findings and the research teams’ thinking about the best way forward. A list of materials consulted and persons interviewed appear in the appendices.

Upon completion of the draft paper, the team held a roundtable discussion on the paper in December 2002. The roundtable gathered representatives from the State Department, USAID’s Office of Democracy and Governance, and Office of the U.S. Trade Representative, and members of the anti-sweatshop NGO community, including the unions. The applicable reviews and comments received at this discussion were incorporated into this paper.

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Executive Summary

Growing concern in the United States, the world's largest importer of garments and footwear, has given life to a number of diverse and experimental approaches to mitigate abusive labor conditions often found in factories and other facilities now known as "sweatshops" in the apparel industry both in the United States and overseas. The U.S. State Department, through its Bureau of Democracy, Human Rights, and Labor (DRL), has led this effort through both policy guidance and targeted funding. Additional initiatives have been implemented by the U.S. Agency for International Development (USAID), the U.S. Department of Labor (DOL), and the Office of the U.S. Trade Representative (USTR), to name a few. These and other programs may also be funded and managed by apparel companies themselves, by civil society groups such as unions and advocacy organizations, or by government agencies in other countries. USAID commissioned this paper to describe a sample of the existing anti-sweatshop programs, assesses the strengths and weaknesses of each, and provide a set of recommendations for future directions in combating sweatshops. The intended audience is USAID Mission staff, State Department labor officers, DOL Bureau for International Labor Affairs (ILAB) personnel, and other interested parties.

In the early 20th century, the United States waged its own, largely successful, battle against sweatshops. The sweatshop problem was mitigated in the United States through a combination of consumer concern, improved corporate responsibility, legislation, the creation of government bodies that assure compliance with this diverse legislation, and the empowerment of workers to address workplace problems through collective action. From this foundation, a culture of compliance arose in the American workplace—not everywhere and not all the time but in most workplaces. It took decades of pressure from the public, organized labor, political leaders, and government agencies to bring this about. The American experience indicates that good governance and the rule of law, in addition to an active organized labor and consumer movement are effective, perhaps essential, ingredients in a multi-faceted attack on sweatshops.

For the purposes of this paper, a "sweatshop" is a workplace in which there are serious breaches of a code of conduct, the domestic law, or any of the International Labor Organization's (ILO) core labor standards. The paper documents five major approaches to mitigating their conditions.

In the government capacity building approach, DOL, often through the ILO, provides technical assistance to host-country governments and, to some extent, manufacturers and workers. The intent is to strengthen government capacity to establish and enforce sound labor standards. The benefit of this approach is that it goes to the source, working directly with the body that should be the ultimate guarantor of labor standards—the government responsible to its citizens. However, the approach assumes that governments are willing and able to effectively implement labor laws. In practice, this is not always the case and proper incentive or pressure for governments to change is sometimes lacking.

Trade agreements are another approach to addressing sweatshops. Through the Generalized System of Preferences (GSP), the North American Free Trade Agreement (NAFTA), the U.S.-Cambodia Textile Agreement, and other trade measures, the United States has made fair working conditions a requirement or goal in the granting of trade benefits. Legislation, be it international trade agreements or domestic law, is an important ingredient in the control of sweatshops, and trade benefits or penalties serve as a powerful motivation. However, the approach becomes ineffective in the face of weak implementation and enforcement and can lead to charges of protectionism by the governments it seeks to motivate. Furthermore, if respect for labor standards is not thoroughly internalized in a country, it is likely to diminish when the trade agreement comes to an end or if it is not applied properly.

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The American labor experience suggests that worker education and empowerment is an essential element in solving the sweatshop problem. A number of civil society organizations in the United States and western Europe, often affiliated with labor unions, make worker education and empowerment their priority. Improvements in labor conditions are unlikely to come about, or be sustained, without a sufficiently educated and empowered workforce that has the capacity to protect its interests. The constraints to this approach include poverty, poor education systems, surplus labor that weakens workers' bargaining power, government indifference or hostility, and difficulty in finding legitimate local partners to carry out training. What's more, worker education and empowerment is not sufficient in itself to eliminate sweatshops unless other conditions are present. The active participation of government and employers is also needed.

One of the most recent developments in the anti-sweatshop movement is the use of codes of conduct and monitoring. Codes of conduct are corporate statements of principles establishing minimum workplace terms and conditions of employment, while monitoring is the process that verifies compliance or noncompliance with the codes. Monitoring takes many forms—internal monitorings by the company contracting for production in a facility, external monitors who are hired by the company to verify the accuracy of its internal monitorings, and verifiers checking the findings of the external monitors. There are numerous code and monitoring programs in effect (see Appendix C for further illustration). Code and monitoring systems engage the multi-national brand company, compelling it to assume a certain degree of responsibility for the working conditions of its sub-contractors. When egregious violations are found and publicized, the company is obligated to act to remedy the violations. Codes and monitoring have become some of the most common responses by companies concerned about sweatshop conditions in the production of their products. On the other hand, the proliferation of different code and monitoring systems has frustrated and confused sub-contractors and workers alike. The integrity of a code and the monitoring process, which often lacks transparency and independence from the companies being monitored, can easily be compromised, and monitoring of complex workplaces is difficult. Too often codes and monitoring systems are seen as private companies carrying out a task that has historically been considered an intrinsic public function of labor law enforcement.

The final approach examined in the paper is advocacy by concerned citizens and consumers in the developed countries. Advocacy—consisting of protests, letter writing campaigns, lobbying, etc.—is not a solution in and of itself. Instead it pushes social partners to adopt one of the other approaches already mentioned above. Advocacy, however, provides important support to the efforts of workers, raises public awareness, and puts pressure on governments and companies. The limitations of advocacy include the unpredictability of public interest and the calls for sometimes contradictory solutions coming out of the advocacy groups.

This paper draws the broad conclusion that programs to eliminate sweatshops must be multi-faceted, engaging governments as the ultimate guarantors of labor rights, workers as advocates of their own interests, and corporations that take responsibility for their supply chain. Further, it observes that, whichever of these five approaches is used to mitigate abusive labor conditions, these programs are most effective when they work in concert to attack specific sweatshop conditions in a factory or country. Coordination needs to occur both among donors to ensure all the necessary programmatic elements are in place in the targeted factory, sector, or country and among the implementors to ensure the various programmatic elements are working to maximize impact. The following specific steps may help in facilitating this integrated approach:

1. Establish an inter-agency committee charged with rationalizing and coordinating the anti-sweatshop programs being conducted throughout the U.S. government (USG). The goal of the

committee should be to ensure the various programs funded by the different USG agencies work together to eliminate sweatshops.

2. Continue and expand support to host-country governments to enhance their ability to ensure compliance with labor standards. Working with governments is an essential step, along with worker education and empowerment, for which funding should also continue and increase, to assure that any improvements are sustainable.
3. Initiate a consultative process by companies and external organizations, intended to eliminate unproductive duplication by harmonizing codes, coordinating monitoring, and, where feasible, granting mutual recognition to codes, accreditation of monitors, and findings of monitoring. The monitoring organizations should also address the issues concerning the independence of the monitoring organizations, transparency of monitoring results and remediation measures, and, perhaps most importantly, full, not partial, compliance with critical labor standards.

1 Background

A. The U.S. Government and International Labor

The USG has long had an interest in international labor rights, both as an expression of fundamental and nonnegotiable human rights and for their contribution to economic growth and democratic governance. As part of its core mission, DRL advances respect for internationally recognized labor rights and has used a variety of tools—diplomatic, labor reporting, funding, and participation in international institutions—to pursue this goal. Similarly, respect for fundamental worker rights is important to democratic governance and, therefore, important for USAID’s mission to promote democracy and good governance around the world.

Respect for the rule of law and fundamental human rights is a core principle of U.S. foreign policy and of the USAID democracy and governance (DG) programs. These programs embody “the basic principles of equal treatment of all people before the law, fairness, and both constitutional and actual guarantees of basic human rights.” Compliance with the fundamental labor rights for workers, including prohibitions against discrimination, forced labor, establishment of a minimum age, and prohibitions against most forms of child labor, along with the rights to organize and bargain collectively, while contributing to other important foreign policy objectives, is a basic democracy obligation each country owes to its workers without regard to any contribution they might also make to greater economic growth. The universally recognized workers’ rights, particularly the right to organize and collectively bargain, help to ensure that the benefits of economic growth are shared broadly throughout societies, thus contributing to social and political harmony and sustained growth and democratization.

B. Sweatshops

1. The USG Response to Sweatshops

Sweatshop conditions, and the demand to remedy them, have once again assumed a prominent place among American and European consumers. The perception, if not the reality, of abusive labor conditions in the production of consumer goods has risen due to a number of factors, including generalized concerns about globalization and the movement of production overseas, beyond the reach of effective legal and regulatory oversight of labor rights and standards. It is impossible to determine the exact ratio of imports in apparel and footwear that may be manufactured under sweatshop conditions. Statistics on the topic do not exist; there is, however, ample anecdotal evidence that documents the problem as endemic for the industry.

The U.S. and European publics’ awareness of labor abuses grew slowly in the 1980s until the 1990s when widely reported stories broke, indicating that garment contractors employed workers under near-bonded conditions. The images of workers being held behind barbed-wire fences in California at the end of the 20th century brought home the horrors of labor abuses to American consumers.

Levi-Strauss became the first multi-national company to address labor abuses by developing a corporate code of conduct. Subsequent well-publicized exposes about exploitative conditions in factories contracted

A sweatshop [is] an employer that violates more than one federal or state labor law governing minimum wage and overtime, child labor, industrial homework, occupational safety and health, worker’s compensation, or industry registration.

General Accounting Office, 1994

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by Nike, Reebok, and Wal-Mart and its Kathy Lee label led to other companies adopting codes of conduct. The codes and other initiatives were intended to create a minimally decent workplace for workers producing apparel and other products for the developed world.

Partly in reaction to the allegation from the developing world that this emerging anti-sweatshop movement was at best a misguided attempt to impose developed world standards on struggling developing world economies and at worst thinly disguised protectionism, the anti-sweatshop movement has focused on a narrow range of labor rights and standards. Instead of insisting upon compliance with U.S. or European labor standards, most anti-sweatshop initiatives seek compliance with the universally recognized ILO Fundamental Principles and Rights at Work, the domestic labor laws of the host country, and, in some instances, minimum standards required by the brand company contracting with the factory. Developed country standards on wages, occupational health and safety, overtime, vacation and sick leave, and other terms and conditions of employment are not among the set of requirements being sought for developing country factories. The focus of most anti-sweatshop programs is observance of the bare international and host-country norms and not the imposition of developed world standards.

The USG has taken its part, responding to the growing concerns about conditions of foreign apparel manufacturing for the American market. In the 1980s, 1990s, and 2000s, the USG has been adding labor provisions to international trade agreements; in the 1990s the State Department began funding programs designed to attack sweatshop conditions and advancing labor rights through a number of international diplomatic initiatives. DOL began implementing technical assistance programs to help foreign governments comply with international and domestic labor standards, especially in the area of child labor. In 1996 the White House launched a “no sweat” initiative by targeting domestic enforcement of labor conditions in the garment industry and establishing the Apparel Industry Partnership (AIP). The AIP brought together major apparel and footwear companies, labor unions, human rights organizations, and consumer groups to find solutions to the industry’s worldwide endemic sweatshop problems. After two years of negotiations, an impasse developed over the living wage and other issues, leading labor and some NGOs to abandon this effort. The remaining organizations signed an agreement under which overseas factories producing for companies selling in the United States would comply with certain minimum international, domestic, and company imposed labor standards. The Fair Labor Association (FLA) was formed to implement this agreement and develop compliance and monitoring mechanisms.

In addition to the AIP and the FLA, the USG, through the State Department, USAID, and DOL, funded a number of programs designed to educate workers overseas and to encourage U.S. companies to adopt and implement corporate codes of conduct that establish basic labor conditions in their production facilities. The funding has grown from around \$3 million in 1999 to over \$4 million today.

In sum, the U.S. response to the sweatshop problem has consisted of a broad range of programs, from codes of conduct and monitoring systems, to trade agreements, to labor organizing, to providing technical assistance to ministries of labor. These programs use a wide variety of strategies to pursue the same

Importing into the United States

The United States is the largest importer of apparel and footwear in the world. In 2001, the total value of imports in these sectors was over \$80 billion, including \$66 billion in apparel and \$16 billion in footwear. Over 50 percent of apparel imports came from countries in southeast Asia, followed regionally by central America and the Caribbean. Among individual countries, China was the largest exporter of apparel to the United States with about \$9 billion worth of goods. Mexico was a close second with over \$8 billion.¹

BOX 1: Sweatshop—An Illustrative Example

On the night she died, Li Chunmei must have been exhausted. Co-workers said she had been on her feet for nearly 16 hours, running back and forth inside the Bainan Toy Factory, carrying toy parts from machine to machine. When the quitting bell finally rang shortly after midnight, her young face was covered with sweat. This was the busy season, before Christmas, when orders peaked from Japan and the United States for the factory's stuffed animals. Long hours were mandatory, and at least two months had passed since Li and the other workers had enjoyed even a Sunday off. Lying on her bed that night, staring at the bunk above her, the slight 19-year-old complained she felt worn out, her roommates recalled. She was massaging her aching legs, and coughing, and she told them she was hungry. The factory food was so bad, she said, she felt as if she had not eaten at all. "I want to quit," one of her roommates, Huang Jiaqun, remembered her saying. "I want to go home." Finally, the lights went out. Her roommates had already fallen asleep when Li started coughing up blood. They found her in the bathroom a few hours later, curled up on the floor, moaning softly in the dark, bleeding from her nose and mouth. Someone called an ambulance, but she died before it arrived. [...]

