



FAIR LABOR  
ASSOCIATION

**Fair Labor Association  
First Public Report:**

**Towards Improving Workers' Lives**

August 1, 2001 - July 31, 2002

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## Table of Contents

Executive Summary.....	1
I. Introduction.....	2
II. The FLA Process.....	9
III. Company Overviews.....	14
a. adidas-Salomon.....	15
b. Eddie Bauer.....	24
c. Levi Strauss and Co.....	32
d. Liz Claiborne, Inc.....	39
e. Nike.....	47
f. Phillips-Van Heusen.....	58
g. Reebok.....	68
IV. FLA Findings and Remediation.....	77
a. Year One Monitoring Visits.....	80
b. Code Awareness.....	82
c. Forced Labor.....	86
d. Child Labor.....	90
e. Harassment or Abuse.....	95
f. Nondiscrimination.....	99
g. Health and Safety.....	104
h. Freedom of Association and Collective Bargaining.....	110
i. Wages and Benefits.....	117
j. Hours of Work.....	123
k. Overtime Compensation.....	129
l. Concluding Remarks.....	134
V. Third Party Complaint Procedure and BJ&B Case Study.....	136
VI. Conclusion: Looking Toward The Future.....	143
VII. Bibliography.....	147
Appendix A: Obligations of Companies.....	151
Appendix B: FLA Workplace Code of Conduct.....	153

## Executive Summary

In 1999, leading footwear and apparel companies joined with human rights groups, consumer groups, university officials and others to form the Fair Labor Association (FLA), a non-profit organization dedicated to protecting the rights of workers who labor in factories in the U.S. and overseas. Companies that participate in the FLA – including adidas-Salomon, Eddie Bauer, Gear for Sports, Joy Athletic, Liz Claiborne, Nike, Nordstrom, Patagonia, Phillips-Van Heusen, Polo Ralph Lauren, Reebok, and Zephyr Graf-X – have agreed to encourage the factories that produce their products to meet specified worker protection standards, known as codes of conduct. FLA participating companies have also agreed to monitor how well factories have met these standards and to take action to remediate problems as they arise.

The FLA's first Public Report charts the progress of seven participating companies from August 1, 2001 to July 31, 2002, the first year a formal monitoring program existed. It provides the public with an extremely detailed look at how a number of major companies try to ensure the factories they source from treat their workers properly. The purpose of the report is to make transparent these companies' efforts in this regard. In addition to providing detailed descriptions of the companies' compliance operations, the report also includes information that is publicly reported on "tracking charts" which detail instances where factories violated codes of conduct. The tracking charts, which can be found on the FLA's website ([www.fairlabor.org](http://www.fairlabor.org)), provide information about factories where violations occur, including: information about what company the factory produces for, what specific violations occurred, what country the violations occurred in, and what was done to remedy the problems. In this way, the report shows not only how participating companies have tried to uphold worker protections, but also where they need to undertake further measures.

The FLA believes the release of the information in this report, which previously was not made available to the public, places FLA participating companies among industry leaders in providing information to the public about their efforts to uphold workers' protections. It's one thing to say that you are going to try to meet certain standards; it's quite another to tell the public exactly what you have done to try to meet them. That's what this report tries to do. The FLA process is still maturing, and as it matures the reporting process will mature as well. Improving working conditions is an on-going process. Much work still needs to be done to improve and standardize codes of conduct and monitoring procedures. The FLA is committed to this work, and we are hopeful that future public reports will be even more informative and more useful when it comes to understanding how companies try to improve conditions for workers who manufacture their products.

## **I. Introduction**

## INTRODUCTION

Around the world, there are major gaps in protection for workers, including workers producing exports for the global economy. National governments often fail to enact or enforce labor laws. International standards have insufficient enforcement mechanisms. Many governments limit or even prohibit independent workers' organizations, leaving workers with little opportunity to organize to protect their rights.

In the last decade some multinational companies sourcing from factories around the world have taken steps to address this problem. Hundreds of companies now have adopted codes of conduct, pledging to protect the rights of workers who produce their products. Yet there is still relatively little public information on how these codes are being implemented and enforced.

In 1996 a multi-stakeholder group known as the Apparel Industry Partnership (AIP) was created to address these issues, and its work laid the foundation for the formation of the Fair Labor Association (FLA) in 1999. The mission of the FLA is to combine the efforts of industry, non-governmental organizations (NGOs), colleges and universities to promote adherence to international labor standards and improve working conditions worldwide. To advance this mission, the FLA has developed a Workplace Code of Conduct and established a system of code implementation, independent factory monitoring and remediation, which is designed to bring the manufacturing sites of FLA participating companies into compliance over time. The FLA program complements the efforts of the International Labor Organization (ILO), national governments and unions by seeking to ensure that participating companies observe the fundamental labor standards enshrined in the FLA Workplace Code of Conduct ("FLA Code") in factories where their products are produced.

This report is the Fair Labor Association's first report to the public. It examines the supply chain operations of seven FLA participating companies, all in the apparel and athletic footwear industries, which include more than 2000 factories in more than 70 countries. The seven participating companies included in this report are companies that completed their first year of a two- or three-year initial implementation period during the year covered by this report, from August 1, 2001 to July 31, 2002. This report describes the efforts undertaken by these companies to implement the FLA Code and the FLA's monitoring and remediation requirements during this reporting period.

This report includes:

- An overview of each participating company's approach to monitoring working conditions in its supply chain facilities.
- Information on the sourcing patterns of each participating company, including the number of factories per country that are involved in the manufacture of participating company products.
- Information about the structure, size, and function of the department at the participating company responsible for undertaking the work of global compliance and a description of the department's activities.

- The number and frequency of monitoring visits carried out by participating company compliance staff and FLA-accredited independent external monitors.
- A description of the provisions of the FLA Code and the independent external monitoring process used to measure and evaluate compliance.
- Example findings of noncompliance with the FLA Code in participating company supplier facilities reported by FLA-accredited independent external monitors.
- Specific remediation efforts undertaken by participating companies to address incidents or patterns of noncompliance with the FLA Code.

### **Factory-Specific Information**

This report is accompanied by 50 individual tracking charts of the compliance situation of factories that have been monitored by FLA-accredited independent external monitors. Information contained in the charts includes the monitor's findings of Code noncompliance, the participating company's remediation plan to address the compliance issues identified, and the status of the remediation. The tracking charts are made publicly available on the FLA website, which will be updated regularly to include additional factory tracking charts.

### **Public Reporting**

This level of public reporting by a group of companies is unprecedented in any industry. It allows consumers, investors, workers, advocates, students and the interested public to review a wide range of information, and based on that data make their own judgments about the steps the FLA and its participating companies are taking to protect the rights of workers. These reports also allow an examination of how the FLA's system of monitoring and verification has worked so far. The publication of these reports, and the reaction they receive, will undoubtedly lead to improved reporting in the future.

Although this is an important breakthrough, this public reporting should be viewed as a first step. This is the first year of implementation and reporting for the FLA and the reporting process will evolve and improve. In this first report the FLA is reliant on a significant amount of company self-reporting. Participating companies do not necessarily collect data in ways that are consistent with each other. Code compliance monitoring is still a new field and it has not yet developed a standardized process for measuring and reporting on labor rights. The FLA and its stakeholders, including monitoring organizations, are working to raise the standard of monitoring and ensure that in the future, factory monitoring results meet a higher standard of reliability and consistency. Improvements have already been made since the period covered by this report, as the FLA begins to develop consistent forms of measurement and consistent benchmarks for evaluation of compliance.

In next year's report, the FLA will report again on these participating companies as they complete their second years. The report will be more timely and comprehensive,

building on this year's experience, and will follow the progress of remediation for the compliance issues identified this year.

The FLA's second public report will also cover the first-year experiences of additional participating companies that are beginning their implementation programs this year. In addition, it will cover university licensees that are participating in the FLA program for factories that produce collegiate merchandise. The FLA is continuing to develop and refine its requirements for the many smaller college and university licensees that have registered with the FLA as a result of their contractual relationships with the 179 schools now associated with the FLA.

Public reporting is an integral part of the FLA process. By reporting on the activities undertaken by participating companies to improve working conditions, the FLA aims to serve as a source of independent information to promote public accountability of companies and to give consumers the information they need to make informed purchasing decisions.

### **The First FLA Public Report**

This Public Report describes the progress made by FLA participating companies in implementing the FLA Workplace Code of Conduct during the first FLA implementation year (referred to in this report as "Year One"), which started August 1, 2001 and ended July 31, 2002. This was the first year that the FLA system was active: participating companies built up their internal compliance systems and conducted internal monitoring; FLA-accredited monitors conducted independent external monitoring visits; participating companies remediated noncompliance issues found in their supply chains; the FLA staff carried out internal reviews of company compliance systems; and participating companies submitted reports to the FLA, reviewing their yearly compliance activities. The company activities included in this report reflect only circumstances during that period.<sup>1</sup>

The purpose of this first Public Report is to provide information to consumers and other interested parties about participating companies' internal compliance programs and their implementation of the FLA Code. Readers can use the report to learn about some of the challenging workers rights issues presented in today's global economy, and the various standards and approaches that can be used to prevent and redress these issues in workplaces. Moreover, this information is useful for consumers, shareholders, workers and other stakeholders who are interested in assessing and supporting FLA participating companies in their efforts to achieve even higher standards of compliance.

In accordance with the FLA Charter, this public report is based on the following sources: annual reports submitted by participating companies about their compliance programs; independent external monitoring reports submitted by FLA-accredited monitors; third party complaint reports; and onsite audits of participating company compliance programs by FLA staff. For the sake of space and consistent reporting across participating companies, the Public Report does not include all the information contained in these materials.

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<sup>1</sup> The only exception that the FLA has made in reporting activities that took place outside of this period relate to FLA independent external monitoring visits that were originally scheduled to take place during Year One. In some cases, due to local situations, scheduling conflicts, or other administrative issues, independent external monitoring visits actually took place later in 2002, after the July 31<sup>st</sup> end date.

Readers will observe that this report is descriptive in nature; it does not provide any explicit evaluation of company programs. The reason for this is that this report covers the first year of a two- or three-year implementation period for each participating company, at the end of which the FLA will assess each company's level of compliance with its standards. This report describes the internal compliance systems of participating companies and these companies' efforts to fulfill their FLA obligations. We see that most participating companies are undertaking projects that place them as industry leaders in terms of corporate social responsibility, and we have included examples of such projects in this report. In the interest of transparency, we have also reported on some company practices that do not fully fulfill FLA obligations. We are hopeful that continued exchange with other leading companies and labor experts through the FLA will help participating companies to continue to progress in the development of their approach to compliance.

Readers can participate in this learning process. We provide as many examples as possible in this report to provide insight into the complex nature of this undertaking. We are confident that by reading the complete Public Report, even non-specialist readers will come away with a better understanding of the challenges facing companies and workers in today's global economy, as well as the efforts made in Year One by FLA participating companies to address these challenges.

#### *The Structure of this Public Report*

This year's Public Report covers the compliance programs and activities of the following companies: adidas-Salomon, Eddie Bauer, Levi Strauss & Co.<sup>2</sup>, Liz Claiborne Inc., Nike, Phillips-Van Heusen, and Reebok International Ltd. This report does not include information about Gear for Sports, Joy Athletic, Patagonia, Polo Ralph Lauren, or Zephyr Graf-X, which were approved for participation in the FLA in 2001, but requested a later starting date in order to give them time to mount their compliance programs. Nordstrom became a participating company in the FLA in October 2002, as the first specialty retailer to adopt the FLA Workplace Code of Conduct. Because it began participating in the FLA after the reporting period ended, it was not included in this report. All six of these companies' first years of implementation will be reported on in the second FLA Public Report.

This report is divided into five sections.