In the two years before her death, friends and relatives said, Li worked in three different plants that produced stuffed animals, one run by Kaiming and two others that regularly received orders from the company. Inside [a plant], life followed a rigid routine, co-workers said. Li was out of bed by 7:30 a.m. and in uniform and at her post by 8. At noon, she could take 90 minutes for lunch and a quick nap. At 5:30 she had 30 minutes for dinner. Overtime began at 6, and the quitting bell usually didn't ring until after midnight. Workers said most of the factory's employees were assigned to assembly lines that stitched together stuffed animals. One worker attached an eye, and the next sewed on an ear. They spent the whole day sitting in front of their sewing machines, performing a single task again and again. Li was a runner, co-workers said, always on her feet. When one worker finished a task, the runners picked up the toy and raced it to the next worker on the line. An average line had 25 workers and just two or three runners, and produced as many as 1,000 toys a day.

"She had the worst job, and the bosses were always yelling at her to go faster," said one worker on Li's assembly line, who asked to be identified by his surname, Liu. "There were no breaks, and there was no air conditioning." He added that the air was full of fibers, and with the heat from the machines, sometimes the temperature climbed above 90 degrees. Runners required no special skills, and were paid the least, about 12 cents per hour, workers said. During the busy season, including extra pay for overtime, Li could earn about \$65 a month. But there were deductions. Workers said the company withheld about \$ 12 a month for room and board and charged them for benefits they never received. For example, workers said they paid for the temporary residence permits they needed to live and work in Songgang legally, but never received them. Managers also had the power to impose arbitrary fines, including penalties for spending more than five minutes in the bathroom, wasting food during meals and failing to meet production quotas, workers said [...].

Many of the conditions described by Li's co-workers violate Chinese law. The minimum wage in Songgang is about 30 cents per hour. Overtime is limited in China to no more than 36 hours per month, and it must be voluntary. Arbitrary fines and pay deductions are prohibited. But enforcement of the law is weak. "It may be illegal, but it's normal," said Wu Chunlin, 25, a migrant from Sichuan who said he has worked in a half dozen different factories in the region over the past five years. "It's more or less the same wherever we go." One Chinese journalist who has investigated working conditions in the Pearl River Delta said the problem is a "merger of interests" between local government officials and factory managers. The officials are eager to stimulate investment and generate taxes and bribes, so they are often willing to overlook labor rights and safety violations, he said. [...]

Excerpts from "Worked Till They Drop: Few Protections for China's New Laborers" by Philip P. Pan, *The Washington Post*, May 13, 2002.

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ultimate objective: to eliminate sweatshop conditions that have plagued garment, footwear, and other industries since the dawn of the industrial revolution. While these programs share a common objective they do not all agree on how to best achieve it. The findings of this paper will show, however, that what works best is a combination of these methods.

2. Sweatshops in the United States

The United States is in a unique position to take a leadership role in the worldwide effort to combat sweatshops. First, the contemporary United States is the world's largest importer of garments and footwear. More important, however, is the fact that the United States has fought its own battle against sweatshops. During the first decades of the 20th century, sweatshops were rampant in this country. Through a variety of historical events, outlined below, that problem has been substantially controlled, if not eradicated. The United States learned some important lessons through its experience and should be able to draw upon them to inform the process of eliminating sweatshops in developing countries.

In the late 19th century, prior to the invention of sewing and cutting machines, the majority of women and children's clothing in the United States was sewn in the home. Men with financial means used tailors, while working men had their clothes made in semi-industrial workshops. Technological advances, which greatly increased manufacturing efficiency, coupled with increasing demand for inexpensive garments, gave rise to a network of small sewing-shops and factories that formed a cornerstone of the sweatshop system. Sweatshops sprouted in tenements of major cities, such as New York and Chicago, where entire families were involved in the garment-making process. As the sweatshops grew and moved beyond individual apartments, immigrant women were increasingly drawn into the industry. In the sweatshop system, pay was per piece, not hourly, and inevitably necessitated long days to earn even subsistence living. The working conditions of sweatshop factories were predictably poor. Overcrowding, inadequate ventilation, and poor sanitation contributed to accidents and a generally unhealthy environment. Endemic unemployment and a surplus of cheap, unskilled labor—notably immigrant and child labor—made it very difficult, however, to institute change.

The apparel industry was riddled with structural problems from its beginnings. Already, in 1895, the *Standard Dictionary of the English Language* defined a “sweater” as an “employer who underpays and overworks his employees.” However, public outcry over the problem of sweated labor (sweatshop labor) was sporadic. Public interest was sparked by the 1890 publication of Jacob A. Riss's book *How the Other Half Lives*, in which the poverty and horrendous conditions of urban life and work in the tenements of New York City were documented. The photographs of children in the book made a particularly strong impression on the public. Created by socially concerned citizens and politicians in 1904, the National Child Labor Committee made initial attempts to reform child labor laws. Support for reforms grew with the publication of Lewis W. Hine's photographs of children employed in sweatshops, textile mills, factories, and mines.

In 1916 Congress responded by passing the Keating-Owen Act, banning from interstate commerce items produced by child labor. On grounds that the federal government did not have the right to regulate in this area, the Supreme Court declared the act unconstitutional in 1918, a legal trend that would continue for decades as subsequent attempts to legislate labor standards were thwarted by the court.

Attempts to organize sweatshop labor in the early 1900s brought mixed results. Large industrial strikes staged by New York garment workers, virtually all women, in 1909 and 1910 led to contracts for workers and strengthening of the International Ladies' Garment Workers' Union, founded in 1900. The strikes then spread to other industrial cities including Philadelphia and Chicago, prompting almost 400,000 garment

workers to organize between 1909 and 1913. Some manufacturers and buyers believed that stability in wages and regulated working conditions would help to make supply and pricing more predictable, yet other manufacturers held that improving working conditions would not have any effect on predictability.

While union contracts benefited some workers, a need for larger, sector- and state-wide laws regulating apparel making became an urgent public demand after the 1911 New York Triangle Shirtwaist factory fire killed 146, mostly female, workers. A New York state commission chaired by a U.S. senator from New York, Robert Wagner, was established to investigate unsafe working conditions and recommend regulatory measures to eradicate them.² The commission's work led to a complete overhaul of factory codes through the cumbersome mechanism of multiple state laws—the U.S. Supreme Court had previously limited the ability of the U.S. Congress to regulate conditions directly—that ultimately improved safety and health and reduced work hours for women and children.

If the states in the north of the United States were making progress on legislation designed to improve conditions and workers were gaining rights through unions, the opposite can be said about the south, where cotton and textiles were the most important industries. Industries there were largely unregulated, racially segregated, and heavy users of child employment. In attracting investment in cotton and textiles, the south claimed an abundant labor force as its asset. A chronic labor surplus and impoverished agriculture kept wages low.^{3,4} Attempts to organize, as illustrated by the failure of strikes in the Piedmont region in 1929 and 1930, were largely unsuccessful. The industry took advantage of these conditions and, by 1927, 67 percent by yardage, or 59 percent in value, of textile production was in the south—a significant shift from the historical base of production in the northeast.

Piece-meal reforms either at a factory or state level, as had been practiced in the northern states, or avoiding reforms altogether, as was the case in the south, proved untenable once the United States slid into the economic depression of the 1930s. The Great Depression demonstrated that the problem facing the country was a structural one and centered on the nature of the U.S. economy and the absence of democratic structures inside the corporations and municipalities dependent on industries.^{5,6}

To spark economic recovery, the federal government intervened in the marketplace, passing the National Industrial Recovery Act (NIRA) in 1933. NIRA instituted a system of business self-regulations where companies wrote their own codes with input from government, consumers, and unions. Companies that agreed to be regulated could display a blue eagle to let consumers know about their involvement in the process. The regulatory results varied; the textile industry set a minimum wage but maintained the north/south differential. The workweek was limited to 42 hours, and child labor was forbidden. Workers were granted a right to organize and bargain collectively. The implementation of the code was problematic as employers used a variety of subterfuges to undermine its provisions. For example, workers were classified as “learners” to keep their pay below the legal minimum.

Despite being declared unconstitutional by the Supreme Court in 1935, NIRA played an important role in the transformation of the American workplace. The National Recovery Administration, created to implement NIRA, generated over 500 industry codes. Section 7a of NIRA gave workers the right to organize and bargain collectively and prohibited companies from requiring their employees to join company unions⁷ and sign contracts about non-unionizing. This provided the needed spark to reenergize and strengthen the union movement in the United States.

Although many federal attempts to regulate conditions of employment were struck down by the courts, factors such as economic depression, massive industrial strikes, and attempts at regulation changed public perception in the 1930s. The Roosevelt administration was successful in linking workers rights to

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patriotism, building support for sweeping social reforms, raising awareness of labor rights, and popularizing a belief that citizens were entitled to an “American standard” of living. When, in 1935, labor legislation that went beyond section 7a of NIRA was introduced, it passed. The National Labor Relations Act, known as the Wagner Act, created rules governing worker-employer relations. It guaranteed a right to select a union by a majority vote, to strike, to boycott, and to picket. It enumerated and banned unfair labor practices, among them company unions, intimidation of workers seeking to join an independent union, and employment of industrial spies. The Wagner Act established the National Labor Relations Board (NLRB), a body that heard complaints of abuses, certified unions, and ran union elections. Further extension of rights into the workplace was achieved through the 1938 Fair Labor Standards Act (FLSA) that set a minimum wage, established the 40-hour week, and regulated child labor. Enacting laws at the federal level closed a very long chapter of struggle among workers, employers, and union activists about the rules under which American workers may be employed. This is not to say that FLSA solved all labor problems in the United States; African Americans, agricultural workers, and women continued to fight for equal rights in the workplace for several more decades. But, the New Deal labor legislation laid the foundation for a largely successful assault on the sweatshop conditions in the U.S. garment industry.

The New Deal laws did not completely eradicate sweatshops. When the General Accounting Office (GAO) issued a report in 1994, *Garment Industry: Efforts to Address Prevalence and Conditions of Sweatshops*, it documented the existence of sweatshops in El Paso, Los Angeles, Miami, and New York City—over 80 years after the Triangle Shirtwaist factory fire. The GAO report also provided a definition of a sweatshop that read, “a sweatshop [is] an employer that violates more than one federal or state labor law governing minimum wage and overtime, child labor, industrial homework, occupational safety and health, worker’s compensation, or industry registration,” but the basic “overworked and underpaid” aspect of sweated labor remained at its core.

The improvement in labor standards, and, to a great extent, successful elimination of sweatshop conditions from a majority of industries and manufacturing in the United States, was a lengthy and complex process. It worked because the government, unions, and manufacturers found solutions acceptable to all parties. The role of the public was important for raising awareness and mobilizing the interested parties. Ultimately, however, it was the parties whose immediate economic interests were at stake, and who were legally and economically empowered to negotiate, that had to find effective solutions. The traditionally adversarial relationship between workers and manufacturers was mitigated by government intervention that led to market regulations, created institutions to assure accountability, and provided channels for addressing grievances. This legal framework provided the mechanisms through which industrial relations disputes were addressed and, to a large extent, resolved.

Contemporary labor regulation has become largely the responsibility of the federal government, in contrast to the early 1900s when the Supreme Court effectively tied the hands of the federal government to regulate labor conditions. DOL enforces labor standards at the national level, and its Wage and Hour Division is responsible for administering and enforcing the FLSA, governing minimum wage, overtime, and child labor. The FLSA also allows workers to sue directly for unpaid wages. DOL’s Occupational Health and Safety Administration (OSHA) enforces health and safety regulations.⁸

An independent administrative body enforces freedom of association and the right to collective bargaining. In the United States, violations in these areas can only be addressed when a complaint is filed. The NLRB investigates credible complaints. If violations are found, employers are asked to remedy the situation, and, if they do not, the case goes before a judge for final resolution.

This enforcement system works in the United States for a number of reasons. Many employers are simply law abiding. Others are motivated by the fear of being inspected and subjected to DOL, NLRB, or private lawsuits that may result in fines, injunctions, or back wage orders in addition to potential criminal sanctions. Furthermore, a manufacturer requiring skilled labor sees tangible economic benefits from offering a compliant workplace that attracts workers who have other employment options. A culture of compliance has evolved in which workers, the public, and manufacturers mostly agree on minimum labor standards.

Clearly, the U.S. experience cannot be directly applied to the situation of developing countries where circumstances are vastly different. U.S. history does, however, offer an example of how unions, consumer demand, and a regulatory scheme with a credible enforcement system have been largely successful in controlling sweatshop conditions. It also points out the indispensable role of the government, in the American case at the federal level.