➤ **First, we summarize the FLA process.**

In this section, we provide background about the FLA system, and the obligations of companies participating in the FLA.

➤ **Second, we provide a review of each FLA participating company.**

Each company report includes:

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<sup>2</sup> Levi Strauss & Co. (LS&CO.) announced its decision in October 2002 to withdraw from the FLA program, after completing its first year of implementation. LS&CO. is no longer a participating company in the FLA, but the results of LS&CO.'s first year of implementation are included in this report, and the monitoring results of 8 factory visits are included in tracking charts on the FLA website.



- **An overview of the participating company’s approach to code implementation, monitoring and remediation**

There is a diversity of approaches to compliance among the FLA participating companies. In this section, we review the structure of each company’s compliance program, its approach to monitoring, remediation and follow-up, and compliance improvements. We also clarify the timeframe (two or three years) that each company has chosen for its initial implementation period in the FLA.

- **Data on the participating company’s supply chain, internal monitoring visits and FLA independent external monitoring visits**

A table is provided for each participating company, which lists the number of its applicable facilities, internal monitoring visits and FLA independent external monitoring visits. Approaches to monitoring vary. Some company compliance programs internally monitor 100% of their manufacturing facilities; some target monitoring at the highest volume producers; and still other programs target internal monitoring based on a risk assessment.

Moreover, approaches to reporting varied during this first year of reporting. While some participating companies had developed systems to record the *number of facilities* where monitoring took place, others focused on the *number of monitoring visits per country*. This explains the deviations that readers may notice in reporting across companies. The FLA is in the process of developing systems for more consistent reporting during Year Two.

Please keep in mind when reviewing these tables that relying solely on the numbers provided in these charts would provide an incomplete view of any company’s monitoring approach. However, in the context of each company’s report these tables are one of many tools by which readers can more fully understand a company’s approach to monitoring.

- **Activities undertaken by the participating company to fulfill its obligations in accordance with the FLA Charter**

These activities are listed under each company obligation. Readers can refer to the Obligations of Companies provided in Appendix A. These obligations are the minimum standards that participating companies must meet. Companies are of course free to exceed these and some have.

- **Examples of participating company efforts to address noncompliance issues in innovative or progressive ways**

Accounts that are provided in text boxes are often offered as examples that provide more insight into the complicated processes of remediation. Each of these text boxes represents situations during the reporting period that are dynamic and on-going. Therefore, these scenarios are not

offered as universally applicable or completely redressed. This information has been provided by each company and has not been independently verified by the FLA. The FLA hopes that strong examples of process will inform future remediation actions taken by the FLA and participating companies.

➤ **Third, we provide some initial analysis of aggregate FLA findings from Year One.**

In this section we describe the role of independent external monitoring and remediation in the FLA. First, each provision of the FLA Code is described, including the relevant ILO Conventions and other international instruments supporting the standard. Then, we offer a brief overview of the monitoring methodology and general compliance issues pertaining to each Code provision. Finally, we provide data on the incidence of noncompliance per the FLA's findings, specific examples of the most common findings pertaining to the Code element, as well as individual examples of remediation efforts undertaken by participating companies to address noncompliance.

➤ **Fourth, we discuss the role of the Third Party Complaint Procedure in the FLA and the example of the BJ&B case.**

In this section, we describe the process through which third parties can submit complaints to the FLA with respect to noncompliance at an applicable facility of any company participating in the FLA, including licensees of FLA-affiliated colleges and universities. To illustrate the Third Party Complaint Procedure in practice, we describe the case of the BJ&B facility in the Dominican Republic.

➤ **Finally, we conclude.**

In this section, we offer some concluding thoughts about the first year of FLA implementation and about directions in which the organization and its participating companies are heading. We discuss the avenues for cooperation that the FLA offers companies, as well as FLA projects that are underway to help companies address endemic noncompliance issues in a systematic way.

## **II. The FLA Process**

*Compliance with international standards is a process, not an event.*

The FLA methodology involves participating companies adopting the FLA Workplace Code of Conduct (“FLA Code”) and implementing a comprehensive compliance program, including internal monitoring, throughout their supply chains. The FLA accredits independent external monitors, who conduct independent monitoring of the companies’ applicable facilities; requires companies to remediate problems identified in their supplier facilities; and independently verifies and accounts for the companies’ internal compliance programs.

Given the fact that compliance is a lengthy process, each participating company has an initial implementation period to fulfill the Obligations of Companies, as set out in the FLA Charter. This period can be for a term of two or three years, at the discretion of the participating company.

## **The FLA Process**

### **1. Code of Conduct implementation**

By participating in the FLA, a company commits to implementing the FLA Code principles in the manufacture of its products<sup>3</sup>. This requires designating a person or division in the company responsible for promoting Code compliance in the company supply chain. Company compliance personnel must be trained, and they in turn need to ensure that Code standards are recognized as a basis for continuing business relationships with suppliers and contractors.

### **2. Internal monitoring**

The obligation of companies to conduct internal monitoring goes beyond simply going to factories to inspect them for compliance. Companies are responsible for establishing an internal system of promoting respect for the Code standards through education, monitoring, and remediation.

The requirements of an internal monitoring program include efforts to:

- Inform workers of their rights under the Code – orally, by posting the Code standards in facilities, and through other activities to educate workers;
- Establish relationships with local labor and human rights NGOs and unions to assist in identifying situations of noncompliance with the Code;
- Train company monitors about the Code standards, applicable local and international laws, and effective monitoring techniques;
- Provide workers with a confidential reporting channel with which to report noncompliance to the company;
- Conduct periodic announced and unannounced factory visits, worker and management interviews, and audits of wage, hour, and other employee records; and

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<sup>3</sup> Please refer to the FLA Charter for a detailed description of the participation criteria for companies, including company requirements for designating *applicable brands* in the FLA system.

- Establish means of remediation to correct and prevent noncompliance with the Code standards.

### 3. Independent external monitoring

In addition to internal monitoring, companies that participate in the FLA agree to allow FLA-accredited independent external monitors to monitor their applicable facilities<sup>4</sup> for compliance with the FLA Code. Independent external monitoring is primarily a tool for measuring the implementation of participating company compliance programs. It acts as a check on the implementation of internal monitoring and provides an objective assessment of compliance levels at a particular facility. The compliance issues identified by independent external monitoring visits serve as a priority list for the participating company to address at the factory level, and to improve upon throughout its supply chain.

In Year One, the FLA's independent external monitoring process involved participating companies selecting the monitors and contracting them to conduct either announced or unannounced inspections of high-risk facilities, which were selected in consultation with the FLA. During the course of the year, modifications were made to the independent external monitoring process in order to strengthen the integrity and independence of the process. Now, in Year Two, the FLA staff selects the factory, the monitor and the date of the visit. All monitoring fees are paid by the FLA, and the FLA staff receives the report from the monitor at the same time that the participating company receives it. The percentage<sup>5</sup> of independent external monitoring visits required of each company has also been changed to 5% of a company's applicable facilities, a level significantly higher than the level of monitoring undertaken by national labor inspectorates and statistically sufficient as a control group for the FLA to assess whether participating company compliance programs are being effectively implemented.

### 4. Remediation

Participating companies must demonstrate a commitment to promote sustainable improvements in factory conditions. When noncompliance is identified by either internal or independent external monitors, the participating company is responsible for working with the factory to effect remediation and improve workplace conditions.

Examples of action items that might appear in a remediation plan include:

- Making physical changes to the facility, such as installing additional fire exits or improving ventilation;
- Building capacity at the management level, such as improving production planning to reduce the need for excessive overtime; and

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<sup>4</sup> In accordance with the FLA Charter, participating companies must submit to the FLA a list of their *applicable facilities* producing their *applicable brands*, which are subject to unannounced monitoring visits conducted by accredited independent external monitors.

<sup>5</sup> The percentage of independent external monitoring visits required of each participating company had originally been set at ten percent of the company's applicable facilities, with the cost to be shared between the FLA and the participating company. During Year One, that was changed to five percent, with companies covering the entire cost of visits through the payment of assessments to the FLA.

- Conducting training for management or workers in any of the Code provisions, such as training supervisors and workers in freedom of association or in the safe handling of chemicals.

The FLA maintains that companies should not pull production from factories that are found to be noncompliant with the standards; instead, companies are encouraged to work with the factory to improve conditions and protect the rights of the workers responsible for manufacturing their products. In cases where the factory is unwilling or unable to meet the requirements of the FLA Workplace Code of Conduct, the FLA recognizes that the participating company reserves the right to terminate its business relationship with the factory.

## **5. Verification**

In order to independently verify the progress and effectiveness of a participating company's internal compliance program, the FLA:

- Conducts an annual audit of the company's compliance program to review internal procedures and documentation;
- Makes field visits to observe the work of local compliance staff and assess factory conditions; and
- Reviews reports submitted by independent external monitors to ensure that all noncompliance is remediated by the company in an appropriate and timely manner, and if necessary, schedules further factory visits by monitors.

## **6. Public Reporting**

As part of their obligations to public reporting under the FLA, participating companies agree to be transparent to the public at a macro and micro level.

- At the macro level, the FLA issues a Public Report like this one, which reviews the *global compliance record* of each company.
- At the micro level, the FLA publishes tracking charts that track the progress of FLA independent external monitoring and remediation in *individual factories*. The FLA provides on-line information about the findings from FLA independent external monitoring visits to selected facilities, and the ensuing remediation undertaken by FLA participating companies in these facilities. The data are posted on the FLA website and information about remediation efforts is updated periodically.

## **The FLA University Program**

There are currently 179 colleges and universities affiliated with the FLA, and these schools are the foundation of the organization's University Program. In order to seek assurances that products bearing their names are produced under fair and proper working conditions, FLA colleges and universities require all of their licensees to participate in the FLA. Due to the commitment of our member schools, over 1200 licensees of various sizes have affiliated with the FLA.

## **Monitoring and Reporting**

The nature of participation by a company that is a college or university licensee depends on the size of the company. The monitoring process and requirements for licensees with total annual revenues over \$50 million are the same as those for the FLA's participating companies. Mid-sized licensees are required to internally monitor their company-owned facilities and participate in a pooled monitoring program in which 10% of all of the company-owned facilities of licensees in this category will be monitored by FLA-accredited monitors. Licensees with annual revenues under \$1 million disclose factory information to the schools that they are licensed with. As a requirement for participation, all licensees must agree to adopt the FLA Workplace Code of Conduct and are subject to the FLA's third party complaint procedures. Additionally, every FLA school requires the public disclosure of factory locations where its licensed products are manufactured, which is made accessible to the public on the FLA website.

### **III. Company Overviews**



# adidas-Salomon

## Basic facts about adidas-Salomon:

<b>adidas-Salomon consolidated revenue in FY2001:</b> US\$5.93 billion
<b>Applicable adidas-Salomon Brands (percentage of total sales):</b> adidas® brand footwear, apparel and hardware (79%)
<b>Total applicable facilities worldwide:</b> 389 facilities

## adidas's Approach to Compliance during FLA Year One

In this section, we review some key aspects of adidas-Salomon's compliance program that relate to the production of adidas brand goods. While adidas-Salomon has developed a consistent approach to compliance for all of its brands, the company's FLA-specific activities technically apply only to the adidas brand. Therefore, for the sake of clarity, we refer to adidas's compliance activities throughout this report. adidas-Salomon reports that it plans to integrate its other brands into the FLA system after the initial implementation period.

In addition to some basic facts about adidas-Salomon's participation in the FLA and the structure of its compliance program, this section provides readers with a general overview of the company's approach to monitoring, remediation and follow-up on noncompliance issues during the reporting period. Please keep in mind that the activities described below took place during the Year One reporting period (August 1, 2001 through July 31, 2002), and were undertaken in order to fulfill the monitoring plan that adidas-Salomon submitted to the FLA when it became a participating company. adidas-Salomon has committed to implement its monitoring plan over the course of three years, in accordance with the FLA Charter.