3. Sweatshop Conditions and the ILO Core Labor Standards

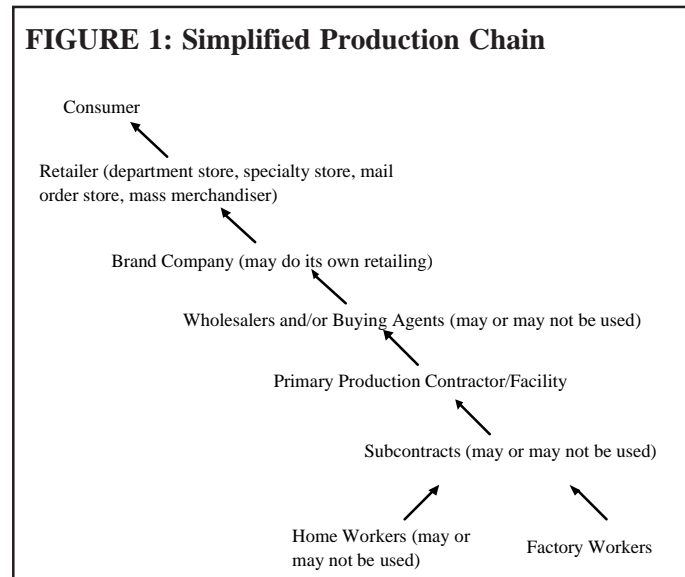
The illustrative labor abuses shown in Box 2 are the focus of the USG's domestic and international anti-sweatshop program. The United States has pursued a number of strategies designed to eliminate sweatshop conditions and prevent its reoccurrence. The industries that have been the primary target of the anti-sweatshop programs—garment and footwear manufacturers—present some distinctive characteristics that help create an environment vulnerable to sweatshop conditions and explain some of the challenges in attempting to eradicate sweatshops in these industries.

The apparel and footwear industries are particularly vulnerable to sweatshop conditions because garment production is labor-intensive and uses unskilled labor, tempting companies to locate production where there is an abundant supply of labor and low wages. In addition, most retailers and brand companies (“brands”) do not own production facilities, but rely on sub-contractors, sometimes via a wholesaler, to cut and sew their products. (See Figure 1 and Box 2.) Hence, the brands do not have to exercise any responsibility for the workforce that is engaged on a contract basis. Brands can get involved at their own discretion in labor issues, but are not required, or even expected, to do it.

BOX 2: A Real World Sweatshop

In 1998, a story broke about the sweatshop conditions at a Korean-owned factory, BJ&B, in the Dominican Republic. The factory produces baseball caps for American universities. The conditions in the factory were reported to consist of

- Paying weekly earnings of approximately \$40.00 after 56 hours of labor, one third of what the Dominican government says is sufficient for a typical family to live on
- Forcing overtime work, often 56 hours of work per week
- Following a policy of paying women less than men
- Restricting use of bathroom
- Refusing permission to visit a doctor
- Firing workers to avoid the legally required pay and benefit increases that come after one year's work and then rehiring the workers as entry-level employees
- Abusing, both physically and verbally, workers
- Providing unsanitary drinking water
- Firing of workers injured on the job
- Firing of workers who opposed these conditions and began to talk about forming a union



The garment industry is dynamic, requiring very flexible production schedules. The design of apparel and footwear products changes continuously based on seasons and consumer tastes. Competition is high among sub-contractors in developing countries. These sub-contractors operate on very small margins with the brands holding them to tight production output schedules. Consequently, many sub-contractors pay low wages⁹ and often require excessive and sometimes unpaid overtime hours in order to meet production schedules and make a modest profit. Just as in the United States, a high proportion of garment workers are women, which often adds a gender dimension to the exploitation—sexual discrimination and harassment.

Many countries have strong labor laws on the books, but governments are unable or unwilling to enforce them. In fact, they are often motivated to not enforce labor laws in order to attract external investment by offering cheap production. U.S. companies contribute to the problem by putting pressure on manufacturers to produce more, faster, and cheaper. At the same time many U.S. companies demand that their producers comply with a code of conduct that establishes minimal workplace conditions. Since most factories produce for multiple companies at the same time, they may also have several different codes to adhere to.

Furthermore, there is no uniform definition of a sweatshop. For the purposes of this paper, a sweatshop is a workplace in which a factory code of conduct, the domestic law of the country of production, or any of the ILO core labor standards are violated. The virtually universally recognized standards for “decent” working conditions are the ILO core labor standards, listed in Box 3. These standards are internationally recognized as the minimum in workplace conditions. Most individual countries have expanded upon them, adding clauses on wages and hours, health and safety, and harassment and abuse. Brand companies have expanded these labor standards even further, adding additional requirements for production of their goods. Other companies, and several countries, have also made modifications (including, in some cases, omissions) to these standards.

There are no easy solutions to the sweatshop problem. For example, the existence of codes and even awareness of them without established mechanisms of compliance and enforcement will not end the sweatshops. The free market solution has its shortcomings as well. Its proponents contend that the free market system will eventually eradicate the sweatshop problem itself. It is argued that economic growth is the best solution to sweatshops because it creates good jobs with fair wages. However, many of the individuals and groups involved in anti-sweatshop activities do not believe the market can resolve the problem in a timely or satisfactory manner and they are not willing to wait as long as it would take for this to happen. They have, therefore, developed the variety of approaches described in this paper.

The USG also employs diverse mechanisms to address the sweatshop problem, including trade laws and agreements. Those who oppose embedding labor conditions in trade agreements contend that the U.S.

attempt to eliminate sweatshops overseas is a result of discontent over lost jobs in the United States. Proponents of free trade and developing countries have labeled these anti-sweatshop efforts protectionist.

C. USAID's Study on Mitigating Abusive Labor Conditions

This study seeks to build upon the U.S. experience to inform USAID Missions and Washington personnel, State Department labor officers, DOL personnel, and other interested parties about sweatshop issues and current USG strategies designed to combat sweatshop conditions. The paper explores lessons learned to date from historical and contemporary approaches in an attempt to address the following questions:

- Where does the responsibility for establishing and enforcing decent labor conditions lie?
- What should be the mechanism for encouraging and enforcing decent labor conditions?
- What approaches have been tried to date and to what effect?
- Where should the USG target its efforts?

BOX 3: ILO Core Labor Standards

*Convention 29, **Forced Labour***: Prohibits forced or compulsory labour in all its forms, with certain exemptions for military service, properly supervised convict labour and emergencies such as wars and national disasters.

*Convention 87, **Freedom of Association and the Right to Organize***: Recognizes the right of workers to form and join organizations of their own choosing without prior authorization, and without interference from public authorities.

*Convention 98, **The Right to Organize and Bargain Collectively***: Recognizes the right to organize and bargain collectively, and protects against anti-union discrimination and employer interference.

*Convention 105, **Abolition of Forced Labour***: Prohibits the use of any form of forced or compulsory labour as a means of political coercion or education, punishment for the expression of political or ideological views, workforce mobilization, labour discipline, punishment for participation in strikes, or discrimination.

*Convention 100, **Equal Remuneration***: Requires equal pay and benefits for men and women for work of equal value.

*Convention 111, **Discrimination (Employment and Occupation)***: Calls for elimination of discrimination in access to employment and training and working conditions, on grounds of race, colour, sex, religion, political opinion, national extraction or social origin and to promote equality of opportunity and treatment.

*Convention 138, **Minimum Age Convention***: Establishes the minimum age for admission to employment (15, or 14 for countries meeting developing country exceptions, and not less than the age for completion of compulsory schooling), and stipulates the minimum age for admission to hazardous work (18).

*Convention 182, **Prohibition and Immediate Elimination of the Worst Forms of Child Labour***: Calls for the immediate elimination of the worst and most hazardous forms of child labour; adds to, and does not supersede, Convention 138.

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After discussion of the background on the United States's own struggle with sweatshops and brief description of contemporary sweatshop conditions in the international context and the factors that cause or support them, the remainder of this paper describes different approaches to the elimination of sweatshops:

- Government capacity building
- Trade agreements
- Worker education and empowerment
- Codes of conduct and monitoring
- Advocacy

The USG has funded a number of these efforts, encouraging organizations to experiment with new approaches, in order to learn from their experiences. It is too early to determine if any one approach has proven more effective than others. However this paper offers an exploratory analysis of the current efforts, identifying initial lessons learned, early successes, problems, and emerging issues.

2 Approaches to Eliminating Sweatshops

This section documents five major approaches currently being promoted in the effort to combat abusive labor conditions in the apparel and footwear industry. The paper describes some of the actors and organizations involved with each tactic and offers conclusions about the effectiveness of each strategy. These approaches are not exclusive of one other. In some cases, one organization may be engaged in several tactics at once, or it may see its work as complementary to another organization's efforts in a different approach. Every methodology has a hypothesis and mechanism. For instance, one of the essential differences among strategies stems from their assumption about where the responsibility for establishing/enforcing labor rights should lie and what motivation is needed to encourage that actor to assume its role. The introduction to each approach indicates the *target group* at which the strategy directs its efforts and hopes to lead it to change its behavior and the *driving force*, the incentive or penalty that the tactic uses to motivate action.

A. Government Capacity Building

Target Group: Producer-country governments
Driving Force: Commitment to improve competitiveness and capacity

The USG and international organizations, such as the ILO, provide technical assistance to governments and, to a lesser extent, employers and workers in countries where garments and footwear are produced for export. This assistance is designed to improve the countries' capacity for developing, implementing, and monitoring labor standards. This approach views the state as the key actor in the process of improving labor conditions and assumes that the host-country governments, if better equipped, could and would uphold labor standards. Like USAID-funded international development programs, this approach consists primarily of in-country training and advising. As these are multi- and bi-lateral programs funded by the U.S. federal dollars, these programs can be, and sometimes are, tied to trade incentives.

ILAB is DOL's international arm and the United States's most important player in terms of strengthening foreign governments' labor laws and enforcement. It is responsible for conducting research, formulating policy, and providing technical assistance on foreign labor issues. ILAB's Office of Foreign Affairs and the International Child Labor Program fund and manage projects around the world, many of which are directly related to sweatshops. ILAB's two objectives in this regard are to reduce exploitative child labor and advance worker's protections and workplace safety in nations of the developing world. One of the primary methods for doing this is to build the capacity of government ministries of labor by helping them develop labor legislation that is in line with the ILO conventions; training inspectors in health, safety, and other assessment areas; and strengthening administrative procedures and information systems.

DOL involvement in the area of international labor standards is a recent (since FY 2000) addition to ILAB's portfolio of activities. Multi-lateral projects are conducted through the ILO, which implements programs funded by DOL. Bi-lateral projects are carried out by contractors working directly for ILAB. ILAB projects are diverse and address either one or several of the core labor standards at a time. However, programs on the full set of labor standards are rare. Typical foci are industrial relations, occupational safety and health, forced/bonded labor, trade union training, child labor, and workplace discrimination. ILAB provides information to employers, workers, and ministry of labor inspectors on workplace abuses specific to each country's context, and training as well as policy advice, on its

BOX 4: Examples of ILAB Projects

Confecciones La Palma in El Salvador

Confecciones la Palma, a prestigious Salvadorean company, has 750 employees and specializes in textiles. This company applied the Occupational Safety and Health (OSH) toolkit, a process that allows a factory to evaluate its plant and estimate its OSH costs/benefits. Confecciones la Palma invested in analysis of working conditions (noise, heat stress, particle concentration, lighting). It also purchased environmental measurement equipment, improved the lighting system, provided training assignment of personal protection equipment, and posted hazard signs in the work area. With these efforts, they discovered, in comparing the first quarter of 2002 with 2003, they

- decreased illnesses (sick days) by 48% (426 vs. 822)
- decreased accidents by 40% (36 vs. 63)
- decreased absenteeism by 25% (149 days vs. 200)
- decreased doctor's appointments (external) by 30% (93 vs. 134)
- decreased visits to the factory's internal medical clinic by 20% (2163 vs. 2716)
- increased productive days (in terms of person hours) by 12%

The OSH toolkit saved the company \$27,242 in 2002 and \$35,620 in 2003.

Strengthening Labor Administration in Zambia

Based in Lusaka, Zambia, this project, implemented by the ILO, is designed to bring legislation in four southern African countries into conformity with the ILO core conventions. A major thrust of the project is to strengthen the Industrial Relations Court and alternative dispute resolution systems. ILO will also improve the enforcement capacity of ministry of labor inspectors and work to increase dialogue among social partners.

elimination. ILAB also implements projects to train trade unionists on freedom of association and collective bargaining. It supports mediation training for labor courts. Examples of ILAB projects include a \$3.5 million project to strengthen industrial relations in eastern Africa, a \$1 million project on forced labor in Brazil, a \$1.5 million program to monitor working conditions and discrimination in Bangladesh and a \$1 million project on mine safety and health in Ukraine.

In FY 2001, DOL/ILAB programs¹⁰

- assisted 63 countries to ratify the ILO's Convention concerning the Prohibition and Immediate Elimination of the Worst Forms of Child Labour
- assisted 13 countries to develop national action plans to eliminate child labor
- removed/prevented over 25,800 children from exploitation
- launched 13 country-specific and two worldwide projects to improve core labor standard and social safety net programs in over 40 countries

In addition to its work on labor standards, ILAB funds other labor-related activities in developing countries such as employment services, income security, labor market information systems, vocational training, and pension reform. ILAB is also responsible for administering the North American Agreement on Labor Cooperation (NAALC, the labor side agreement to NAFTA) and for managing the labor technical assistance component of the U.S.-Cambodia Textile Agreement. These activities are both addressed in a separate section of this paper, under Trade.

ILAB has a separate office for the International Child Labor Program (ICLP). ICLP encourages countries to ratify the ILO convention on the worst forms of child labor and to develop national action plans to eliminate child labor. ICLP also documents the extent and nature of child labor.¹¹ Finally, ICLP implements multi-lateral programs through ILO's International Program on the Elimination of Child Labor. ICLP's "time-

bound” programs¹² target children in specific occupations and help to withdraw them from harmful work by offering an education alternative; developing alternative income-generating activities for families that rely on their children’s income; raising awareness of employers, civil society, and ministry of labor staff about child labor; training inspectors; working with employers and worker organizations on facility monitoring; developing new policies; and asking partner organizations to integrate child labor issues into their work. The ICLP also manages, with USAID, a bi-lateral education program designed to improve access to basic education in regions of the world that have a high rate of abusive and exploitative child labor. By the end of FY 2002, ICLP will have funded over \$150 million worth of child labor programs.