### *The Compliance Program*

adidas-Salomon group was approved as an FLA participating company in 1999. The adidas-Salomon Standards of Engagement (SOE) include benchmarks for labor, health and safety which correspond with the standards enumerated in the FLA Workplace Code of Conduct (FLA Code). In addition, adidas-Salomon has benchmarks dealing with the environment. During the reporting period, adidas-Salomon Social and Environmental Affairs (SEA) department consisted of an internal monitoring team of 30 full-time staff members organized into three regional teams, who implemented adidas-Salomon's SOE in the field. Three Regional Directors reported to the Global Director of Social and Environmental Affairs. The Global Director in turn reported to the Global Legal Counsel, who is member of the executive Board.

During this reporting period, the adidas compliance program focused on exchange with stakeholders as a means to achieving long-term improvements in the facilities where adidas goods were produced. For example, the company held its first stakeholder consultation in December 2001, which involved NGO groups in Asia. The consultation was organized to gather views and feedback from NGOs about their opinion of adidas as a socially and environmentally responsible company. Similarly, the company conducted a survey of 16 footwear suppliers in 2001, which included questions about the company's implementation of its Standards of Engagement. adidas reported that such feedback from stakeholders has greatly influenced the company's approach to compliance.

### *Monitoring*

adidas reported that its internal SEA team conducted 839 audits throughout its supply-chain during 2001. All of these audits were undertaken by the adidas SOE compliance team. Approximately 85% of all adidas-Salomon facilities and 100% of adidas's 389 applicable facilities were audited at least once during Year One. Many of those facilities were audited several times due to findings of more serious noncompliance issues during initial factory visits. While most internal audits were announced, adidas performed unannounced visits when serious noncompliance issues were reported in particular facilities.

During the reporting period, adidas conducted evaluation audits in all potential facilities before engaging in a business relationship with those facilities. The adidas audit process involved interviews of managers and workers (on- and off-site), examination of the supplier's financial and personnel related documentation, and physical inspection of the facilities. During the reporting period, adidas introduced a rating structure to evaluate suppliers' performance. The rating structure has provided the means to address noncompliance issues more systematically, and to make sourcing decisions that accord with compliance standards. In this sense, adidas supplier compliance ratings influence the volume of production orders to be placed at a facility. Factory compliance ratings were also a determining factor when adidas consolidated its supply chain in 2001-2002.

During Year One, 42 applicable facilities of adidas-Salomon were monitored by FLA-accredited independent external monitors, in accordance with its Charter obligations<sup>6</sup>. In proposing facilities for independent external monitoring, adidas targeted those facilities that had a higher risk of being noncompliant based on assessments of country risk factors or factory-specific characteristics reported by adidas SEA staff.

### *Remediation and Follow-up*

adidas reported that the SEA team developed corrective action plans for all audited sites, and verified the implementation of these plans through follow-up visits to facilities, phone calls with management, and/or electronic correspondence proving corrective action, such as documentation of new policies and digital photography of improvements. The adidas personnel who followed-up with facilities included the SEA team, as well as SOE-trained Sourcing and Product Integrity representatives. adidas-Salomon explained

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<sup>6</sup> Please refer to the "FLA Process" section of this report for a description of the differences between Year One and Year Two in the conduct of FLA independent external monitoring.

that the involvement of non-SEA staff in the verification process provided adidas with more opportunities to oversee facilities, and to bring a more cohesive corporate message to suppliers about compliance as a company-wide commitment.

adidas enforced a Global Sanctions Policy for suppliers who did not support or implement the relevant compliance measures. adidas estimated that this policy would contribute to a more effective and systematic global approach to noncompliance throughout adidas' supply chain. According to this policy, adidas adjusted the volume of production programs or terminated business relations depending on the severity of the noncompliance issue. Termination of the business relationship due to noncompliance was deemed a last resort by the company.

### **adidas's Efforts to Fulfill FLA Company Obligations**

The information in this section is organized according to the FLA participating company obligations listed in the FLA Charter (see Appendix A). These obligations represent minimum standards for participation in the FLA and participating companies often surpass these standards. The information provided in this section is in no way an exhaustive recounting of all adidas's compliance activities during the reporting period. Rather, this section contains selections from the information that adidas-Salomon reported to the FLA in order to demonstrate progress in the implementation of its SEA department.

#### **A) Establish Clear Standards**

- adidas distributed and communicated its Standards of Engagement (SOE) to all suppliers. Suppliers were required to sign a manufacturer's agreement committing to comply with these standards in order to engage in business with adidas.
- The SEA team communicated periodically with suppliers about the FLA monitoring program, as well as other compliance-related topics, such as adidas' policy on subcontracting. Communications included annual letters to suppliers explaining the internal and FLA monitoring processes and expectations. Supplier management also participated in face-to-face meetings with SEA team members, and signed an acknowledgment letter after receiving SEA compliance materials. They also signed a commitment line on the SOE posters which are then posted in the workplaces.
- adidas provided *Guidelines on Health, Safety and Environment* and *Guidelines on Employment Standards* to all suppliers and staff. These manuals provide guidance for implementation of the SOE and sustainable compliance activities.
- SEA team members met with factory management during factory audits and follow-up visits, and reinforced the standards and approaches to best practices during these sessions.

#### **B) Create an Informed Workplace**

- adidas has translated the Standards of Engagement (SOE) into more than 40 languages, and required all suppliers to post SOE posters in employee common areas of facilities in all relevant workplace languages. Factory managers were also

required to sign each poster to indicate to workers their commitment to the standards.

- During this reporting period, adidas-Salomon's monitoring program focused on educating suppliers and workers about the SOE. The FLA received records demonstrating that adidas suppliers attended more than 260 training sessions in Cambodia, China, India, Indonesia, Japan, Korea, Malaysia, Pakistan, Philippines, Thailand, Taiwan, Vietnam, the Americas and Europe. Trainings focused on basic labor and health, safety, and environmental standards included in the adidas SOE, as well as specific subjects, such as management-worker communications. Some of these trainings were conducted by the International Labor Organization (ILO), Prince of Wales Business Forum, Verité and Business for Social Responsibility. A portion of these trainings also involved workers and union representatives.
- adidas considered that worker interviews during factory audits were a means by which SEA staff could inform the workers about SOE standards. adidas reported that its staff increased its focus on this aspect of the audit process during this reporting period.

### **C) Develop an Information Database**

- All adidas internal audit reports and corrective action plans were archived in regional databases. SEA data were used in sourcing decisions and were tracked against corporate supply chain performance benchmarks.
- During the reporting period, adidas developed a database which would be able to organize audit data, as well as the factory scoring system described above. This database would allow audit reports to be uploaded to servers located in the three regional offices, or through internet connections. It was designed to generate reports quickly, including compliance ratings, action plan items, schedules and deadlines, people responsible for implementation, and FLA reporting requirements. This database is to be implemented during the next reporting period.

### **D) Establish Program to Train Company Monitors**

- When hired, all internal monitors received an orientation to adidas's Standards of Engagement (SOE) from their Regional Manager, and were further trained at local supplier workshops held by Business for Social Responsibility. adidas reported that members of the SEA Team attended 98 trainings during the reporting period. Sessions were sponsored internally or contracted externally with groups such as Business for Social Responsibility, the International Labor Organization, Hill and Knowlton and external consultants. Members were trained in compliance and corporate social responsibility (CSR)-related subjects, such as the standards of the US Occupational Safety and Health Administration (OSHA), International Standards Organization (ISO), Eco-Management and Audit Scheme (EMAS), as well as personnel skills.
- In 2002, SOE staff attended technical training seminars and developed additional tools for use in the field, including the *Guide to Best Environmental Practice* manual and *the Field Auditors Handbook* (Jan 2002, October 2002). In the past, adidas developed various training resources for SOE team members, new hires and other staff with regard to compliance. Texts include: adidas-Salomon *Guidelines on*

*Employment Standards; adidas-Salomon Guidelines on Health, Safety and the Environment; as well as technical resources that cover environmentally-sound conduct for the textile industry; good practices in health, safety and the environment (HSE); fire safety; extraction and ventilation; food handling; country labor regulations and environmental laws.*

#### **E) Conduct Periodic Visits and Audits**

- As discussed above, adidas SEA personnel undertook 473 internal audits in 2001 of 389 applicable facilities. All FLA applicable facilities were visited during this time at least once for audits or remediation.
- In 2001 adidas focused on auditing and rating “local market” suppliers (i.e., those suppliers that produced for local adidas subsidiaries, and produced adidas product in the same countries where products will be sold) for the first time. Approximately 50% of “local market” suppliers were audited and corrective action plans were put in place. In addition, SEA personnel visited almost all international suppliers that had not been visited in 2000, and made repeat visits to some problematic facilities.
- adidas upgraded their Labor and Health, Safety and Environment auditing tools (including standardized performance grading for facilities) during this period, and will field-test them during the second FLA implementation year.
- In consultation with the FLA, adidas commissioned 42 independent external monitoring visits (10% of its applicable facilities), as mentioned in the “Monitoring” section above. These visits were conducted by: Intertek Testing Systems (18), Verité (14), Cotecna (4), MTL (4), and Global Standards (2).

#### **F) Provide Employees with Opportunity to Report Noncompliance**

- adidas reported that the worker interview portion of its internal auditing methodology was designed to give workers an opportunity to speak frankly. Interview venues included off-sites locations (e.g., restaurants and workers’ neighborhoods), and discrete sites at the factory (canteens, recreation areas, dormitories and other non-production related environments) to preserve worker confidentiality and prevent retaliation against workers. adidas monitors provided all workers interviewed with their business cards, which included a local address and phone number where the monitor could be reached should future noncompliance issues arise.
- adidas also looked to local groups with which they had established relationships as a confidential channel through which workers could report noncompliance.

#### **G) Establish Relationships with Labor, Human Rights, Religious or Other Local Groups**

- Consultation and outreach was undertaken with a broad range of local groups in China, Hong Kong, Indonesia, Malaysia, Singapore, Vietnam, Thailand, El Salvador, Brazil, Honduras, Mexico, Canada, the USA, Germany, Belgium, the Netherlands, the UK and Turkey.
- adidas held two regional Stakeholder Dialogue sessions during the year, which the company described as venues designed to give stakeholders an opportunity to

evaluate and comment on adidas's compliance program, and to report on working conditions in the supply chain.

- The Worker Rights Consortium (WRC) has been evaluating adidas's remedial activities at PT Dada, an Indonesian supplier of hats to US universities. WRC has engaged adidas in a dialogue about worker awareness of changes brought about by remediation.
- While adidas did provide further details about their relationships with local groups, the company requested that these remain confidential in the interest of continued trust-building.

## **H) Establish Means of Remediation**

- Following audits, adidas led discussions with the factory management about audit findings. These findings were used to create corrective action plans with exact completion dates. The factory management was responsible for addressing the noncompliance issues in the corrective action plan and reporting back to adidas with regard to progress and/or completion. The factory reports to adidas included verification documents and/or pictures, and were often an interim step to follow-up site visits conducted by SEA team members.
- Corrective action plans included various combinations of training, education and management system development. In the interest of longer-term solutions, these aimed to address the root sources of noncompliance issues, rather than simply the results of workplace dysfunctions.
- The findings from factory audits resulted in a supplier performance grading (see explanation above). This grading was combined with other supplier performance benchmarks to determine the product volume that would be allocated to the supplier. As stated above, in instances of serious noncompliance, adidas reserved the right to terminate business relationships.
- Deadlines for the corrective actions that were negotiated with the factory management depended upon the seriousness of the noncompliance issue and the technical/organizational feasibility of the individual remediation. These issues ranged from zero-tolerance cases that required immediate and unequivocal remediation, to action items requiring capital investments (e.g., installing extraction systems or new roofs) with longer implementation periods.

## **adidas: Linking Women's Health to Compliance**

The majority of the workforce employed in apparel and footwear factories around the world is women. adidas's compliance team observed that it is common in some countries for young female workers to lack education in the areas of health and hygiene, safe sexual practices, and in pre-natal and post-natal care. In fact, in some cases, workers have never had access to basic information concerning their own reproductive health. The team considered that, in addition to having potentially serious implications for women workers, their families and their communities, a lack of understanding about fundamental health issues could lead to considerable inefficiencies in factories.

adidas, therefore, started its Women Health Project, which aims to educate women workers about leading health issues. The company's goals were threefold: 1) positively impact women workers' lives by improving their health and that of their families; 2) support the implementation of adidas's Standards of Engagement (SOE); and 3) help eliminate "slowdowns" in productivity caused by illness and absenteeism.

adidas started this program as a pilot project in Vietnam. The company plans to roll out similarly formatted projects on a broader global scale in cooperation with international NGOs, as well as other brands, in the next reporting periods. The SEA team began the project in Vietnam by consulting with the Reproductive Health and Information Center, Maria Stopes, and an independent local consultant to produce four different user-friendly leaflets addressing: 1) pre-natal care; 2) post-natal care and breast-feeding; 3) sexually transmitted diseases and HIV/AIDS; and 4) family planning and health. Each of the leaflets reviewed relevant SOE standards and the local labor code, medical/health information, and workplace health and safety tips.

These leaflets were distributed to women workers in Vietnamese factories over the course of several health education training sessions, which were led by a factory nurse or doctor. Factory management attended these sessions as well. adidas arranged for a female factory representative in each factory to manage the training program so that there would be a local contact for workers to approach with health questions. Members of the adidas compliance team supported these efforts at the local level; however, they encouraged local actors to oversee these programs in order to enhance local capacities.

These projects have not been operating long enough to measure their impact on women's health or productivity in any quantitative manner. Nonetheless, adidas considered that the project supported the implementation of the following standards:

- Forced labor – the trainings reinforced understandings about women's needs for maternity and lactation leave, as well as adherence to a policy of voluntary overtime working hours;
- Discrimination – the trainings focused on issues of discrimination relating to gender, marital status or parental status, and provided various reasons for rigorous enforcement of this standard;
- Working hours – by having a healthier workforce, and therefore less absenteeism, management would be able to schedule production more accurately, meaning that excessive overtime work could be avoided. Moreover, with proper pre-natal and post-natal care, expecting mothers and management would be able to plan maternity leave more effectively.

The trainings also taught women about the protections provided by local law to pregnant women and women with children in their first year of infancy.

In addition to the effects this program is expected to have for compliance, adidas anticipates that the expertise brought to the project by local and international NGOs will lead to measurable health improvements for women workers and their communities. adidas has high hopes for the project in coming years, as the project is rolled out in more countries, and in collaboration with a greater number of partners.



## adidas's Factory/Audit Profile

In accordance with the FLA Charter, the chart below lists the countries where adidas's applicable facilities were located during the reporting period, as well as the number of internal and FLA independent external monitoring visits that took place during that time.

*Please note* that this chart represents only one of a number of activities undertaken by participating companies to ensure factory compliance with the FLA Workplace Code of Conduct. The number of site visits conducted by a participating company does not indicate whether one or more of a company's applicable facilities are in compliance with the Code. While this information can help readers gain a better grasp of the geographic scope and focus of participating companies' compliance efforts, it should be interpreted in the context of the more qualitative characteristics of each company's compliance program.

adidas-Salomon Monitoring Program Year One		
Description	Countries (number)	Total
<b>Applicable Facilities</b>	China (68), Portugal (37), Turkey (26), Vietnam (25), Indonesia (25), Thailand (21), Taiwan R.O.C. (21), Mexico (17), Malaysia (16), USA (15), Tunisia (11), Italy (11), UK (10), Singapore (6), Honduras (6), Germany (6), El Salvador (6), Bulgaria (6), Philippines (5), Pakistan (5), Hong Kong (4), Canada (4), Lao P.D.R. (3), South Korea (3), Japan (3), Cambodia (3), Ukraine (2), Sri Lanka (2), Spain (2), Morocco (2), Macedonia (2), Macau (2), Greece (2), Albania (2), Brazil (1), Poland (1), Peru (1), Mauritius (1), Ireland (1), India (1), Hungary (1), Croatia (1), Colombia (1), Bosnia-Herzegovina (1)	<b>389</b>
<b>Internal Monitoring Visits (8/01-7/02)*</b>	China (96), Portugal (20), Turkey (39), Vietnam (37), Indonesia (44), Thailand (20), Taiwan R.O.C. (17), Mexico (31), Malaysia (18), USA (18), Tunisia (5), Italy (3), UK (0), Singapore (10), Honduras (13), Germany (1), El Salvador (30), Bulgaria (11), Philippines (6), Pakistan (8), Hong Kong (2), Canada (3), Lao P.D.R. (2), South Korea (5), Japan (1), Cambodia (6), Ukraine (2), Sri Lanka (1), Spain (2), Morocco (3), Macedonia (2), Macau (3), Greece (2), Albania (4), Brazil (0), Poland (1), Peru (3), Mauritius (1), Ireland (0), India (0), Hungary (1), Croatia (0), Colombia (2), Bosnia-Herzegovina (0)	<b>473</b>
<b>FLA Independent External Monitoring Visits Counted for Year One</b>	China (12), Portugal (3), Turkey (3), Vietnam (2), Indonesia (6), Thailand (2), Taiwan R.O.C. (1), Mexico (4), Malaysia (3), El Salvador (4), Philippines (2)	<b>42</b>

\* The number of internal audits is higher than the number of applicable facilities in some countries, because multiple visits were made to certain locations. These numbers should not be interpreted as signifying 100% coverage in these countries since some facilities received multiple monitoring visits while others were not visited during the reporting period.

# Eddie Bauer

## Basic Facts about Eddie Bauer:

<b>Eddie Bauer consolidated revenue in FY2001:</b> US\$1.6 billion
<b>Applicable Eddie Bauer Brands (percentage of total sales):</b> Eddie Bauer® Apparel (87% of total business)
<b>Total applicable facilities worldwide:</b> 309 facilities

## Eddie Bauer's Approach to Compliance during FLA Year One

In this section, we review some key aspects of Eddie Bauer's Global Labor Practices Program. In addition to some basic facts about the structure of Eddie Bauer's compliance program and its participation in the FLA, it provides readers with a general overview of the company's approach to monitoring, remediation and follow-up on noncompliance issues during the reporting period. The information provided below applies to the first year of Eddie Bauer's monitoring plan (August 1, 2001 through July 31, 2002). Eddie Bauer has committed to implement its monitoring plan over the course of three years, in accordance with the FLA Charter.

### *The Compliance Program*

Eddie Bauer was approved as an FLA participating company in April 2001. During the reporting period, the Eddie Bauer Global Labor Practices Program was headed by the Director of Corporate Social Responsibility, who reported to the Corporate Social Responsibility Vice President, and later to the Sourcing and Production Vice President, of Eddie Bauer. Two full-time staff members oversaw the Global Labor Practices Program from headquarters, while three full-time and twelve part-time staff, based in International field offices throughout Asia and the Americas, implemented the Global Labor Practices Program in the field. These staff members conducted the majority of the internal monitoring visits that took place from August 2001 through July 2002. However, in order to monitor factories located in countries or regions where Eddie Bauer did not have local staff, the company relied on third-party monitoring conducted by Global Social Compliance (GSC) to supplement its monitoring efforts in 14 factories.

During the reporting period, Eddie Bauer's Corporate Social Responsibility Department focused its work on developing a comprehensive and data-driven risk assessment system. This system allowed the company to prioritize monitoring activities and the use of limited resources by targeting its monitoring activities in countries and factories at greater risk of noncompliance. In addition, Eddie Bauer reported that it had incorporated consultation with local organizations into its Global Labor Practices Program. Outreach to NGOs was a new activity for the company, and was developed to better inform its activities.

## *Monitoring*

Eddie Bauer conducted 110 internal audits during Year One. The company developed the aforementioned risk assessment system to identify and prioritize facilities that were likely to have more serious noncompliance issues in Year One, but the implementation of the system commenced after the reporting period. Country risk assessments used criteria such as general human rights, past compliance trends, child labor, and government enforcement of labor laws, to determine high risk countries, while facility-specific information gathered by Eddie Bauer staff was used to prioritize facilities within countries. The Global Labor Practices staff then targeted its internal monitoring system at these facilities.

Eddie Bauer generally conducted announced internal visits, although in cases where it received allegations of noncompliance, certain visits were unannounced. Eddie Bauer internal monitors used the FLA audit instrument to conduct audits, which included management interviews, a walk-through of the facility, and one-year payroll records review. The information collected was then cross-referenced with worker interviews, which were usually conducted on-site, with 25% of the worker population in factories of up to 100 workers, capping at 25 worker interviews conducted in factories with larger workforces. The monitors who conducted worker interviews and management follow-up visits all spoke the relevant local languages. In order to ensure that there was no retaliation against workers who were interviewed, Eddie Bauer monitors often checked in with interviewed workers when they returned to factories on follow-up visits.

When Eddie Bauer started a business relationship with a new vendor, its criteria for engagement included Global Labor Practice compliance. The process was overseen by Eddie Bauer's Supply Chain Operations Department, which required vendors to complete the proper forms and meet "Vendor Establishment Criteria" before the department would issue purchase orders. Eddie Bauer's Supply Chain, Corporate Responsibility, and Sourcing Departments worked together to ensure that apparel factories were in compliance with Eddie Bauer's Workplace Code of Conduct prior to production. Eddie Bauer maintained that "substantial" compliance with the Code must be confirmed before production could begin in new facilities.

During Year One, 15 applicable facilities of Eddie Bauer were monitored by FLA-accredited independent external monitors, in accordance with its Charter obligations<sup>7</sup>.

## *Remediation and Follow-up*

Eddie Bauer field monitors communicated the findings of evaluations to headquarters staff, the local office and the supplier after every monitoring visit. Representatives from the local Eddie Bauer office, either from Global Labor Practices Program staff or Sourcing staff, were most often responsible for following up on remediation and verification upon receipt of audit reports. Eddie Bauer's Global Labor Practices Program determined suitable corrective action plans and remediation timelines in consultation with factory management.

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<sup>7</sup> Please refer to the "FLA Process" section of this report for a description of the differences between Year One and Year Two in the conduct of FLA independent external monitoring.

Follow-up occurred either through follow-up audits, telephone calls, photographs, documentation of worker training, etc. In cases where monitoring uncovered serious noncompliance issues, Eddie Bauer made arrangements for local monitors to return to the problematic facilities regularly. In some cases, visits took place weekly until factories were brought into compliance.

Corrective action in accordance with agreed-upon deadlines determined future Eddie Bauer engagement with suppliers. As a matter of policy, the Global Labor Practices Program “works with suppliers in a spirit of partnership.” However, the company maintained that it would terminate a relationship with a vendor if there were repeated or serious code noncompliance issues, or signs of unwillingness to comply with corrective action requested.

### **Eddie Bauer’s Efforts to Fulfill FLA Company Obligations**

The information in this section is organized according to the FLA participating company obligations listed in the FLA Charter (see Appendix A). Since these obligations represent minimum standards for participation in the FLA, the FLA encourages companies to surpass these standards, which they often do. The information provided in this section is in no way an exhaustive recounting of all Eddie Bauer’s compliance activities during the reporting period. Rather, this section includes information that Eddie Bauer reported to the FLA to demonstrate progress in the implementation of its Global Labor Practices Program.