The ILO is a Geneva-based U.N. agency founded in 1919 to promote social justice and human and labor rights. The ILO is a legislative body with a tripartite governance structure made up of workers, employers, and government officials. It has established the conventions that constitute the fundamental principles and rights at work to which every code of conduct makes reference. The ILO formulates labor standards and, since the end of World War II, has been providing technical assistance in a wide variety of labor-related areas.¹³ Through research and education, advocacy, training, and technical cooperation, the ILO encourages governments to adopt and implement policies and programs that uphold labor standards. ILO programs are organized into four areas: standards and fundamental principles and rights at work; employment; social protection; and social dialogue.

Although the ILO has always been at the forefront of eradication of sweatshops by creating legal frameworks that guarantee rights of workers, it only recently began pursuing field initiatives. The Local Manager Development Programme (LMDP) is a new project of technical cooperation for the ILO aimed at capacity building in specific sectors. The objective of this project is to demonstrate to managers a business case for supporting core labor standards and good labor practices. This initiative is based on the premise that there is a crucial link between core labor standards and productivity. LMDP assumes that companies are interested in investing in well-managed and efficient factories with good labor conditions, and, if such factories attract business, they will have a positive demonstration effect for others. Only factories producing for international markets are selected. Once the factories are chosen, the ILO provides training on the means by which factories can address core labor standards in a manner that is at the same time supportive of their own competitiveness. The program has been implemented in Sri Lanka (July 2002-February 2003), achieving successful results. The participating factories saw an increase in quality and productivity, reduction in turnover and absenteeism, and a variety of improvements in working conditions and social dialogue. Peru was selected as the next case for LMDP implementation.

It's ultimately the government's responsibility to ensure its laws are adhered to.
ICLP staff member

Since the mid-1990s, the ILO has also been involved in the monitoring of labor standards. At first, the ILO worked on the monitoring of child labor in Bangladesh and Pakistan under its International Program on the Elimination of Child Labor. In 1999, the ILO expanded the scope of the enforcement and monitoring of standards: the ILO oversees the implementation of the U.S.-Cambodia Textile Agreement, which provides incentives to the Cambodian government for improvements in compliance with labor standards in the garment industry and is discussed in greater detail in the Trade section of this paper.

In recent years DOL and ILO together have been successful at increasing the number of countries that have ratified ILO conventions; getting governments to commit to enforcing fundamental labor principles and/or draw up national plans to eliminate child labor; and removing children from harmful jobs.¹⁴ There are not yet adequate data to judge the effectiveness of DOL/ILO-funded programs with regard to long term systemic change.

Conclusions

The government capacity building approach places responsibility for labor law compliance in the hands of both producer-country governments and manufacturers. Its strength is the capacity building provided directly to governments, and more marginally to individual factories, industry groups, and workers. This has the advantage of addressing systems of governance and factory management, which, if successful, can lead to long-lasting changes in the overall conditions of the country. Technical assistance provided to governments improves their capacity to address labor issues directly and improves the sustainability of reforms.

Like the others, this approach has its challenges and barriers to overcome:

- The approach, when not linked to a trade agreement, lacks downward pressure or an incentive motivating governments, industries, and workers to internalize new ways of doing things. A lack of incentive could render capacity building efforts ineffective.
- It addresses the institutional issues in-country, but does not address the international market structure which encourages labor abuses.
- The approach assumes that manufacturers and governments have the will and simply lack the capacity to implement labor improvements, which is not always the case.
- Corruption and other elements of poor governance can defeat the approach.

B. Trade Agreements

Target Group: Producer-country governments
Driving Force: Suspension of or increase in trade benefits

In recent years, much debate has revolved around including labor standards, or a social clause, in international trade agreements. Such agreements stipulate that trade benefits may be suspended, or, in the case of the U.S.-Cambodia Textile Agreement, enhanced, based on the partner country’s compliance with basic labor standards. The hypothesis is that, if governments fear a decline (or a missed opportunity) in economic growth through increased trade, they will increase labor law enforcement or pressure supplier facilities to comply with labor standards. Proponents of the linkage between trade and labor rights point out that it is a relatively simple and effective way to address labor abuses and improve living standards of populations in developing countries.

The opponents of social clauses in trade agreements argue that any restrictions placed on trade will have the negative effect of shifting investment, and therefore labor, to unregulated industries and markets.

The basic rationale for linkage [of labor standards to trade] is that poverty eradication and improved conditions for workers should be the focus of and primary objective of trade, not incidental, “trickle down” by products of an exploitative system that provides lopsided benefits to a few MNCs.
International Labor Rights Fund

There is also a concern that trade agreements with labor clauses demand that developing countries comply with western standards which they are unable to meet, effectively excluding them from the world markets and economic growth opportunities. Some argue that goods produced in compliance with universally recognized labor standards should not be forced to compete in the marketplace with goods produced in violations of these standards. This would in effect reward bad employers and penalize employers who comply with these standards.

In 1996, the World Trade Organization (WTO) declined to include social standards in its agreements and pointed to the ILO as the agency responsible for addressing labor issues. In addition to the ILO, individual countries may decide bi- or multi-laterally to include labor, environment, or any other clauses in their trade agreements. The United States, for example, has used a system of incentives and preferences in bi-lateral agreements through the GSP, other bi-lateral free trade agreement mechanisms (such as the U.S.-Cambodia Textile Agreement and the Jordan-U.S. Trade Agreement), and NAFTA with Canada and Mexico.

The GSP, in place since 1976, is a trade program with a development objective. In order to encourage economic growth, it grants duty-free or -reduced entry into the United States of specific products originating from designated developing countries. The GSP was amended in 1985 to add labor provisions: Trade benefits would be granted only if the country is in compliance with internationally recognized worker rights. Any concerned organization can petition the USTR to investigate a particular country for labor rights abuses. If the USTR agrees to investigate and finds labor abuses, it can suspend or withdraw trade preferences from the offending country.

We have, for some time, been reviewing worker rights problems in Belarus concerning freedom of association, and the right to organize and bargain collectively. Unfortunately, the government of Belarus continues to suppress trade union rights and harass union leaders. We, therefore, recommended that Belarus be suspended from the GSP program.

Charlene Barshefsky, USTR, 2000

In practice, suspension of trade preferences has been quite rare. There is no appeal to the USTR petition process, and GSP labor stipulations apply only to governments, not to companies. There is some evidence that GSP does cause governments to improve labor standards in order to continue receiving trade benefits, but improvements are not sustained when the fear of losing benefits recedes. For instance, from 1992 to 1997 and again in 2000, Guatemala was under review for suspension of GSP benefits. Both reviews resulted in decisions not to suspend benefits. The U.S. Labor Education in the Americas project (www.usleap.org/trade/SITRABITrial/GSPGuateFactSheet.html) concluded that the GSP reviews prompted the Guatemalan government to legally recognize a new union, raise the minimum wage, reform labor code, establish new labor courts, increase fines for violators, and streamline the legal process. However, "...Guatemalan leaders appear to have become convinced that USTR will only threaten and will never actually suspend benefits. The threat has been around so long that it is no longer taken seriously." As a consequence, the new courts are dysfunctional, key provisions of the labor code are not enforced, fines are rarely paid, and there are massive violations of the minimum wage. Nevertheless, "Guatemalan trade union leaders say that, if nothing else, the worker rights situation would have been worse without the GSP threat." Although the Guatemala case yields mixed results, some countries have been suspended, thus lost trade preferences, for violating labor rights. At present, Belarus and Burma are suspended.

The NAFTA of 1994 is a regional trade agreement among the United States, Mexico, and Canada. It eliminates trade barriers among the three countries, although each separately maintains its preexisting trade agreements and barriers with other countries. Labor and environment side agreements were added to NAFTA in the last months before the agreement went into effect. The labor side agreement is the NAALC, which represents the first time that significant labor provisions have been included in a multi-lateral trade agreement and has been called "the most ambitious link between labor rights and trade ever implemented."¹⁵

Under NAALC, the three countries commit to protect, enhance, and enforce basic workers rights. NAALC starts from the assumption that each country already has adequate labor laws, so the goal is to

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improve enforcement of these laws through provision of information and application of diplomatic pressure. The National Administrative Office (NAO) in each country receives complaints from public groups about labor violations in the other two NAFTA countries. As of March 2002, 25 complaints have been submitted to the three NAO offices, alleging violations of NAALC labor principles. Examples of the complaints submitted include allegations that Mexico violated the right of workers to a free, fair election of their bargaining representative by rejecting a request for a secret ballot election at a neutral location and under conditions free of management coercion; concerns about occupational safety and health and compensation in cases of occupational injuries and illnesses at Auto Trim of Mexico in Matamoros, Tamaulipas, and at Custom Trim/Breed Mexicana at Valle Hermoso, Tamaulipas; and concerns about the Canada Post Corporation Act which includes a provision that denies rural route mail couriers the right to bargain collectively. Twelve of the 25 complaints have resulted in ministerial consultations, meaning that discussions about the issue were held at diplomatic levels and an agreement was developed, outlining a plan to improve enforcement of the principle that was violated. Ministerial agreements typically require the governments to provide public information and outreach and carry out workshops, seminars, meetings, and studies. There is no authority under NAALC to address specific situations or companies directly. Thus far, no submissions have gone beyond the ministerial consultation level to an independent review panel or ultimate sanctions in the form of lost NAFTA benefits. Only safety, health, minimum wage, and child labor violations can result in sanctions. Provisions that restrict some violations from ever reaching the levels beyond the ministerial consultation create a system where there are three categories or tiers of rights making some of them virtually unenforceable, hence, seriously weakening the agreement.

The labor side agreement to NAFTA provides a forum where a few cases have been brought to highlight the gap between labor law and practice in both Mexico and the United States. But, without any enforcement power related to trade remedies, these cases have ended without positive change.

WTO Watch

The U.S. NAO believes that the very existence of the NAALC mechanism and the opportunity to address violations publicly and between governments represents significant progress toward eradicating labor abuses. As reported by a U.S. NAO official, NAALC has been making a difference in labor conditions, especially in Mexico. For example, as a result of NAALC consultation, an important revamping of health and safety programs and the issue of illegal pregnancy tests in the workplace have now been discussed in the Mexican public arena for several years.

NAALC has been criticized for its weak enforcement authority; well-established but complicated application process for bringing cases to review; inability to address specific violation situations; limitation of penalties to safety, health, minimum wage, and child labor violations only; and its general under-use. Despite these criticisms, the NAALC has increased collaboration among labor actors in the three countries; it uses a comprehensive definition of labor principles; the complaint process is transparent; and it forces governments to be accountable for domestic labor law enforcement.

A clear U.S. policy shift toward inclusion of labor in trade agreement has been made since NAALC. The U.S.-Jordan Free Trade Agreement, effective December 2001, has labor clauses written into the body of the agreement. In addition to eliminating trade barriers to the exchange of goods and services between the United States and Jordan, the parties agree to abide by the ILO Fundamental Principles and Rights at Work, to not relax their labor laws, and to take advantage of opportunities to improve labor standards. However, the agreement establishes only a very broad and non-specific penalty system for non-compliance for which it has been criticized. Parties are entitled to take “any appropriate and commensurate action” if the other party has violated its commitment under the agreement, leading to a variety of interpretations of what such action can be.

In 2002, the U.S. Congress passed legislation on trade promotion authority, known as the Trade Act of 2002 (TPA), which has been signed into law by President George W. Bush on August 6. In this legislation, Congress included labor in the trade negotiating objectives and instructed the USTR, who negotiates trade agreements for the United States, to treat labor similarly to other issues traditionally included in the negotiations, for example market access or intellectual property rights. In addition to the non-binding objectives, Section 2102 (a), under which the parties will seek “to promote respect for worker rights and the rights of children consistent with core labor standards of the ILO and an understanding of the relationship between trade and worker rights,” there is a binding requirement for any future negotiations. Section 2102 (b), the principal trade negotiating objectives, repeats the language of NAFTA/NAALC and U.S.-Jordan Free Trade Agreement and calls “to ensure that a party to a trade agreement with the United States does not fail to effectively enforce its environmental or labor laws.” The parties have discretion in the matters of investigation, prosecution, regulation, and compliance with their laws, but TPA includes the objective “to strengthen the capacity of U.S. trading partners to promote respect for core labor standards.” Under the provision of TPA, the USTR has, however, some flexibility in negotiation of labor provisions. The USTR is exploring the use of fines rather than trade mechanisms as a tool of dispute settlement and enforcement.

The U.S.-Singapore Free Trade Agreement was the first agreement signed, on May 6, 2003, since the TPA has become law. This agreement is the first free trade agreement with an Asian nation and, according to USTR, fully achieves all of the negotiating objectives called for in TPA. On June 6, 2003 USTR signed a U.S.-Chile Free Trade Agreement, which was the first such agreement with a South American nation. Although signed, both agreements await ratification by the U.S. Congress.

Under these free trade agreements, each party is obligated to enforce its own labor standards, not the internationally recognized core labor standards. If one government believes a violation of this provision has occurred (unlike GSP, aggrieved workers cannot initiate the complaint), consultations are held to try to resolve the matter. After 60 days, the complainant government may trigger the dispute resolution process. The panel may impose penalties of up to \$15 million if violations are found and suspend trade benefits only if the penalties are not paid.