#### **A) Establish Clear Standards**

- Eddie Bauer developed its “Standards for Business Partnerships” Code of Conduct in 1995 and adopted the FLA Workplace Code of Conduct upon joining the FLA. The company required all applicable licensees, contractors and suppliers to adopt the FLA Workplace Code of Conduct when entering into business relationships with them. To the end of further clarifying standards included in the Code, the Global Labor Practices team produced and distributed the Eddie Bauer Labor Practice Update newsletter, which included the Code and compliance program details, to all suppliers several times a year.
- Eddie Bauer distributed an Annual Vendor Certification Form to existing and new suppliers. These were signed and returned to confirm that the Code was applied, and that employees have been informed about the standards. The written agreements also confirmed that Eddie Bauer suppliers agreed to periodic inspections and audits for compliance with the standards, including those by accredited external monitors.
- Eddie Bauer conducted 11 FLA Vendor Compliance Seminars in most of its key sourcing countries in Asia. These were county-specific trainings, focusing on local labor law and compliance challenges and Eddie Bauer requirements of suppliers. During this reporting period, Eddie Bauer trained 356 supplier staff representing 116 suppliers, in addition to 67 Eddie Bauer field staff. Local vendors also attended Business for Social Responsibility supplier compliance workshops when they were offered in their area.

- Soon after Eddie Bauer became an FLA participating company, 51 company associates participated in corporate staff workshops that included reviews of Eddie Bauer's participation in the FLA and resulting company obligations.
- Corporate sourcing associates and other staff were required to take the course describing Eddie Bauer's Global Labor Practice Program and the FLA, which has been taught four times a year at Eddie Bauer University. The reported goal of this exercise has been to underscore Eddie Bauer's policy that labor practices must be considered in sourcing decisions.

## **B) Create an Informed Workplace**

- Eddie Bauer distributed a poster-sized Code, translated into 29 languages, to its suppliers. Approved apparel suppliers were required to display it on the factory floor in the languages of the workers.
- During worker interviews and factory visits, Eddie Bauer monitors and other staff informed workers of the Workplace Code.

## **C) Develop an Information Database**

- The Global Labor Practice program utilized the Eddie Bauer design, production and shipping database for its compliance records during the reporting period. Compliance staff classified factories as "Active Approved" (i.e., no on-going compliance issues reported), "Conditionally Approved" (i.e., pending remediation verification), or "Failed." Global Labor Practice staff was able to use the database in regional offices to access and input data including field monitor evaluations, findings and remediation, and progress made in corrective action.
- During the reporting period, the Global Labor Practices staff made plans to upgrade the database for improved management of information about monitoring visits and follow-up activities. These would take place during the following reporting period.

## **D) Establish Program to Train Company Monitors**

- Eddie Bauer maintained its policy of hiring company monitors with strong qualifications in the field of compliance, including a demonstrated knowledge of monitoring practices and the capacity to speak the local language.
- Eddie Bauer provided monitors with the Eddie Bauer Monitoring Plan; the Eddie Bauer FLA Auditor Training Manual; Business for Social Responsibility (BSR) labor law summaries and other labor law publications and databases; the Eddie Bauer FLA Audit Instrument; and the FLA Monitoring Guidance Document.
- Monitors received 25% of their training through "textbook" learning. The other 75% was gained through visits to factories with more experienced monitors, including some third party monitoring groups.
- Eddie Bauer monitors also attended BSR supplier workshops in the countries for which they are responsible.

## **E) Conduct Periodic Visits and Audits**

- Eddie Bauer conducted 110 internal audits during the reporting period. This exceeded Eddie Bauer's original plan to audit 20 percent of applicable facilities in Year One. It is important to note that some of the 110 factories monitored are no longer on Eddie Bauer's "active" list due to sourcing decisions.
- In consultation with the FLA, Eddie Bauer undertook a total of 15 FLA independent external monitoring visits (approximately 5% of its applicable facilities), as mentioned in the "Monitoring" section above. Verité performed one of these visits, while Intertek Testing Services (ITS) undertook the remaining fourteen visits required by the FLA.

#### **F) Provide Employees with Opportunity to Report Noncompliance**

- Eddie Bauer conducted worker interviews when monitoring facilities. Eddie Bauer maintained that monitors did not attribute information shared with them to any specific worker and confirmed with factory management that workers will not be penalized.
- The Global Labor Practices Program also sought information from factory workers through consultation with NGOs.

#### **G) Establish Relationships with Labor, Human Rights, Religious or Other Local Groups**

- During 2001 and 2002, Eddie Bauer consulted with various organizations from the following countries: Cambodia, the Dominican Republic, Guatemala, Indonesia, Taiwan, the United States and Vietnam. While Eddie Bauer provided further details about these organizations to the FLA, the company requested that this information remain confidential.

#### **H) Establish Means of Remediation**

- Eddie Bauer reported that the Global Labor Practices Program designed corrective action plans to address issues raised in every facility where Eddie Bauer found noncompliance issues. It reported that Global Labor Practices staff developed these corrective action plans and corresponding deadlines on a case-by-case basis, based on the particular situation and the severity of the issues.
- Eddie Bauer held suppliers responsible for the implementation of the corrective action plans in accordance with agreed-upon deadlines, and maintained that the fulfillment of corrective action plans is a condition of future Eddie Bauer engagement with suppliers.
- As described above, depending on the character of the noncompliance issue, Eddie Bauer staff returned to facilities and/or required that management provide documentation (e.g., photos, training attendance sheets, etc.) to prove that the factory had completed prescribed corrective action. In some cases, local staff returned to facilities on a regular basis to ensure that serious issues, like abuse and discrimination, were no longer taking place.

## **Eddie Bauer: Collaborating through the FLA**

The Fair Labor Association endeavors to provide participating companies with the opportunity to combine efforts to improve factory conditions. The goal is to share resources, experiences and skills in addressing issues, and to increase leverage with factory management. In this case, Eddie Bauer collaborated with other participating companies and the FLA to address serious noncompliance issues that were discovered in one of the factories where it produces.

During the summer in 2002, the FLA advised Eddie Bauer that it had received a complaint about workplace code noncompliance issues that were allegedly taking place in a factory producing for Eddie Bauer in the Americas. The complainant reported that management was engaging in intimidation of a union organizer; discrimination against pregnant employees; forced overtime without overtime pay; and health and safety noncompliance, such as lack of ventilation, excessive heat and poor water quality.

At the time of the allegations, two other FLA participating companies, Levi Strauss & Co. and Liz Claiborne, Inc., were also sourcing from the facility. Through the FLA, the three companies coordinated initial investigations of the allegations. All three company internal inspections confirmed some of the allegations that were included in the complaint. As a result, the companies contracted an FLA-accredited independent external monitor to conduct an extensive evaluation of the factory. The accredited monitor conducted worker and management interviews, in-depth reviews of factory records, and a visual inspection of the factory. At the conclusion of the factory audit in November 2002, all three participating companies and the FLA reviewed the monitor's findings, and communicated with one another about the next steps for remediation.

Over the course of the next months, the companies jointly consulted with factory management several times, and worked together to devise a corrective action plan. The corrective action plan included deadlines for each corrective action, and required the factory to submit detailed monthly reports on its progress. These reports included drafts of policies and procedures, as well as photographs, to prove that changes had been made in the factory.

At the time of this report, corrective actions are still underway. With support from the participating companies, the factory has hired a full-time Human Resources Director, following an evaluation of the existing organizational structure. The factory has also been working with a payroll expert to address overtime and wage issues, as well as an independent, senior labor rights advocate and a labor rights attorney, who have advised on appropriate policies and have developed management and worker trainings. These experts have drafted policies and procedures at the factory regarding wages, discrimination and harassment, and the right to freely associate. They have also started to educate factory employees about their workplace rights, health and safety issues, as well as the new policies and procedures that had been put in place. Moreover, this has allowed for the formation of numerous worker committees at the factory.

Eddie Bauer remains engaged with the other FLA participating companies and the factory. The companies' compliance teams coordinate follow-up visits to the factory, which take place as official audits on a quarterly basis. In between these formal audits,

the participating companies have arranged that staff members visit the facility when they are in the region.

Although Eddie Bauer and the other participating companies have seen progress at the facility as a result of their coordinated intervention, they recognize the need for continued improvement with respect to compliance. They remain committed to continued collaboration to implement sustainable solutions at this factory and at other facilities.



## Eddie Bauer Factory/Audit Profile

In accordance with the FLA Charter, the chart below lists the countries where Eddie Bauer's applicable facilities were located during the reporting period, as well as the number of internal and FLA independent external monitoring visits that took place during the reporting period.

*Please note* that this chart represents only one of a number of activities undertaken by participating companies to ensure factory compliance with the FLA Workplace Code of Conduct. The number of site visits conducted by a participating company does not indicate whether one or more of a company's applicable facilities are in compliance with the Code. While this information can help readers gain a better grasp of the geographic scope and focus of participating companies' compliance efforts, it should be interpreted in the context of the more qualitative characteristics of each company's compliance program.

Eddie Bauer Monitoring Program Year One		
Description	Countries (number)	Total
<b>Applicable Facilities (as of January 2002)</b>	China (88), Hong Kong (45), United States (15), Philippines (12), Turkey (12), Mauritius (11), Mexico (11), Vietnam (11), Thailand (10), Macau (9), Cambodia (6), Canada (6), Italy (6), Malaysia (6), Sri Lanka (6), Dominican Republic (5), El Salvador (5), Pakistan (5), Bahrain (4), Bangladesh (4), Australia (3), Japan (3), Germany (2), Guatemala (2), India (2), Indonesia (2), Maldives (2), Singapore (2), Taiwan (2), Tunis (2), United Arab Emirates (2), Colombia (1), Israel (1), New Zealand (1), Peru (1), Portugal (1), Qatar (1), United Kingdom (1), Zimbabwe (1), Brunei (0), South Korea (0)	<b>309</b>
<b>Internal Monitoring Visits (8/01-7/02)*</b>	China (29), Hong Kong (12), United States (0), Philippines (0), Turkey (2), Mauritius (0), Mexico (0), Vietnam (11), Thailand (11), Macau (6), Cambodia (4), Canada (0), Italy (0), Malaysia (11), Sri Lanka (2), Dominican Republic (0), El Salvador (0), Pakistan (0), Bahrain (0), Bangladesh (3), Australia (0), Japan (0), Germany (0), Guatemala (0), India (0), Indonesia (5), Maldives (0), Singapore (4), Taiwan (0), Tunisia (0), United Arab Emirates (0), Colombia (0), Israel (0), New Zealand (0), Peru (1), Portugal (0), Qatar (0), United Kingdom (0), Zimbabwe (0), Brunei (5), South Korea (4)	<b>110</b>
<b>FLA Independent External Monitoring Visits Counted for Year One</b>	China (7), Hong Kong (4), Dominican Republic (1), Indonesia (1), Mexico (2)	<b>15</b>

\*Factory audits were conducted in some countries where production did not occur during the reporting period, but production started after the period of time covered by this report. In addition, in certain countries, the classification of some factories was changed from Active to Inactive for a wide range of sourcing reasons.

# Levi Strauss & Co.

## Basic Facts about Levi Strauss & Co. (LS&CO.)

<b>LS&amp;CO. consolidated revenue in FY2001:</b> US\$4.26 billion
<b>Applicable Levi Strauss &amp; Co. Brands (percentage of total sales):</b> Levi's® (74%); Dockers® (26%)
<b>Total applicable facilities worldwide:</b> 540 facilities

## Levi Strauss & Co.'s Approach to Compliance during FLA Year One

In this section, we review some key aspects of the Levi Strauss & Co. (LS&CO.) compliance program. In addition to some basic facts about LS&CO.'s participation in the FLA and the structure of its compliance program, this section provides readers with a general overview of the company's approach to monitoring, remediation and follow-up on noncompliance issues during the reporting period. The activities described below took place during the Year One reporting period (August 1, 2001 through July 31, 2002), which was the first year of a three-year implementation period, according to the initial monitoring plan that LS&CO. submitted upon becoming a participating company.

It should be noted that LS&CO. ended its participation in the FLA in October 2002.<sup>8</sup>

### *The Compliance Program*

Levi Strauss & Co. established its compliance program in 1991. LS&CO. became a participating company in the FLA in July 1999, and subsequently withdrew from the FLA in October 2002. During the reporting period, LS&CO.'s compliance program was headed by the Senior Vice President of Worldwide Supply Chain with the Director of Global Code of Conduct. They oversaw the work of 2 full-time compliance personnel in their headquarters office, and 27 full-time staff and many part-time staff (8 full-time equivalents) located in 17 field offices around the world. All internal audits were conducted by LS&CO. employees during the reporting period, with the exception of two third-party audits (categorized as *internal* audits in the FLA system), which were undertaken by Verite.

### *Monitoring*

LS&CO. has specified its standards for compliance in the Levi Strauss & Co. Terms of Engagement (TOE), which it has applied to all manufacturing and finishing suppliers.

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<sup>8</sup> Levi Strauss & Co. (LS&CO.) announced its decision in October 2002 to withdraw from the FLA program, after completing its first year of implementation. LS&CO is no longer a participating company in the FLA, but the results of LS&CO.'s first year of implementation are included in this report, and the monitoring results of 7 factory visits are included in tracking charts on the FLA website.

When approving LS&CO.'s application for participation, the FLA determined that the TOE upheld all of the standards included in the FLA Workplace Code. During Year One, the company performed internal audits at all its contracted facilities (100%) at least once. Prior to engaging in a business relationship with a new supplier, LS&CO. conducted internal audits at all factory locations where LS&CO. product was proposed to be produced, and assessed the supplier's level of compliance. Internal audits included: interviews with the facility management; worker interviews; a review of personnel, wage and working hour records; and a physical walk-through and inspection of safety conditions in the factory and dormitories, if they exist.

During Year One, 30 applicable facilities of LS&CO. were monitored by FLA-accredited independent external monitors, in accordance with its Charter obligations<sup>9</sup>. A number of these monitoring visits were unannounced. When proposing facilities for independent external monitoring, LS&CO. targeted those facilities where it had a significant sourcing presence, or where potential for collaboration with other FLA participating companies existed. LS&CO. also favored those countries where it considered the stronger FLA independent external monitors to be accredited.

#### *Remediation and Follow-up*

Following monitoring visits, LS&CO. compliance staff worked with contractors to develop corrective action plans, which listed each action item required for remediation. LS&CO. classified action items in three categories: zero tolerance, immediate action, and continuous improvement. *Zero tolerance items* were violations of guidelines related to child labor, prison/forced labor, unethical or illegal practices, use of corporal punishment, and failure to comply with agreed-upon action items. *Immediate action items* related to, among other subjects, serious life safety issues, inaccurate records, and lack of permits. *Continuous improvement items* were less serious in nature or may have required significant capital investments, and therefore may have had longer timeframes for redress. LS&CO. compliance staff maintained contact with management about progress being made with regard to continuous improvement items.

LS&CO. conducted follow-up visits between annual monitoring visits to verify implementation of agreed-upon action items. LS&CO. looked to field assessors and other company employees, who visited the facilities on a regular basis, to informally monitor factory conditions as well.

Following LS&CO.'s Zero Tolerance policy, if a contractor was unwilling or failed to meet the corrective action commitment, LS&CO. upheld its policy that it would end its business relationship with the contractor. LS&CO. considers ending a business relationship on these grounds as a last resort.

### **Levi Strauss & Co.'s Efforts to Fulfill FLA Company Obligations**

The information in this section is organized according to the FLA participating company obligations listed in the FLA Charter (see Appendix A). Since these obligations represent minimum standards for participation in the FLA, the FLA encourages

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<sup>9</sup> Please refer to the "FLA Process" section of this report for a description of the differences between Year One and Year Two in the conduct of FLA independent external monitoring.

companies to surpass these standards, which they often do. The information provided in this section is in no way an exhaustive recounting of all LS&CO. compliance activities during the reporting period. Rather, this section includes information that LS&CO. reported to the FLA to demonstrate progress in the implementation of its TOE program.

#### **A) Establish Clear Standards**

- LS&CO. established its Terms of Engagement (TOE) standards in 1991. It distributed TOE standards brochures to all cut, sew and finish suppliers, including product (accessory) and country licensees and agents during this reporting period. The brochures have been translated into 45 languages.
- The TOE guidelines and a required written commitment to implementing the standards have been included in all LS&CO. purchase orders and licensing agreements. This included permitting access to facilities and personnel for periodic inspections.
- LS&CO. created a Supplier Guidebook in 2002, which explained detailed factory-level TOE requirements, including the company's four levels of TOE noncompliance (Zero Tolerance, Immediate Action, Continuous Improvement, and Acceptable). This guidebook was distributed to suppliers and was made available to suppliers of U.S. products through a supplier website.
- The company included orientation to TOE standards in the supplier development process with all prospective suppliers.

#### **B) Create an Informed Workplace**

- The LS&CO. compliance team strived to ensure that poster-sized versions of the TOE guidelines were prominently displayed in both English and the prevalent local language in several locations of all supplier factories.
- LS&CO. revised these posters in 2002 to include photographs of workers. These posters were translated into 45 languages and posted in supplier factories.
- Compliance team members worked with suppliers in Europe and Asia to conduct employee education sessions on the TOE standards. In Europe, LS&CO. provided orientations to factory workers in every major sourcing country. In Asia, worker education pilots were conducted in China and India.
- LS&CO. conducted several half-day orientation sessions on its TOE standards for key suppliers in every region in 2002. In addition, LS&CO. offered half-day orientation sessions in San Francisco and New York to key managers for U.S. product licensees.

#### **C) Develop an Information Database**

- LS&CO. has had a global TOE audit form since 1992. Data from these forms have been retained in a global electronic TOE database since 1996.
- In 2002, LS&CO. enhanced its TOE database to enable compliance staff around the world to upload findings from TOE monitoring visits via an off-line interface. In addition, the database was enhanced with the capacity to generate advanced reports on TOE performance across suppliers and by region.

- In 2002, LS&CO. developed a TOE “pre-assessment questionnaire” for new suppliers, which was implemented in that same year. The new questionnaire gave the LS&CO. compliance staff the opportunity to gain essential information about the factory and to enhance the implementation of the TOE standards from the outset of the business relationship.

#### **D) Establish Program to Train Company Monitors**

- LS&CO. has conducted field training for its compliance staff since 1992. It added formal classroom training for its compliance staff in 1998.
- LS&CO. monitors have periodically participated in Business for Social Responsibility (BSR) code of conduct workshops that were held in their respective regions. They also attended the BSR annual conference.
- In 2002, LS&CO. took a number of steps to build and enhance the competencies and skills of its internal monitors, including the establishment of global “TOE assessor competencies” and the development of new training programs.
- LS&CO. revised and updated its formal internal monitor training program in 2002. The program is now 3 days of classroom training, supplemented by field training.
- In 2002, LS&CO. also developed and pilot-tested a formal training program on gathering information from workers. This is a 4-day program, designed for internal monitors.

#### **E) Conduct Periodic Visits and Audits**

- As mentioned above, LS&CO. conducted annual internal monitoring visits for all cut, sew, and finish suppliers, which has been a LS&CO. policy since 1992. In 2001, LS&CO. also began conducting annual internal monitoring visits of all of LS&CO.’s product licensee supplier factories (which is not required by the FLA). All 772 internal audits were undertaken by trained LS&CO. TOE Assessors (i.e., internal monitors). In addition to the formal internal monitoring visits, other LS&CO. staff, including sourcing personnel, may visit facilities more frequently, in conjunction with compliance follow-up and verification activities.
- While the majority of internal monitoring visits were announced, LS&CO. conducted unannounced visits when there was reason to suspect ongoing situations of noncompliance in facilities.
- In 2002, LS&CO. enhanced its approach to worker interviews by developing a more globally consistent process, through which staff would gather information from workers through both on-site and off-site discussions with workers. This process was expected to be rolled out to all compliance staff in 2003. LS&CO. reported that this process would enhance the company’s ability to assess compliance with the TOE standards.
- In consultation with the FLA, LS&CO. commissioned 30 FLA independent external monitoring visits (6% of its applicable facilities), as mentioned in the “Monitoring” section above. The monitoring visits were conducted by Intertek Testing Services (16), Verité (5), and Merchandise Testing Laboratories (9).

#### **F) Provide Employees with Opportunity to Report Noncompliance**

- LS&CO. internal monitors shared their contact information with the workers they came in contact with during factory visits.
- LS&CO. staff also encouraged workers and labor organizations to inform the company of potential TOE noncompliance via its corporate website. The company received reports of alleged noncompliance through the website during the reporting period.
- In 2002, as noted above, LS&CO. developed an enhanced, globally consistent process to gather information from workers during internal monitoring visits. LS&CO. reported that one of the guiding principles of this process was the protection of workers from retribution for sharing information about factory conditions.

### **G) Establish Relationships with Labor, Human Rights, Religious or Other Local Groups**

- Since establishing the Terms of Engagement (TOE) in 1991, LS&CO. reported that it has maintained its long-standing relationships with human rights, labor, and other international and local institutions during this reporting period. LS&CO. has integrated specific recommendations for the enhancement of the TOE process that some of these groups have made.
- In the course of internal monitoring visits and gathering information from workers, LS&CO. reported that it periodically consulted with representatives of legally constituted unions.
- Out of respect for these civil society groups, and for other confidentiality reasons, LS&CO. has requested that the names of these groups not be published.
- The Levi Strauss Foundation has established a sourcing grants program that helps to ensure workers rights in communities where LS&CO. products are made. The focus of the grants is on local community organizations' access to health care, information about workers' legal rights, preventing the spread of HIV/AIDS, increasing economic development opportunities, and ensuring access to education.

### **H) Establish Means of Remediation**

- LS&CO. consulted with suppliers to develop corrective action plans for instances of noncompliance. Suppliers were then responsible for the remediation of problems by implementing the corrective action plans. When suppliers were unwilling or unable to complete these improvements, LS&CO. ended the business relationship.
- In 2002, with the goal of ensuring greater global consistency in supplier remediation, LS&CO. developed detailed global guidance for its internal monitors on remediation for specific TOE noncompliance, including supplier action steps and suggested timeframes.

### **A Levi Strauss & Co. Case Study: Overtime and Harassment in Asia**

This case study provides an interesting example of how the FLA methodology works in practice. It also demonstrates a process through which civil society and representatives of workers can report code noncompliance to a participating company, which can then intervene with a remediation plan.

In 2002, Levi Strauss & Co. was notified by an email to its corporate website that violations of its code of conduct were allegedly occurring in a factory producing both Levi's® and Dockers® brands in Asia. The complaint was reported by an external party - a priest, on behalf of some of his parishioners who were migrant workers in the country. The allegations included excessive overtime, inadequate compensation for overtime work, and harassment. To verify the allegations, LS&CO. conducted its own internal investigation, followed by a factory audit by a non-FLA independent monitor. Both the internal investigation and independent monitor confirmed the allegations that violations were occurring at the factory.

Based on the information, LS&CO. worked with factory management to address the violations and to develop a corrective action plan. The plan involved:

- Educational programs for management and employees on wages, scheduling, and harassment issues;
- Development of a comprehensive management plan to implement systems for assessing code of conduct compliance in the factory;
- Full back payment of wages to the workers for their overtime; and
- Engagement of an independent monitor to verify completion of remediation.