BOX 5: Garment Sector Working Conditions Improvement Project in Cambodia

“It is encouraging to note that in all the factories at least some progress in improving working conditions has been recorded in a relatively short time. [...] It is evident that a substantial number of factories have made serious efforts to implement suggestions made by the project; should these efforts continue, there is room for optimism that the working conditions in those factories will further improve. However, though the will to improve working conditions and the implementation of some important improvements was evident in the majority of factories, there remain a number of factories where little effort was made. It seems that the absence of progress in implementing the suggestions can to some extent be contributed to a lack of knowledge or tools; however, the critical factor where substantial changes were undertaken was an evident will and commitment on the part of management of the factory to improve working conditions. This report, while drawing attention to the shortcomings in the application of the law, also illustrates that it is feasible to make improvements and that the process needs to be an on-going one. As a result, it is hoped that all parties that have a role to play will be encouraged to make positive changes and to intensify their efforts.”

From the concluding remarks of the *Third Synthesis Report on the Working Conditions Situation in Cambodia's Garment Sector* published by ILO in June 2002.

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To ease the pressure on American workers who will be affected by the liberalization of trade and potential job migration, the United States has passed the Trade Adjustment Assistance Reform Act of 2002 (the TAA Reform Act), which was signed into law in August 2002. The TAA Reform Act amended and added provisions to the trade act programs that provide assistance to individuals who have become unemployed as a result of increased imports from, or shifts in production to, foreign countries. The goal of the trade act programs is to help trade-affected workers return to suitable employment as quickly as possible. The TAA Reform Act also expands eligibility to more worker groups, increases existing benefits available, provides tax credits for health insurance coverage assistance, and increases timeliness for benefit receipt, training, and rapid response assistance.

The U.S.-Cambodia Textile Agreement is a sector-specific agreement and the only U.S. trade agreement that uses positive incentives, as opposed to penalties, to encourage private sector compliance with labor standards. The United States and Cambodia signed this three-year (now extended) accord on January 20, 1999. It establishes a quota for garments exported from Cambodia to the United States. If Cambodia demonstrates improved working conditions, the quota could be raised by as much as 14 percent annually. In order to implement the agreement, the United States has provided assistance to Cambodia in improving its labor standards: DOL is funding the ILO to implement a three-year project promoting the application of core labor standards in garment factories in Cambodia. This agreement actually employs a mixture of approaches: Trade is the incentive, and technical assistance is used to give government and manufacturers the capacity to implement and enforce labor standards. The points of the agreement can be replicated and create a structure or template for future agreements.

The ILO is responsible for helping Cambodia improve its labor standards. As of September 2002, 204 self-selected Cambodian enterprises had signed memoranda of understanding with the ILO,¹⁶ agreeing to be monitored in order to qualify for use of the export quotas. In addition to monitoring, the ILO is conducting an educational campaign to raise the awareness of employers and workers on core international labor standards and rights under Cambodian labor law, and to increase the capacity of employers and workers and their respective organizations to improve working conditions in the garment sector through their own efforts. ILO is also providing assistance to the Cambodian government in drafting new laws, and regulations where necessary, as a basis for improving working conditions.

Many anti-sweatshop actors consider the Cambodia agreement to be a successful experiment in improving work conditions. Mark Levinson of the Union of Needletrades, Industrial, and Textile Employees (UNITE), for example, is quoted as saying, “Activists in Cambodia report that the agreement is responsible for opening some political space for workers and unions to assert their rights.” On the other hand, *Businessweek Online* called the U.S.-Cambodia agreement, “an unusual breach of national sovereignty,”¹⁷ and reported that the agreement is the cause of acrimonious labor-management relations, union violence, and wildcat strikes. This is a reference to a set of events that were characterized by U.S. labor groups as constructive union activity. The result of that period of activity was that unions and the Cambodian Ministry of Labor agreed on a wage increase, although other issues remained unresolved.

As of September 2002, 129 of the participating factories, employing over 127,000 workers, mostly women, were inspected; 29 were re-inspected. The findings of the reports regarding particular issues vary somewhat, but overall the inspectors are determining that there is no child labor or forced labor present in the participating facilities. Some instances of sexual harassment and sex discrimination were found. Also, project reports point to more wide-spread problems that include failure to pay wages, abuse of overtime hours, problems with freedom of association, and strikes that do not follow legal procedures. After over a year of monitoring, however, it has been concluded that progress is being made. Working conditions are improving, often swiftly, at the factory level. The four project reports provide ample

examples of improvements in the areas of health and safety, information (e.g., posting internal regulations), updating employee contracts, and general willingness to address the identified problems. The United States reviews the program annually. Following the recommendations of the Cambodia Project Advisory Committee, stating that “the ILO programme has brought positive benefits to all of the parties in Cambodia and has led to improved working conditions and greater respect for the rights of workers,”¹⁸ the United States granted a quota increase of 9 percent in January 2002.

The Cambodia agreement certainly looks promising, but “for this process of overall improvement in the garment industry to maintain momentum, employers, trade unions, and government will each have an important role to play. The government has a responsibility for establishing an enabling environment for sound industrial relations, with respect to legislation, as well as a responsibility to ensure that effective enforcement will be sustainable. The unions will also be in an important position to affect the sustainability and continuation of the improvements through worker awareness of their rights and obligations, and continuing dialogue on the issues from shop floor level to the national level.”¹⁹

Another trade-related mechanism is the 1999 Executive Order on the Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor. DOL is responsible for compiling and publishing a list of products it believes might have been made with forced or indentured child labor. Currently, the prohibition has been invoked to bar federal agencies from buying these products, which include rubber from Burma and bricks from Pakistan.

In addition to trade agreements that uphold labor standards, there are some cases where trade arrangements can be detrimental to labor conditions. In some export processing zones (EPZs), labor laws are explicitly or implicitly suspended in order to encourage investment. EPZs are designated geographical production areas, ranging from an industrial park to an entire country, which are designed to manufacture goods for export. They are intended to attract investment, create jobs, and stimulate the economy. EPZs offer numerous advantages to foreign investors like easy access to transportation, duty free import of components, other tax exemptions, and subsidies on water and electricity. However, EPZs are widely criticized by the proponents of labor rights for their flexibility regarding working conditions and restrictions placed on trade union activities.²⁰ This is illustrated by the case of Bangladesh where Bangladeshi federal law prohibits the formation of labor unions in the EPZs. Under pressure from the USG, Bangladesh has agreed to permit trade unions in its EPZs beginning in January 2004.

Conclusions

In the U.S. experience, legislation—not trade agreements, but domestic law—was an essential part of controlling sweatshops. Today, however, international trade agreements are the closest thing currently available to legislating labor conditions on an international level in an enforceable way. There are no international legal enforcement mechanisms for the ILO conventions. The trend toward including labor in trade agreements is a significant advance in the effort to eliminate sweatshops. Labor as an issue has been elevated in international arenas, thereby putting it on the agenda domestically for producer countries. Trade agreements can be an important tool for encouraging governments to comply with or enforce labor standards. They provide powerful incentives and penalties that can bring results if the agreement is well structured and well implemented.

On the other hand, trade arrangements can be vulnerable to changes in the political climate in the United States, both in terms of adding labor provisions to new agreements and in the rigor of enforcing existing agreements. Weak implementation and enforcement will dilute the impact of this approach. The advantage of this approach is that it works directly with governments, requiring good governance and the rule of law, transparency in trade relations, and recognition of the democratic participation of labor in civic matters.

Most trade agreements, however, are an external force for change, so there has to be an internally driven incentive that maintains government interest in guaranteeing minimum labor rights and standards. This internal drive necessarily comes from workers, constituents, and other elements of civil society.

C. Worker Education and Empowerment

Target Group: Workers and unions
Driving Force: Worker’s interest in improving their situation

Virtually all parties involved in the elimination of sweatshop conditions agree that worker education and empowerment is an essential element of a long-term strategy. The hypothesis underlying the worker education and empowerment approach is that workers want better conditions and, if they are adequately organized, trained, and equipped, they will be able to successfully negotiate for their own interests. Workers and other civil society actors can apply the pressure necessary to compel management and governments to uphold labor standards. In fact, without the involvement of empowered workers capable of advancing and protecting their own interests in the workplace, any efforts to eliminate sweatshops will be neither effective nor sustainable. Further, for workers to aspire to improve their conditions above the minimums set out in the codes and domestic law—for instance, for a wage above the minimum required by codes and law—collective bargaining with management is the only viable vehicle.

Despite the agreement on the importance of workers’ empowerment, there are very few organizations that make it their priority. Although the DOL/ILO projects train workers on their rights and responsibilities under the ILO Declaration on Fundamental Rights and Principles at Work, their focus is on government and manufacturer responsibility. Among the organizations that USAID has funded to prioritize worker education and empowerment, several have strong ties to organized labor and labor non-governmental organizations in the United States, including:

- The American Center for International Labor Solidarity (the Solidarity Center)
- The International Labor Rights Fund (ILRF)
- The Union of Needletrades, Industrial, and Textile Employees (UNITE)

The Solidarity Center is affiliated with the AFL-CIO and has been engaged in international development work for over four decades, in large measure with USAID support. Its mission is “to advance and strengthen the rights of workers around the world and to foster the development of free, independent

BOX 6: Framework Agreement— Chiquita Banana Unions

The central American banana sector has a long history of significant labor union organizing but was fractured by its inability to work regionally. The industry has been dominated by a handful of multi-national shipper/processors who exercise economic dominance over the region’s producers. The regional banana unions, with support from the Solidarity Center, came together and negotiated a broad agreement (“Freedom of Association, Minimum Labour Standards, and Employment in Latin American Banana Operations”) between the fruit company, Chiquita, and the unions, in which Chiquita agreed that its producers would negotiate collective bargaining agreements that do not go below the parameters set out in the framework agreement. The Chiquita agreement shows that companies benefit from stable working conditions along with the workers. This agreement not only brings minimum standards to an industry that historically had none, but it also creates labor stability for the producers as well as Chiquita and relieves consumer pressure on Chiquita.

unions.” The objective is for people to have “decent work,” under conditions that respect internationally recognized core labor rights and in which workers have the ability to influence the terms and conditions of their employment.

The Solidarity Center has been engaged in specific anti-sweatshop programs for many years. Projects in central America and the Philippines have tested strategies designed to enable workers in targeted industries to monitor compliance with labor rights and standards, organize to protect their own interests, and advocate with governments to enforce compliance with workplace rights and standards. The essential elements of these programs:

- Provide workers and unions with information and training on rights and basic organizing skills
- Develop coalitions with other advocacy organizations to increase awareness and improve enforcement of worker rights
- Train workers how to become effective advocates and how to use democratic means to protect their interests
- Develop advocacy campaigns designed to influence national governments and international organizations to enforce labor rights
- Help partner unions who are developing organizing campaigns in target sectors
- Promote labor rights in global trade, investment, development policies, and lending practices

The Solidarity Center’s basic strategy is to work with local partners—labor unions, women’s groups, child labor advocacy organizations, and other sympathetic NGOs—to empower workers in the effected industries to influence the terms and conditions of their employment. The tactics employed vary according to the particular conditions present in the country or factory. Where there is a mature labor movement and reasonably responsive and technically competent government, emphasis may be placed on organizing, collective bargaining, and mobilizing public support. In other instances, this may mean helping to build an effective labor union from the ground up, and providing training and technical support, before there is any reasonable possibility of actually organizing workers in sweatshops. In every case the ultimate objective is the same—empowered workers capable of influencing their own conditions in the workplace.

We are looking for tools to promote the implementation of labor rights, mechanisms that are reasonably accessible to all workers to enforce their rights—litigation, codes of conduct, trade agreements.

International Labor Rights Fund

The ILRF, a research and advocacy organization, also engages in worker education and empowerment. ILRF develops training programs for workers on local labor laws, codes of conduct, international standards, and monitoring. ILRF also helps workers to file legal claims against factories. ILRF, using the 1789 Alien Tort Claims Act in several high profile cases, has alleged violations of international human rights and is seeking to force companies to comply with basic human rights.

ILRF argues that the key to success is to focus on the workers in a particular factory using legal and organizing tools. Targeting brand companies alone will affect only a very small percentage of the workforce in a given country. Hence, the workers should be a primary target for any activity designed to improve their terms and conditions of employment. The sweatshop-prone industries, such as garments, footwear, or textiles, disproportionately attract young, poor, rural women as workers. To organize them,

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barriers such as gender, class, and education have to be overcome. For example, in the 1990s, ILRF ran a successful program of leadership development. It identified 10 Bangladeshi women workers and sent them to learn English, which greatly enhanced their capacity to be good advocates and deal with multinational groups. They also received training on how to organize and on leadership skills. Those women are now worker leaders; one is even the president of the garment industry union in Bangladesh.

UNITE makes worker empowerment and advocacy a part of its campaign to end sweatshops. UNITE was formed in 1995, through the merger of two of the nation's oldest unions, the International Ladies' Garment Workers' Union and the Amalgamated Clothing and Textile Workers Union. UNITE became involved with the international sweatshop movement in 1996 after media stories revealed labor abuses in foreign factories producing for Wal-Mart. UNITE believes that access to the retailers is a key leverage for international worker empowerment, and it helps its sister unions gain access to American companies and provides assistance to examine work conditions and the companies' practices. UNITE also actively organizes and supports workers by training sister unions to run corporate campaigns.

UNITE was an initial participant in the AIP, but withdrew from the effort, citing that the code fell short on the issues of a living wage and right to organize, and lacked a rigorous monitoring system. In August 2001, UNITE launched a Global Justice for Garment Workers campaign designed to challenge the retail industry to improve the conditions of work and respect for the rights of garment workers at home and abroad. The campaign's most notable success was a recent effort in a Dominican Republic hat factory. After a serious labor dispute and retaliation against workers by management, UNITE, along with WRC, FLA, and others, successfully led an effort to remedy the abuses and set a course of improved labor conditions.