When submitting its annual report to the FLA, LS&CO. reported that with the cooperation of the factory, the remediation plan was underway, and full payments of back wages were made to the workers. The educational programs for the factory management and employees had also taken place. In the meantime, the LS&CO. order at the factory had been completed, and the company reported that future orders to the factory would depend on continued factory cooperation with remediation efforts. This case demonstrates how participating companies can use their economic leverage to facilitate positive improvements in workplace conditions in factories where their products are produced.

## Levi Strauss & Co. Factory/Audit Profile

In accordance with the FLA Charter, the chart below lists the countries where LS&CO. applicable facilities were located during the reporting period, as well as the number of internal and FLA independent external monitoring visits that took place during that time.

*Please note* that this chart represents only one of a number of activities undertaken by participating companies to ensure factory compliance with the FLA Workplace Code of Conduct. The number of site visits conducted by a participating company does not indicate whether one or more of a company's applicable facilities are in compliance with the Code. While this information can help readers gain a better grasp of the geographic scope and focus of participating companies' compliance efforts, it should be interpreted in the context of the more qualitative characteristics of each company's compliance program.

LS&CO. Monitoring Program Year One		
Description	Countries (number)	Total
<b>Applicable Facilities</b>	China (107), Japan (55), India (30), Tunisia (25), Canada (24), Mexico (23), South Korea (21), Indonesia (19), Philippines (19), Vietnam (18), Thailand (17), Dominican Republic (14), Taiwan (13), Turkey (12), Bulgaria (11), Italy (10), Pakistan (9), Bangladesh (8), Cambodia (8), Greece (8), Colombia (8), United States (8), Malaysia (7), Morocco (7), Portugal (7), Romania (7), Brazil (6), Spain (5), Malta (4), Australia (3), El Salvador (3), Belgium (2), France (2), Israel (2), Jordan (2), Poland (2), United Kingdom (2), Costa Rica (2), Guatemala (2), Hong Kong (1), Croatia (1), Germany (1), Netherlands (1), South Africa (1), Sweden (1), Honduras (1), Nicaragua (1)	<b>540</b>
<b>Internal Monitoring Visits (8/01-7/02)*</b>	China (170), Japan (60), India (37), Tunisia (18), Canada (25), Mexico (28), South Korea (23), Indonesia (16), Philippines (16), Vietnam (25), Thailand (12), Dominican Republic (11), Taiwan (18), Turkey (43), Bulgaria (10), Italy (56), Pakistan (14), Bangladesh (1), Cambodia (13), Greece (13), Colombia (9), United States (20), Malaysia (1), Morocco (5), Portugal (16), Romania (15), Brazil (5), Spain (6), Malta (4), Australia (1), El Salvador (5), Jordan (3), Poland (13), Costa Rica (3), Guatemala (3), Hong Kong (23), Croatia (5), Germany (3), Netherlands (2), South Africa (15), Sweden (1), Honduras (4), Nicaragua (1)	<b>772</b>
<b>FLA Independent External Monitoring Visits Counted for Year One</b>	China (7), India (5), Mexico (2), South Korea (2), Indonesia (6), Philippines (1), Thailand (2), Dominican Republic (1), Bangladesh (3), Portugal (1)	<b>30</b>

\*LS&CO.'s internal monitoring numbers include pre-sourcing monitoring visits in factories where the company may not have opted to source, as well as follow-up visits, which explains why the number of internal monitoring visits is greater than the number of LS&CO. applicable factories. It should be noted that all applicable facilities received at least one visit from LS&CO. compliance staff.



## Liz Claiborne, Inc.

### Basic Facts about Liz Claiborne, Inc.

<b>Liz Claiborne, Inc. consolidated revenue in FY2001:</b> US\$3.44 billion
<b>Applicable Liz Claiborne, Inc. Brands (percentage of total sales):</b>  Lizsport®, Lizwear®, Liz&Co®, Liz Claiborne® – Women, Collection, Dana Buchman®, Villager®, Emma James®, Russ®, Crazy Horse®, First Issue®, Special Markets Corp®, Sigrid Olsen® [added this year], Liz Claiborne Men's Sportswear®, Crazy Horse® – Men's  Total = 56% of total consolidated revenue
<b>Total applicable facilities worldwide during reporting period:</b>  338 facilities

### Liz Claiborne, Inc.'s Approach to Compliance during FLA Year One

In this section, we review some key aspects of the Liz Claiborne, Inc. compliance program. In addition to some basic facts about the structure of Liz Claiborne's compliance program and its participation in the FLA, it provides readers with a general overview of the company's approach to monitoring, remediation and follow-up on noncompliance issues. The activities described below took place during the Year One reporting period (August 1, 2001 through July 31, 2002). The company has committed to implement its monitoring plan over the course of three years.

#### *The Compliance Program*

Liz Claiborne, Inc. (LCI) is a founding participating company in the Fair Labor Association, and its predecessor, the Apparel Industry Partnership (AIP). LCI adopted the standards created by the AIP in 1997, and still uses these today. During the reporting period, LCI's compliance program was headed by the Senior Vice President/General Counsel and the Vice President of Human Rights Compliance, who reported to LCI's Chairman of the Board/CEO. There were four full-time compliance staff members: one staff member based in the U.S. and the remainder in East Asia. LCI also cited country general managers, senior manufacturing and operations management, and other LCI associates as participants in LCI's compliance program to varying degrees during this reporting period. In addition, LCI relied on 11 part-time monitors (of which 4 are LCI staff and 7 are LCI agents' staff) to carry out internal audits in the field, and contracted with Global Social Compliance (GSC) to monitor facilities in areas where LCI compliance staff were not located. GSC performed fifteen of the ninety-six internal audits that LCI conducted during this period.

LCI reported that its main focus during the reporting period was enhancing communications and training. The company developed the compliance section of its contractor manual, and worked through local offices to reinforce management and

worker understanding of LCI Standards. Meetings and trainings at various levels of the LCI supply chain -- from information meetings for workers in factories, to supplier trainings, to new guidebooks and consultations with monitors, to LCI staff advisory sessions focused on compliance and the FLA -- aimed to improve understanding and implementation of the company's standards.

### *Monitoring*

LCI conducted internal audits of 28% of its applicable facilities during this reporting period. All internal audits were scheduled and announced. For LCI, internal monitoring visits entailed a review of factory records, worker and management interviews and a factory walk-through to evaluate health and safety issues and general working conditions. Internal monitoring targeted those facilities where LCI was producing the highest volumes per region, or new factories, since all new factories undergo internal audits before LCI places an order there. LCI also steered away from arranging audits in facilities that it considered lower risk because non-FLA monitoring (i.e., monitoring of the apparel lines it produces for Wal-Mart) had already been undertaken there. It therefore did not conduct internal audits in 3 facilities where LCI's "Russ" brand apparel was being produced for Wal-Mart, since Wal-Mart had already commissioned Global Social Compliance to monitor facilities where Russ was manufactured.

During Year One, 18 applicable facilities of LCI were monitored by FLA-accredited independent external monitors, in accordance with its Charter obligations<sup>10</sup>. In proposing facilities for independent external monitoring, LCI selected sites according to the risk factors listed in the FLA Charter -- namely country, production and company risk. These visits targeted factories in Mexico and China, where LCI determined the risk of noncompliance seemed to be greatest. Within these countries, factories were selected by the volume of production they were doing for LCI.

### *Remediation and Follow-up*

Following the completion of an audit, LCI communicated with the factory management about the audit findings and corrective action plan within one week from the audit. In general, the factory was responsible for correcting any noncompliance within 30 to 60 days after the audit, depending on the corrective action required. LCI explained that if findings of noncompliance were not serious, and management expressed interest in correcting noncompliance, LCI rated the relationship with the factory as "conditional" until corrective actions were undertaken.

It has been LCI policy that its sourcing department takes the completion of corrective actions into account when making sourcing decisions. Therefore, in the event that a factory did not complete a corrective action plan in good faith, LCI "suspended" business with that facility. If corrective actions were eventually undertaken, LCI would consider returning to the factory. LCI reported that only in "extreme" circumstances will the company completely terminate a business relationship with a factory.

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<sup>10</sup> Please refer to the "FLA Process" section of this report for a description of the differences between Year One and Year Two in the conduct of FLA independent external monitoring.

## **Liz Claiborne Inc.'s Efforts to Fulfill FLA Company Obligations**

The information in this section is organized according to the FLA participating company obligations listed in the FLA Charter (see Appendix A). Since these obligations represent minimum standards for participation in the FLA, the FLA encourages companies to surpass these standards, which they often do. The information provided in this section is in no way an exhaustive recounting of all of LCI's compliance activities during the reporting period. Rather, this section includes information that LCI reported to the FLA to demonstrate progress in the implementation of its compliance program.

### **A) Establish Clear Standards**

- Liz Claiborne, Inc. established its first Code of Conduct (LCI Code) in 1994.
- The LCI Code was distributed to all suppliers, along with a receipt form, which suppliers were required to return to LCI to confirm their agreement to abide by the Code and cooperate with LCI auditing procedures. LCI reported that the majority of contractors have returned these forms. During the reporting period, LCI continued to follow-up on any outstanding acknowledgement letters.
- LCI included a page on its contractor website, which specifies that satisfying LCI's Code is a condition for doing business.

### **B) Create an Informed Workplace**

- The LCI Code was posted in the languages of management and workers at all factories where LCI products were made. It was translated into 14 languages. When LCI conducted business in countries where the local language was different from one of these 14 (e.g., Vietnamese), LCI posted the FLA Workplace Code of Conduct in the local language.
- LCI supplemented code postings by sometimes communicating standards to workers orally, or through posted pictures or distributed comic books.
- LCI held meetings with suppliers in Mexico, North China, Hong Kong/South China (2), Saipan and Guatemala, where LCI's compliance staff addressed its monitoring program and FLA guidelines, clarified key workplace standards, and reviewed best practices. At these meetings, some suppliers agreed to distribute LCI Standards to workers at the time of hiring, and to announce the Standards to all workers.

### **C) Develop an Information Database**

- In order to verify and quantify compliance with its standards, LCI monitors used the "Liz Claiborne, Inc., Global Human Rights Standards and Questionnaire for Contractors and Suppliers" in all new overseas factories, and a modified version of the FLA monitoring guidance document in existing factories.
- LCI compliance staff sent a self-certification questionnaire to suppliers that were not internally audited during Year One. LCI estimated that the large majority of suppliers have responded. The company used the questionnaire to ascertain their suppliers' compliance policies and practices, and to assess factory risk levels.

- LCI maintained internal records in the form of hard copy files for all factory questionnaires, correspondence between headquarters and regional staff or factory management, in addition to audit reports and corrective action notes. During the reporting period, LCI developed a corrective action tracking sheet so that regional and headquarters staff could share files. They also explored a shared follow-up reminder file for use in the following implementation year.

#### **D) Establish Program to Train Company Monitors**

- LCI developed the *Guidebook*, which provides guidance on the practical meaning of LCI's Global Human Rights Standards. It was designed as a companion to the LCI Audit Document, and provides qualitative and quantitative measures of benchmarks, as well as questions and answers to give guidance for each standard.
- LCI also required monitors to be familiar with local laws for the facilities they monitored. LCI accessed such information through the BSR website, and distributed it through General Managers in each region. In Asia, LCI confirmed internal monitors' understanding of distributed material through phone or in-person meetings.
- For new staff, LCI conducted monitor trainings in local offices and in factories in Northern China, Taiwan and Mexico. These trainings included tips for effective management interviews and payroll reviews.

#### **E) Conduct Periodic Visits and Audits**

- During the reporting period, LCI revised the auditing guidance document to comply with FLA monitoring requirements.
- LCI internally audited 96 out of its 338 applicable facilities (28%) during the first implementation year.
- LCI complemented full factory audits with factory "short forms" which were completed by compliance staff when visiting a factory. The "short forms" addressed basic health and safety issues. LCI reported that 45 additional factories were reported on in short forms during the first implementation year.
- In consultation with the FLA, LCI commissioned eighteen FLA independent external monitoring visits in Mexico and China, as mentioned in the "Monitoring" section above. These were conducted by Cotecna (7), COVERCO (1), Intertek Testing Services (7), Merchandise Testing Laboratories (2), and Verité (1).