Conclusions

Judging from the U.S. experience with sweatshops, it is difficult to imagine that sweatshops could be controlled without concerted and sustained efforts to educate and empower workers. Investments in building worker capacity to make their own decisions and act on their own behalf will not pay off quickly, but they must begin now to assure a long-term solution to sweatshops. Barriers to development of educated and empowered workforce are formidable and include poverty, low levels of education, poor governance, and corruption. Furthermore, some governments may have structural barriers that block workers from organizing themselves. Local partners willing and able to implement an education/empowerment program may be difficult to find. In some cases, the pre-existing unions are undemocratic, not truly representative of workers interests, and corrupt. However, to dismiss worker empowerment as too difficult, too costly, or not easily measured would be a mistake. Without the direct involvement of the workers, efforts to improve sweatshops conditions are not likely to succeed or endure.

However important and necessary, worker organizing is not a sufficient tool to eliminating sweatshops. The solution also requires the participation of the state as regulator, the cooperation of brands, and the diligence of consumers and civil society organizations as watchdogs.

The efforts described in this section present a range of activities that target the local level and contribute to broader changes in the political and economic environments of a country. There is only anecdotal evidence of the impact of these approaches. But by organizing and strengthening unions, helping workers file legal complaints and providing them with basic education in the area of rights, the Solidarity Center, ILRF, UNITE, and similar organizations bring basic democratic values and procedures closer to the grass roots level. As worker empowerment is part of the ultimate goal, anti-sweatshop actors should focus on it and continue experimenting with approaches. However, better tools for monitoring the impact of workers empowerment programs need to be developed.

D. Codes of Conduct and Monitoring

Target Group: Brand companies and/or production facilities
Driving Force: Consumer pressure and concern for public image

In the early 1990s, as a response to public pressure, U.S. apparel and footwear companies began developing codes of conduct—statements of principles that lay out the minimum labor standards—for themselves and their contractors. Codes of conduct are voluntary standards adopted by brand companies and factories or imposed contractually by brands upon factories producing brand products. While most companies developed their own code and monitoring systems, several notable companies are affiliated with a codes and monitoring group, which is an NGO that provides the companies with a code template and requires a monitoring system. Monitoring means internal and/or external factory monitorings designed to assess compliance with code standards and secondarily to verify the accuracy of previous monitorings.

There are numerous code and monitoring programs. Brief descriptions of some of the more commonly used codes and their sponsoring organizations appear in Appendix C, including the following:

- Ethical Trade Initiative (ETI): a London-based alliance of companies, NGOs, and trade unions, experimenting with different code and monitoring methods
- Fair Labor Association (FLA): a Washington, DC-based organization resulting from the White House’s AIP and composed of representatives from brand companies, NGOs, and universities, certifying whether member companies are in compliance with labor standards
- Social Accountability International (SAI): an international NGO, a standard setting and accreditation organization
- Workers Rights Consortium (WRC): a labor and university partnership that investigates labor violations
- Worldwide Responsible Apparel Production (WRAP): an organization established by the apparel industry to certify production facilities that comply with its code

Code organizations generally share a set of common assumptions about what works and does not work in the effort to improve labor conditions. Codes and monitoring groups believe that the developed country brand companies have an obligation to and can ensure code compliance by using their economic leverage on the financially dependent factory in the developing country. Code organizations target brands over workers, worker organizations, or government agencies charged with enforcing labor standards. They hold that workers are too weak to efficiently influence work conditions and that governments lack the political will, resources, and technical capacity to enforce labor standards. The codes and monitoring approach assumes, however, that factories will respond to pressure from brands and that brands will respond to public and consumer pressure. Finally, they believe that monitoring is effective in exposing labor violations and leads to remediation, which, in turn, will contribute to broader changes in labor practices.

Colleges and universities play a central role in the code and monitoring approach through increasing public and consumer pressure. In the 1990s students and faculty members at universities across the country became increasingly aware of labor conditions in developing countries and expressed concern about how the apparel bearing their university’s logo was made. Students and faculty pressured administrations to

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take a serious look at sweatshop issues. Duke University and the University of North Carolina were among the first schools to urge the Collegiate Licensing Company, the primary U.S. university-licensing agent, to rewrite and enforce its code of conduct. Many universities are now members of one of the anti-sweatshop code programs, which compel their licensees and its contractors to also join the NGO or otherwise demonstrate compliance with the NGO's code of conduct.

When a brand or production facility joins a code program, the code and monitoring NGO provides a model code of conduct and advice on its implementation. It also introduces monitoring requirements that compel the company to establish a monitoring system. Virtually all require the plant and/or brand to conduct internal monitorings to assess compliance with the code. Some of the NGOs furnish the company with the names of external monitors who have been accredited by the NGO, who in turn conduct a factor monitoring to assess compliance. The NGO may or may not assist the company with remediation when a violation is found. The participating company pays a one-time fee or annual dues to the NGO in exchange for this technical assistance and, in some cases, certification or the right to publicly declare themselves compliant members of an organization that assures decent labor conditions.

The code organizations require companies to implement both an internal monitoring (a self-assessment conducted by the brand company or the facility itself) and external monitoring system (independent investigations of code compliance). Monitoring is usually guided by a checklist of indicators or benchmarks and involves direct observation, document review, and interviews. Most code organizations do not publish the results of the monitorings or, if they do, the factories are not identified or the specific findings are not made public.

There are three important areas in which the code and monitoring groups differ. These differences are directly related to the success of each model.

Party Responsible for Compliance

The NGOs all place compliance responsibility in the hands of the private sector, but at different levels. Some, such as SAI and WRAP, work directly with the production facility to assure compliance with the codes. This model is designed to create change in the factory itself and to ensure that the change is sustained. However, working factory by factory presents a problem of scale: How does an NGO encourage a sufficient mass of factories to join and how would it manage a significant number of applicant factories?

FLA and ETI assign responsibility to the brand (or university licensing its brand) to ensure compliance with minimum labor standards and are proscriptive as to how this is accomplished. This model solves some of the scale issues—each brand has a responsibility for managing its own supplier factories and reaches more production plants—but a factory's motivation to comply with labor standards disappears when the brand shifts production elsewhere or when a factory ceases to make products for a particular brand.

Code Content

There are almost as many different codes in use as there are companies. The integrity of the codes and their actual content are clearly of great consequence. To implement and monitor a weak code will do little to improve sweatshop conditions. While a company may claim credit for having a code of conduct, the actual conditions in a factory are largely not affected by it. The codes developed by the anti-sweatshop NGOs adhere to internationally recognized core labor standards such as those established by the ILO (see Box 3), with additional provisions for wages and hours (usually with reference either to domestic law or prevailing practices), health and safety, and harassment and abuse. The codes promoted by different

NGOs in the anti-sweatshop community are generally very similar (see Box 4). Some have specialized provisions not found in other codes: For instance, there could be a specific clause against gender discrimination or a clause demanding the facility adopt a specific management system. Appendix C presents a brief comparison of different codes of conduct, including codes of two companies (Wal-Mart and Gap) who use their own code and monitoring systems, rather than that of an NGO.

Some codes alter or omit one or more of the basic standards or adjust to meet the reality of specific countries in order to accomplish the larger goals. For instance, the codes of FLA, SAI, and ETI recognize that freedom of association and collective bargaining are not permitted by law in some countries, for example in China. Rather than conclude that facilities in these countries are non-compliant, the codes ask companies or factories to encourage the exercise of these rights by establishing “parallel means of association,” such as worker health and safety committees. The WRAP, Wal-Mart, and Gap codes merely require manufacturers to comply with country laws, thereby annulling freedom of association and the right to collective bargaining in countries that do not recognize these rights.

BOX 7: Typical Code of Conduct Contents

- Freedom of association and right to bargain collectively
- Forced Labor
- Wages
- Hours
- Discrimination
- Child Labor
- Health and Safety
- Harassment/abuse

Critics argue that language permitting parallel means weakens the code and undermines the certification system by creating a double standard in which workers at a certified facility in one country have fewer rights than workers at a similarly certified facility in another country. On the other hand, proponents of the parallel means strategy argue that it is more important to press for alternative forms of organizing than to withdraw entirely from the country.

Monitoring

Monitoring systems differ in frequency, breadth, who conducts the monitoring, how the findings are reported, approaches to remediation, and how many and which facilities are monitored. For instance, a factory may be monitored by an independent monitor every 6 to 12 months (SAI), every 3 to 10 years (FLA), or upon the allegation of serious violations (WRC).

In each case, the underlying assumption is that a monitoring lasting three to five days every several months or years can accurately assess the state of compliance in a particular factory on a broad array of labor standards. These monitorings often occur in countries where there is a history of non-compliance with labor standards, so the scope of the violations is likely to be broad. Further, some monitorings are conducted with advance notice to the factory, giving unscrupulous management the opportunity to disguise violations and intimidate cooperative workers. Finally, much of the factual information for the monitoring (e.g., hours actually worked, freedom of association, discrimination, and sexual harassment) will of necessity be gathered through worker interviews in circumstances in which workers may fear retaliation by management.

Unfortunately, data on the impact of the codes and monitoring approach on workplace conditions are sparse. Current information is limited to anecdotes, making it difficult to determine definitively if this approach is having its intended effect. The anecdotal evidence points to the potential benefits and the demonstrable weaknesses of the codes and monitoring approach. One case is the Kukdong factory in Mexico, where several brand companies belonging to code organizations were producing goods. A code was in place and an internal monitoring had recently taken place, finding satisfactory compliance.

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However, in January 2001, workers, seeking to form an independent trade union to replace the ineffective and non-democratic trade union in the factory, suffered serious retaliation when they sought to exercise their associational rights. The brand companies, NGOs, and labor activists responded and were able to partially remedy the various code violations found. In this situation, the existence of a code and routine monitoring alone did not guarantee workers rights; external intervention was required to enforce them. The systems proved useful, however, in prompting a quick response from U.S.-based NGOs that were able to sufficiently and accurately document labor abuses, pressuring the factory to change its ways. The factory owner is now speaking openly about the benefits of compliance with fair labor standards, as he finds he has a more stable, less conflictual work force, and a better relationship with the brands.

Corporate self-monitoring should be about how to improve, not a check, which is why our system is complaint-driven.

Workers Rights Consortium

Conclusions

Differences among the code and monitoring systems have sparked intense debate among anti-sweatshop NGOs and have become a major focus of discussion, even a barrier to progress. The disagreements have led to a proliferation of codes and duplication in monitoring efforts, which ultimately weaken the effectiveness of this approach.

Constraints to this approach also include a lack of transparency. In many cases the workers in an internally monitored factory are not aware that the code and monitoring system is in effect. Internal monitoring results are rarely disclosed to workers and complete internal monitoring information is not made public. The trend toward compromising codes in countries where organizing and bargaining are illegal may be effective, but has two major weaknesses that require correction. First, codes should acknowledge that some factories or brands are not in compliance with code standards. At the same time, the NGO or company should work with the factories, brands, and, where necessary, host-country governments to move them into compliance.

Finally, there are many ways for codes, even when they are in place, to not be implemented or even acknowledged. Monitoring findings have shown low worker and management awareness of codes; codes that are implemented by brands may leave a factory when the brand leaves the factory; and monitoring has been found in many instances to be inadequate because of poorly trained internal monitors, lack of independence in selection of factories to be internal monitoring, and the management's ability to mask violations during the internal monitoring.

E. Advocacy

Target Group: Companies (brands and production facilities) and governments
Driving Force: Public pressure, litigation, complaint mechanisms

This approach is based on the hypothesis that, by raising awareness and activating consumers and concerned citizens in developed countries, pressure will mount, forcing companies and governments to take measures to eliminate sweatshop conditions. Those measures are not always specified, but where they are, they may include integrating labor standards into trade agreements; adopting quality codes of conduct supported by independent monitoring; promoting transparency in information; and placing demands on governments to enforce their labor laws and to implement international standards. Although important and virtually indispensable, the advocacy approach is an auxiliary to the other approaches; it does not offer a distinct solution to the sweatshop problem. Advocacy activities usually revolve around a specific event but they also contribute to the more institutional approaches.

Advocacy activities consist of education campaigns, attracting media attention, issuing public statements and papers, and encouraging consumers to write letters, to buy only sweat-free products, and to participate in demonstrations. Students are a particularly important constituency of the advocacy organizations. For instance, United Students Against Sweatshops formed in 1998 first as a means for students to pressure their own schools to take responsibility for the conditions under which their apparel is produced. By 2000, United Students Against Sweatshops had founded the WRC.

Among the leading organizations that engage in the advocacy approach and tend to work in the area of worker education and empowerment, the research group examined the following representative groups:

- ILRF
- National Labor Committee (NLC)
- UNITE
- Clean Clothes Campaign (CCC)

The ILRF has several on-going advocacy projects. It conducts research, engages in public education, and organizes constituents. The ILRF attempts to raise public awareness of labor exploitation, brings corporate violators of labor laws to court, and promotes the inclusion of labor rights in trade and international policy.

Among its recent accomplishments are a campaign mobilizing millions of people to promote the passage of ILO Convention 182 on the worst forms of child labor; establishing RUGMARK, a project which moves child laborers in the carpet industry from work to school; and convincing the soccer ball industry to stop using child labor. ILRF was also instrumental in the creation of the social clause in the GSP and used this example to add labor rights conditionality to numerous subsequent U.S. laws. ILRF has worked with trade unions and NGOs in Brazil and central America on a campaign demanding public accountability for labor rights violations in World Bank projects. Finally, ILFR published *Developing Effective Mechanisms for Implementing Labor Rights in Global Economy*, an analysis of the effects of trade rules on workers.

The NLC, founded in 1981, is a human rights advocacy organization. Its mission is to educate and actively engage the American public on human and labor rights abuses by corporations. It has a goal of ending labor and human rights violations, ensuring a living wage, and helping workers and their families live and work with dignity. NLC has been instrumental in bringing public attention to several cases of sweatshop conditions in the factories of major American brand names, such as Wal-Mart's Kathy Lee Gifford brand, where sweated labor was used to produce brand products in New York and El Salvador. The NLC visits factories on fact-finding missions and publicizes its findings. It demands that U.S. companies pay a living wage, make full public disclosure of all their factory names and addresses, and submit to truly independent monitoring. NLC believes that media campaigns are an effective tool against companies and that change is driven by activism. NLC feels that monitoring is unreliable, that the confusion of different codes is turning people off, and that companies use codes and monitoring as a cover. According to the NLC, the weak link in the anti-sweatshop effort is lack of worker capacity on the ground (i.e., workers do not know how to organize and they need to be educated).

UNITE publicizes stories of labor abuse and encourages members and activists to educate others, shop carefully, and write letters to political candidates. Specific advocacy activities include demanding that

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retailers take responsibility for the conditions under which their products are made; holding politicians accountable for their actions on sweatshop issues; and participating in protests against the WTO's trade rules. UNITE's international work gives the union more leverage over the domestic and international garment industry. For example, UNITE uses information on sweatshops to pressure retailers on other issues. UNITE has worked on trade legislation in the United States and on labor codes in Cambodia.

BOX 8: Consumer Power—Public Campaigns

Publicizing sweatshop abuses has been used for mobilization of the public to pressure manufacturers, brands, and foreign governments into action. NGOs, such as the Clean Clothes Campaign, use multiple activities to raise consumer's awareness and to translate the public's frustration with sweatshops into action. Examples of campaigns and initiatives include:

Sri Lanka: Writing Letters in Support of Union Recognition

The public was urged, upon request for international support made by the Free Trade Zone Workers Union, to ask the President and the Minister of Labor in Sri Lanka to resolve the issues of recognizing labor unions in the Free Trade Zone and upholding the labor laws. The manufacturers were asked to ensure that local management of their factories respect human rights and uphold the law to which they are bound. The consumers were provided with contact and other information for writing their letters.

40,000 Leaflets Distributed in the Naked Campaign

In 2001 CCC activists in the United Kingdom staged a campaign against Gap, demanding that the company "clean up its act." Decked out in "naked" costumes, campaigners told Gap and the public that they would rather be naked than wear Gap clothes made in workplaces where workers rights are violated. "Naked" street actions took place in London, Manchester, Norwich, Leicester and Preston and 40,000 leaflets were distributed.

Made in Burma: Olympic Torchbearers Uniforms

The Olympic torchbearers, as many as 11,500 people who carried the Olympic flame from Greece to the site of 2002 Winter Olympics in Salt Lake City, Utah, were wearing uniforms produced in Burma for the U.S. company, Marker. The Dutch Clean Clothes Campaign, the Dutch Trade Union Federation, the Burma Committee of the Netherlands and Novib organized an action against the International Olympic Committee (IOC) doing business with the military regime in Burma. On February 8th the campaigners staged their own alternative Olympic opening ceremony. A Dutch delegation also sent a letter to the Dutch Olympic Committee.

Research on Working Conditions in the Garment Industry in Swaziland

The Africa Growth and Opportunity Act (AGOA), passed in 2001, gives Swaziland duty free and quota free apparel access to the U.S. market and is expected to increase Swaziland's economic growth to 6 percent from the current 2.5 percent and create thousands of jobs. Swaziland garment companies produce mainly for the U.S. market, for large retailers such as Wal-Mart and K-Mart. In May 2001 the Center for Research on Multi-national Corporations, based in the Netherlands and a part of the Dutch CCC, and the Trade Union Research Project, located in South Africa, carried out research on Swaziland's garment industry for the Clean Clothes Campaign and the ITGLWF-African region. This research was aimed at assessing the labor conditions in Swaziland. Researchers visited 10 factories and interviewed management, trade union, government, and NGO representatives, as well as garment workers. The researchers found that workers in garment and textile companies in Swaziland experience poor working conditions.

Source for all examples: Clean Clothes Campaign, June 2002 Newsletter available at <http://www.cleanclothes.org/news/newsletter15.htm>

Founded in 1990 in the Netherlands, CCC was formed in response to concerns over workers in the Philippines, who were employed by the contractor of a major European retail chain and who were fired for demanding to be paid the legal minimum wage. Over time, CCC grew to include branches in 10 European countries and is now a coalition of consumer organizations, trade unions, human rights and women's rights organizations, researchers, solidarity groups, and activists who work together to improve labor conditions in the garment and sportswear industry worldwide. The European network of CCC works closely with organizations in producer countries. The CCC mounts campaigns to pressure companies to address specific violations; urges consumers, factories, courts, and governments to assist workers; and raises consumer awareness of the need for change. CCC trains workers and builds networks with NGOs in producer countries. It is also exploring legal means for challenging poor working conditions.

Since 1998, CCC follows the Code of Labour Practices for the Apparel Industry Including Sportswear, which is based on the ILO core labor standards and several additional standards, including a right to a living wage and the establishment of an employment relationship. The code is a strategic tool for getting companies to comply with the international labor standards. It enables CCC partners to have a unified standard to campaign around and is a clear way to communicate the standards the campaign seeks to have implemented. It provides guidance for laws that can be adopted at the national level. CCC believes that a common code demonstrates the broadness and international nature of the support for fair labor standards and is a challenge to the weak codes that were being developed and promoted by garment and sportswear companies. CCC has not attempted to institute a monitoring program to test compliance with its model code but rather leaves that to others, including partner organizations and multi-nationals.

CCC believes that public regulation must be a part of a solution to the sweatshop problem. A future system should focus on giving workers organizations more power, capacity, and voice in whatever procedures or methodologies are put in place to ensure that working conditions are decent. Ideally this system would operate under the auspices of the ILO, and it would be embedded in a legal framework that ensures that codes, monitoring, etc. happen as intended.

Conclusions

Public outcry was important in historical U.S. efforts against sweatshops. More recently it helped push companies to adopt codes and contributed to the creation of the AIP. Public activism will remain helpful in pressing for some permanent solution and in raising the alarm if the new mechanism is not properly enforced. The effectiveness of this approach is challenged by the fact that public activism ebbs and flows and public interest in a given topic is unpredictable. Advocacy is conducted primarily in the United States and other well-developed democracies and testifies to the strength of civil society in the west. There is relatively little advocacy activity geared toward activating civil society in producer countries, which is a direction that deserves more exploration. Another danger is that the activist organizations sometimes advocate contradictory long-term solutions to the labor abuse problem, such as lobbying for consumer boycotts without consideration of potentially displaced workers.

There will always be room for advocacy, and it is important that it continues. Because advocacy is most effective when it complements other approaches, the coordination of efforts and supplementing them with advocacy tools will enhance the effects of anti-sweatshops campaigns. Advocacy would be especially useful if the various players came to a consensus on a long-term solution and strategize around a common vision.

3 Conclusions and Recommendations

Eliminating sweatshop conditions in factories producing goods for the U.S. market will be neither quick nor easy. Despite hopes to the contrary, history tells us that silver bullet solutions have not been found. The history of sweatshops here and abroad suggests that anti-sweatshop programs must be multi-faceted and those implementing the programs must be prepared to work with other implementors for many years in many countries. The critical elements to effective programs include governments with the incentives, the will, and the capacity to guarantee compliance with fundamental labor rights, workers with better information about their rights and empowered to organize to protect their own interests, heightened corporate responsibility by all companies in the entire supply chain, and informed and engaged developed world consumers willing to demand products made in observance of minimally acceptable labor standards. Any of these approaches in isolation are unlikely to alleviate sweatshop conditions but each in combination holds great promise and should make a lasting contribution to eliminating sweatshops.

The production of consumer goods is and will continue to be global, with factories producing goods in virtually every corner of the globe. But while production has globalized—e.g., Liz Clairborne in Guatemala, Nike in Indonesia, Reebok in Brazil, Levi's in Turkey, and Adidas in Mauritius—and begun to bring the promise of economic development to those countries, much consumer production has begun moving to China, leaving many of these countries with shuttered factories. China offers economic and political incentives that other developed and developing countries can not or do not wish to match—low wages, meager labor enforcement, and a virtually limitless labor supply. The producing countries losing production to China and the anti-sweatshop movement seeking to improve labor conditions must respond to this challenge quickly and offer solutions that allow production to be both compliant with labor standards and economically competitive.

Several issues arose during this review of current anti-sweatshop strategies that merit further discussion and action. The recommendations presented below are intended to highlight issues what areas need to be addressed in order for the current efforts to eliminate sweatshops to make the best use of scarce resources and to realize the greatest impact. Some of the recommendations are bureaucratic and others are programmatic. They are intended largely to suggest mid-course corrections in the current direction of sweatshop programs funded by the USG that could make each program more effective.

Perhaps the most pressing challenge is the need to better coordinate the activities of the disparate USG anti-sweatshop programs so an integrated, multi-faceted program is brought to bear on the problems in a factory, sector, or country. Based on the limited experience to date, the examples of measurable impact on factory conditions have occurred when the coordinated, multi-faceted approach has been used. Kukdong in Mexico and the Cambodian garment manufacturing program are two examples of sweatshop programs that have utilized several pressure points—the host-country government's willingness and ability to play a positive role (or, at a minimum, neutrality), worker education and empowerment, multi-national brand pressure, factory management education, and technical assistance—to effect real change for the better. Both donor and implementor coordination are necessary to assure that all the necessary elements of a coordinated anti-sweatshop program are in place in the targeted factory, sector, or country. This coordinated, multi-faceted approach to eliminating sweatshops should be more fully tested as an effective model for attacking sweatshop conditions.

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Therefore, it is recommended that USG efforts are better coordinated; in-country assistance to governments and labor is increased; and that the manufacturers and monitoring organizations are more accountable through adherence to credible codes and greater transparency of monitoring.

- 1. Improving effectiveness of anti-sweatshop programs by greater coordination among USG agencies.** The different programs elements – technical assistance to labor ministries and other in-country government institutions, worker education and empowerment, codes and monitoring—would greatly benefit if there was a systematic coordination so that each can be virtually supportive of the others appropriate circumstances.

Recommendation: The USG should establish an inter-agency coordinating committee charged with integrating and making more effective the anti-sweatshop programs being conducted throughout the USG.

- 2. Increasing in-country assistance to government and the workers who are a vital part of civil society.** While the governments should be the ultimate guarantor of labor rights, the empowered workers are in the best position to negotiate for their own interests. Although it is not always possible, combining assistance to host-governments to enforce the internationally recognized fundamental principles and rights at work and their own domestic labor law along with educating workers about their rights offers the best hope of a sustainable solution to the sweatshop problem.

Recommendation: The USG should expand support to host-country governments and increase the scope of programs designed to educate and empower workers. Enhancing the ability to ensure compliance with labor standards and providing education about them should be a primary focus of any anti-sweatshop program.

- 3. Promoting greater accountability of manufacturers and monitoring organizations.** Because of the proliferation of the codes and monitoring organizations, there is a duplication of efforts and wasted resources that contribute to the confusion among the workers and employers create potential for a backlash by plant managers against the codes. Some codes do not meet what most believe to be the minimum requirements of a credible code: compliance with local labor laws and the core international labor standards recognized by virtually every country. Also, some monitoring systems have not been fully transparent in reporting results, suffered from apparent conflict of interest in supervision and payment of monitors, and deemed factories violating core labor standards as compliant.

Recommendation: The companies and external organizations with codes of conduct and monitoring programs should initiate a consultative process intended to eliminate unproductive duplication by harmonizing codes, coordinating monitoring, and, where feasible, granting mutual recognitions to codes, accreditation of monitors, and monitoring findings. The monitoring organizations should also address the issues of their independence from the manufacturers, transparency of monitoring results and remediation measures, and perhaps most importantly, full, not partial, compliance with critical labor standards.

The specific observations and recommendations are based on this admittedly limited exploration of historical and contemporary approaches to eliminating sweatshops. A more thorough examination will be possible once the various programmatic approaches have been fully implemented and had sufficient opportunity to have a measurable impact.

APPENDIX A: Materials Used

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APPENDIX B: Websites of Interest

AFL-CIO global economy page
www.aflcio.org/globaleconomy

Clean Clothes Campaign
www.cleanclothes.org/

Ethical Trading Initiative
www.ethicaltrade.org

Fair Labor Association
www.fairlabor.org

Henning Center for International Labor Relations at the University of California-Berkley
henningcenter.berkeley.edu/

International Labor Organization
www.ilo.org

International Labor Rights Fund
www.laborrights.org

Lawyer's Committee for Human Rights
www.lchr.org/workers_rights.html

Maquila Solidarity Network
www.maquilasolidarity.org

National Labor Committee
www.nlcnet.org

No Sweat UK
www.nosweat.org.uk/

North American Agreement on Labor Cooperation
www.naalc.org

Office of the U.S. Trade Representative
www.ustr.gov

Social Accountability International
www.sa-intl.org

Sweatshop Watch
www.sweatshopwatch.org

Trade Union Congress of the Philippines
www.tucp.org.ph/projects/sweatshops/sweatshopscampaign/index.html

UNITE

www.uniteunion.org

United Students Against Sweatshops

home.sprintmail.com/~jeffnkari/USAS/index.html

U.S. Agency for International Development, Office of Democracy and Governance

www.usaid.gov/democracy

U.S. Labor Education in the Americas Project

www.usleap.org/

U.S. Department of Labor, International Labor Affairs Bureau

www.dol.gov/ilab/

U.S. Department of Labor, Child Labor Program

www.dol.gov/ILAB/programs/iclp/main.htm

U.S. State Department, Bureau of Democracy, Human Rights, and Labor

www.state.gov/g/drl/lbr/

Workers Rights Consortium

www.workersrights.org

Worldwide Responsible Apparel Production

www.wrapapparel.org

APPENDIX C: Codes and Monitoring NGOs

The FLA,²¹ founded in May 1999, grew out of the White House's AIP. AIP discussions resulted in the development of a workplace code of conduct and monitoring principles. The FLA, a coalition of companies, NGOs, and colleges and universities, was established to accredit external monitors, certify whether brand companies are in compliance with standards, address questions about the elimination of sweatshops, and provide information to consumers. Working through participating companies (currently 12 brand companies are participating) and affiliate colleges and universities (over 175 colleges and universities are participating), the FLA coordinates and oversees companies' adoption of its code and the external monitoring of manufacturing facilities by accredited monitors. The FLA accredits external monitors. It also responds to credible third party complaints about the facilities of participating companies. Its governing board is made up of company representatives, NGO representatives, university representatives, and a chair.

In the absence of adequate national and international laws and enforcement mechanisms, Fair Labor's code of conduct, comprehensive monitoring system, and public reporting are the best way to insure that workers are treated fairly and to give consumers information to make thoughtful purchasing decisions.

FLA

The WRC was created in April 2000 by college and university administrators, students, and labor rights experts. It is an outgrowth of the labor and NGO participants from the AIP who were not satisfied with the FLA code and monitoring system, which they felt were not sufficiently transparent. WRC members are exclusively colleges and universities—not companies. There are more than 100 colleges and universities affiliated with WRC. WRC responds to complaints of unfair labor conditions in factories producing for its college and university members. WRC does not certify companies or factories because they believe it is impossible to determine full compliance. It investigates facilities and reports the findings to colleges and universities and the general public. Where violations are uncovered, the WRC works with colleges and universities, U.S.-based retail corporations, and local workers and organizations to correct the problem and improve conditions. The governing board is made up of five university administration representatives, five United Students Against Sweatshop representatives, and five WRC Advisory Council representatives, who are independent labor rights experts.

The objective is for U.S. companies to become agents for positive change, for lifting working conditions and raising respect for labor rights, for defining positive conditions and raising wages.

WRC

SAI,²² the offspring of the NGO, Council on Economic Priorities, was founded in 1997. Its mission is to improve workplaces and communities around the world by developing and promoting voluntary standards combined with independent verification and public reporting. SAI is different from the FLA in that its affiliates are both companies and the manufacturing facilities themselves.

SAI (like WRAP) certifies production facilities that have complied with its code, SA8000, modeled along the lines of the International Organization of Standardization series of management system standards. SA8000 is applicable to any sector, not just the apparel industry. Like FLA, it also accredits external monitors. Its advisory board is equally balanced between business and non-business (NGO, trade unions, socially responsible investors, governments) members.

The objective is a world where those producing for export provide for their employee's working standards.

SAI

The ETI, based in London, is an alliance of companies, NGOs, and trade unions. Formed in 1998, ETI developed a code of conduct for member companies to follow. ETI's focus is on learning from the experiences of its company members through pilot projects that test different methods of code implementation and enforcement. ETI is not limited to the apparel industry. Its governing board is made up of union representatives, NGO representatives, company representatives, a DFID observer, and a chair.

Our ultimate goal is to ensure that the working conditions of employees in companies that supply goods to consumers in the UK meet or exceed international standards.

ETI

Another organization that uses the code/monitoring approach is WRAP, whose approach is different from the other four. WRAP's system places primary responsibility for improving workplace conditions on owners and operators of sewn product manufacturing facilities, not the U.S. companies for whom they are producing. However, the U.S. companies, who are WRAP supporters, have committed to "increasingly rely on WRAP certified factories." Under the WRAP system, full compliance is required for certification, which—if granted—is valid for one year. WRAP is an NGO that was created by the American Apparel Manufacturers Association. Its mission is to promote and certify ethical manufacturing around the world. WRAP certifies factories that comply with WRAP's principles that address labor practices, factory conditions, and environmental and customs compliance. WRAP also accredits external monitors. The board of directors is made up of industry representatives and independent (non-industry) members.

Manufacturers of sewn product will provide at least one day off in every seven-day period, except as required to meet urgent business needs.

WRAP

WRAP accredits monitoring firms to perform monitorings in dozens of countries around the world. Monitoring reports will reveal the names of factories but not locations.

All of the organizations described in this section have developed their own codes of conduct, which have a number of similarities as well as important differences. For comparison, two company codes—of the Gap, Inc., and Wal-Mart—were added. Gap was selected because the company has been targeted in the media by anti-sweatshop advocacy groups and decided not to join one of the code and monitoring groups, but rather to enforce its code through its own internal and external monitoring system. Gap also participates in Global Alliance. Wal-Mart is an example of a mass merchandiser, a retailer, and a manufacturer, which is not subject to the same kind of public pressure that a brand name company is. Wal-Mart has not affiliated with any code/monitoring group. It has its own code and asks vendors to self-inspect; although not required or routinely performed, vendors are also subject to Wal-Mart or third party inspections.

Notable differences are

- The wording used by FLA, SAI, and ETI in freedom of association and right to collective bargaining which makes compromises for countries where these principles are illegal
- Wages for SAI, WRC and ETI are the "living wage," whereas the others rely on legal minimum wage
- Weekly work hours limited for WRAP, The Gap and Wal-Mart are set at 60 or not specified, whereas the others set 48 as the maximum
- Wal-Mart does not include freedom of association and collective bargaining

- WRAP does not include maximum regular hours, overtime hours and overtime compensation
- WRC does not include maximum overtime hours
- Wal-Mart does not include maximum overtime hours and imprecise wording on overtime compensation
- Imprecise wording by Gap on overtime hours and compensation

| Principle | FLA | SAI | WRC | ETI | WRAP | The Gap | Wal-Mart |
|--|---|--|--|--|--|---|---|
| Recognize and respect freedom of association and right to bargain collectively | X (Where not allowed by law, take steps to ensure that employees can exercise these rights.) | X (Where right restricted by law, employer facilitates parallel means for free association and bargaining.) | X | X (Where right restricted by law, employer facilitates parallel means for free association and bargaining.) | X | X | - |
| Forced labor prohibited | X | X | X | X | X | X | X |
| Wages to meet the higher of legal minimum or prevailing industry standards | X | Meet basic needs & provide discretionary income | A living wage that meets basic needs | Meet basic needs & provide discretionary income | X | X | X |
| Maximum hours per week, not to exceed the lesser of the legal limit or | 48 hours (except in extraordinary business circumstances); 1 day off in 7. | 48 hours; 1 day off in 7. | 48 hours; 1 day off in 7, plus holidays. | 48 hours; 1 day off in 7. | - 1 day off in 7, (except to meet urgent business needs.) | Not to regularly exceed 60 hours | Favor vendors using less than 60 hours; 1 day off in 7. |
| Overtime hours per week not to exceed | 12 hours; premium pay | 12 hours; premium pay | - Premium pay | 12 hours; premium pay | - | Limited to human and productive conditions; Premium pay | Compensated as appropriate |
| Discrimination prohibited | X | X | X | X | X | X | X |
| Child labor prohibited, below age of | 15 or 14 | 15 or 14 | 15 or 14 | 15 or 14 | 14 | Legal age limit or 14 | Legal age limit or 15 |
| Safe and healthy environment required | X | X | X | X | X | X | X |

Endnotes

¹ Figures based on U.S. census data of value of exports, general imports, and imports for consumption by SITC commodity grouping, U.S. Census Bureau, Standard International Trade Classification.

² Frances Perkins of the New York City Consumers' League, who later became President Franklin Roosevelt's labor secretary, and Samuel Gompers, president of the American Federation of Labor (AFL), were members of the commission.

³ A survey conducted in 1928 found that average wages in five southern states were 29.1 cents per hour and 41.1 cents in New England, a 30 percent wage differential. Bernstein, *The Lean Years 1920-1933*, p. 10

⁴ Furthermore, the laws in the south regulating the textile industry were few and poorly enforced. For example, Alabama had no limit on the number of hours an employee could be made to work. North Carolina and Georgia, however, set the limits at 60 hours a week, but they continued to allow children above 14 and women to work at night. Only five violations were prosecuted in three years in South Carolina, and the fines were assessed at a maximum of \$50. Bernstein, *The Lean Years 1920-1933*, p. 10

⁵ The steel mill towns of Pennsylvania shared these structural flaws with textile-dependent towns in the Carolinas. Aliquippa, PA, was called "Little Siberia" due to the autocratic rule of the Jones and Laughlin Steel Company. Lichtenstein, *State of the Union*, p.31

⁶ In South Carolina, a manager of a textile plant stated proudly that "we rule like the czar of Russia." Bernstein, *The Lean Years 1920-1933*, p.7

⁷ A company union was an employee association organized, controlled, and financed by the employer.

⁸ With specialized industries, such as mining, having separate inspection bodies, inspectors from these offices visit a small sample of workplaces looking for violations. In practice, inspections are often prompted by a worker complaint. Violators may be prosecuted criminally, fined, forced to pay back wages, or restrained by an injunction. In industries where it is unlikely that workers will file complaints or the prevalence of violations is significant, such as the garment or agricultural industries, DOL conducts targeted inspections. The experience of these agencies has shown that conducting inspections and penalizing employers can successfully control hour, wage, health and safety, and child labor violations.

⁹ Wages paid to factory workers making apparel and footwear are a very small fraction of a cost of the final product. It is estimated by Theodore H. Moran in *Beyond Sweatshops: Foreign Direct Investment and Globalization in Developing Countries* that unit labor costs at the production stage are a small portion of the final price (1 percent or less for branded garments and footwear; 1 to 3 percent for unbranded garments and footwear). (p57) This figure is consistent with estimates made by NGO CCC, which puts the wages at 0.4% of the price of the final product paid for by the U.S. consumer.

¹⁰ FY 2003 Annual Performance Plan, Department of Labor. http://www.dol.gov/_sec/budget2003/2003app-appendixa.htm#goal3.3

¹¹ U.S. Congress (Omnibus Consolidated Appropriations Act of 1997, P.L. 104-208) mandates ILAB to prepare an annual report "By the Sweat and Toil of Children" documenting and analyzing voluntary

efforts, particularly labeling initiatives, to inform consumers that measures are being taken to prevent the use of child labor.

¹² “A time-bound Programme is essentially a set of tightly integrated and coordinated policies and programmes to prevent and eliminate a country’s worst forms of child labour within a defined period of time.” (<http://www.ilo.org/public/english/standards/ipec/timebound/tbp.htm>)

¹³ Vocational training and vocational rehabilitation, employment policy, labor administration, labor law and industrial relations, working conditions, management development, cooperatives, social security, labor statistics and occupational safety and health; and it promotes and trains independent employers’ and workers’ organizations.

¹⁴ DOL Annual Report, FY 2001 Annual Report on Performance and Accountability.

¹⁵ www.hrw.org/reports/2001/nafta/nafta0401-01.htm

¹⁶ According to the Cambodian Ministry Of Commerce 13 of these factories have permanently closed operations since signing MOUs. Source: Fourth Synthesis Report on the Working Conditions Situation in Cambodia’s Garment Sector www.ilo.org/public/english/dialogue/ifpdial/publ/cambodia4.htm#top

¹⁷ “Bumps in the Road to Cambodian Labor Reform” Businessweek Online. September 11, 2000.

¹⁸ First Synthesis Report of the Working Conditions Situation in Cambodia’s Garment Sector. Garment Sector Working Conditions Improvement Project, Kingdom of Cambodia. Section 2.2.4. 2001.

¹⁹ Fourth Synthesis Report on the Working Conditions Situation in Cambodia’s Garment Sector, Concluding remarks www.ilo.org/public/english/dialogue/ifpdial/publ/cambodia4.htm#top

²⁰ Johansson 1994:388; Rosier 1995:75; Endresen and Jauch 1999

²¹ The FLA has received funding from the USAID.

²² The SAI has received funding from the U.S. Department of State.

Acronyms

| | |
|-------------------|---|
| AIP | Apparel Industry Partnership |
| DOL | Department of Labor |
| DRL | State Department's Bureau of Democracy, Human Rights, and Labor |
| EPZ | Export Processing Zone |
| ETI | Ethical Trade Initiative |
| FLA | Fair Labor Association |
| GAO | General Accounting Office |
| GSP | Generalized System of Preferences |
| ICLP | International Child Labor Program |
| ILAB | DOL's Bureau for International Labor Affairs |
| ILO | International Labor Organization |
| ILRF | International Labor Rights Fund |
| LMDP | Local Manager Development Programme |
| NAALC | North American Agreement on Labor Cooperation |
| NAFTA | North American Free Trade Agreement |
| SAI | Social Accountability International |
| Solidarity Center | American Center for International Labor Solidarity |
| TPA | Trade Act of 2002 |
| UNITE | Union of Needletrades, Industrial, and Textile Employees |
| USG | U.S. Government |
| USTR | Office of the U.S. Trade Representative |
| WRAP | Worldwide Responsible Apparel Production |
| WRC | Workers Rights Consortium |
| WTO | World Trade Organization |

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