#### **F) Provide Employees with Opportunity to Report Noncompliance**

- LCI encouraged suppliers to develop grievance systems in factories by which workers could confidentially communicate problems to factory management during the reporting period.
- The LCI Code posters, which were posted in the local language in each factory, included LCI's regional office number for workers to call with noncompliance issues. It is stated that their identity would be kept in confidence.

### **G) Establish Relationships with Labor, Human Rights, Religious or Other Local Groups**

- For the past four years, LCI has had a working relationship with COVERCO in Guatemala. This past year LCI cooperated with Mujeres de Solidaridad to provide doctor's services and health seminars to workers in a Guatemalan factory.
- In Shanghai, LCI coordinated a supplier conference with Shanghai Women's Confederation, which was attended by a number of other local groups.
- In Taiwan, LCI developed a relationship with the Chanunan Holy Family Catholic Church Handicapped and Migrant Workers Center after following up on a complaint issued by the organization last year.
- LCI consulted with various groups around the world during the reporting period. The company has requested the FLA not to make this information public for confidentiality reasons.

### **H) Establish Means of Remediation**

- LCI internal monitors reviewed audit findings and corrective action plans with management within one week of an audit. In the case of new factories, these findings were used to determine whether LCI would engage in a business relationship with a given facility. LCI generally required that corrective actions be completed within thirty to sixty days after the audit, depending on the nature of the corrective action.
- Regional LCI staff was responsible for follow-up. For auditing visits undertaken by third-party monitors, a relevant LCI merchandising staff member was responsible. These corrective actions were in turn reviewed by the relevant LCI Regional Manager in Asia or the Vice President of Human Rights at headquarters, depending on where the facility was located.
- To verify completion of corrective action plans, LCI staff returned to the factory, or relied on photographs in cases of noncompliance that LCI staff deemed as less serious. In instances when corrective action plans were not fulfilled, LCI compliance staff relied on support from LCI divisional manufacturing staff or local merchandisers involved to push for compliance. In cases when this pressure did not work, orders were moved to other factories.

## **Liz Claiborne: Freedom of Association and Other Compliance Issues in Guatemala**

In many countries where domestic governments do not enforce the right to freedom of association, the possibility of unionization is often associated with job losses or decreased orders from buyers. It can also result in severe divisions in the workplace. Some workers fear they will lose their jobs if their workplace is unionized; others insist on exercising their freedom of association. The FLA requires participating companies to inform workers of this right, and to assure workers that they will not relocate if a union is formed in a factory where they are producing. In the case below, Liz Claiborne, Inc (LCI) pursued such steps to address a heated Guatemalan freedom of association case.

Since 1999, LCI has conducted an intensive independent monitoring pilot project in Guatemala in cooperation with a foreign-owned factory and the independent monitoring group, COVERCO (FLA-accredited in 2000). During that time, LCI reported seeing considerable improvements in factory conditions, as all involved actors gained experience in monitoring and remediation.

In July 2001, a group of workers registered to form a union in that factory. The factory management discouraged the formation of unions, and suggested that the factory could close down if the union was instated. According to various reports, in following days, suspected union organizers were forced to resign, while remaining organizers were harassed by other workers. The factory management barred COVERCO from inspecting the factory, based on their suspicions that the monitors were responsible for organizing the union.

Tensions in the workplace heightened, and clashes between union and non-union workers took place on the factory grounds. In order to assess the situation, LCI considered it necessary to have COVERCO enter the factory and report on its findings. After LCI contacted factory management, COVERCO was again granted access to the factory and immediately began an investigation.

COVERCO's report confirmed the need for the factory management to protect the union workers. As a result of ongoing communication with LCI and executives at the factory's parent company, the local management confirmed the workers' right to free association through posted signs and verbal announcements. Seven union workers were reinstated with pay, and LCI sent an open letter to the workers informing them that a business relationship with the factory would be maintained, provided that workers respected each other's right to opt in or out of union membership. In addition, LCI held a training session on the LCI Code for management and supervisors. They discussed the frequency of LCI's and COVERCO's return visits and the proper procedures for workers to communicate grievances. The Guatemalan Ministry of Labor also started an investigation of noncompliance with Guatemalan labor law that may have taken place during the incident.

In following months, with the help of COVERCO and LCI's local agent, who regularly visited the factory, LCI worked with factory management to begin to address divisions in the workplace. While the government has not offered findings from its investigation, and the union has very limited participation among the 1,200 workers at the factory, LCI reports that there are signs of continued improvement in the factory. The management hired a new human resources officer, and a labor lawyer to develop and implement new factory compliance policies.

When reporting on this situation, LCI highlighted the important role played by the factory's parent company in opening this factory to one of the first independent monitoring projects of its kind, and maintaining open lines of communication following this heated situation. LCI considers that without their cooperation, this situation would likely have a very different outcome. Although LCI reported this as an example of positive outcomes, the company continues to engage in ongoing remediation and maintains the call for freedom of association at this Guatemalan factory.

## Liz Claiborne, Inc. Factory/Audit Profile

In accordance with the FLA Charter, the chart below lists the countries where LCI's applicable facilities were located during the reporting period, as well as the number of internal and FLA independent external monitoring visits that took place during that time.

*Please note* that this chart represents only one of a number of activities undertaken by participating companies to ensure factory compliance with the FLA Workplace Code of Conduct. The number of site visits conducted by a participating company does not indicate whether one or more of a company's applicable facilities are in compliance with the Code. While this information can help readers gain a better grasp of the geographic scope and focus of participating companies' compliance efforts, it should be interpreted in the context of the more qualitative characteristics of each company's compliance program.

Liz Claiborne Inc. Monitoring Program Year One		
Description	Countries (number)	Total
<b>Applicable Facilities</b>	China (97), India (43), Hong Kong (39), South Korea (17), Sri Lanka (17), Mexico (16), Taiwan (12), Turkey (12), Indonesia (9), Philippines (9), Dominican Republic (8), Saipan (7), Thailand (6), Macau (5), Guatemala (4), Macedonia (4), Mauritius (4), Peru (4), United States (4), El Salvador (3), Bangladesh (2), Colombia (2), Honduras (2), Jordan (2), Mongolia (2), Italy (1), Japan (1), Madagascar (1), Malaysia (1), South Africa (1), Swaziland (1), Turkmenistan (1), United Kingdom (1)	<b>338</b>
<b>Facilities Where Internal Monitoring Visits Were Conducted (8/01-7/02)*</b>	China (24), India (22), Hong Kong (7), South Korea (7), Sri Lanka (3), Taiwan (3), Mexico (0), Taiwan (0), Turkey (9), Indonesia (3), Philippines (1), Dominican Republic (0), Saipan (3), Thailand (0), Macau (1), Guatemala (1), Macedonia (0), Mauritius (4), Peru (0), United States (0), El Salvador (0), Bangladesh (1), Colombia (2), Honduras (0), Jordan (1), Mongolia (0), Italy (0), Japan (1), Madagascar (0), Malaysia (1), South Africa (0), Swaziland (1), Turkmenistan (1), United Kingdom (0)	<b>96</b>
<b>FLA Independent External Monitoring Visits Counted for Year One</b>	China (5), Mexico (9), Dominican Republic (1), Thailand (2), Guatemala (1)	<b>18</b>

\* These figures represent the number of facilities where full internal inspections (including document reviews, factory walk-through, and management and worker interviews) were conducted, as reported by LCI in accordance with the FLA Charter. In many cases, third party monitors and LCI staff conducted follow-up or other kinds of visits to each of these facilities, but these visits are not reflected above.



## NIKE, Inc.

### Basic Facts about Nike:

<b>Consolidated revenue in FY2002:</b> US\$ 9.89 billion
<b>Applicable Nike Brands (percentage of total sales):</b> Nike (95%) Cole Haan and Bauer (5%)
<b>Total applicable facilities worldwide:</b> 758 facilities

### Nike's Approach to Compliance during FLA Year One

In this section, we review some key aspects of Nike's compliance program. In addition to some basic facts about Nike's participation in the FLA and the structure of its compliance program, this section provides readers with a general overview of the company's approach to monitoring, remediation and follow-up on noncompliance issues during the reporting period. The activities described below took place during the Year One reporting period (August 1, 2001 through July 31, 2002).

#### *The Compliance Program*

Nike is a founding participant in the Fair Labor Association, and its predecessor, the Apparel Industry Partnership. In 2001, Nike committed to implement its FLA obligations over the course of three years, in accordance with the FLA Charter. Nike's compliance program centers on its Code of Conduct, which corresponds with the FLA Workplace Code of Conduct.

Over the course of the reporting period, Nike's compliance staff almost doubled in size. By the end of the reporting period, it consisted of approximately 64 staff members. The compliance program was headed by the Vice President of Compliance, who reported to the Vice President of Apparel Sourcing. The VP of Compliance was supported at Nike headquarters by a staff of approximately 10, with the remainder of the compliance team working from regional offices in Asia, Europe and the Americas. Four regional leaders head regional teams, which deal with footwear, apparel and equipment factories. The work of Nike's internal compliance staff was supplemented by Global Social Compliance (GSC), Cal Safety (CSCC), IA Capital, and Price Waterhouse Coopers, who collectively performed 426 "Management Audits" (described below) for Nike.

In order to link compliance with production, Nike required that all production staff focus on compliance for as much as 15% of its time, and included criteria in staff performance reviews. As a result of this effort to integrate these departments, Nike reported that a portion of its compliance activities were carried out by Nike staff who were not based in the compliance department.

During the reporting period, Nike's compliance efforts focused on sustainable solutions to noncompliance issues, as well as increased transparency of its supply chains. By increasing its staff size, Nike established a compliance team that would be able to work more closely with factory management with a view towards addressing noncompliance issues at their root. While the company reported that this approach was far more time and resource intensive than an approach which focused on "quick fixes", Nike considered such close mentoring to be beneficial in the long-term. With regard to transparency, Nike endeavored to issue public reports on its supply chain in a systematic manner. The company published its collegiate producing facilities, and also started to publish the findings of its internal monitoring visits. While this program stalled due to legal complications, Nike reported its continued dedication to transparency in order to foster a balanced understanding of realities on the factory floor.

### *Monitoring*

During the reporting period, Nike conducted two forms of monitoring, SHAPE (safety, health, attitudes, people and environment) Audits and Management Audits. SHAPE Audits are conducted periodically in all Nike facilities on an announced and unannounced basis. Management Audits are targeted at facilities where Nike has developed strategic partnerships and at higher risk facilities.

During SHAPE Audits, Nike compliance and sourcing staff conducted factory walkthroughs to evaluate basic health and safety, as well as environmental compliance, and some management practices, such as reviewing time cards and management and worker training records. Management Audits were performed by third-party monitoring groups, and included intensive audits of payroll and time card records, working hours, management and worker interviews, and a factory walkthrough to evaluate working conditions benchmarked against Nike's Code of Conduct. Overall, 1,056 SHAPE Audits were conducted during the reporting period. Of the 426 Management Audits that were conducted during this period, 262 targeted existing facilities based on a predetermined audit schedule, while 164 were "pre-sourcing audits" (see explanation below).

Before sourcing from a new facility, Nike first assessed the country in which the facility was located. The compliance department would evaluate the country's political, social, legal and business characteristics to determine the application of the rule of law in that country and its factories. Through this "New Country Approval Process" senior compliance staff met with key governmental and non-governmental stakeholders to assess the degree to which the rule of law was upheld there. If Nike's criteria for a production country were met, facilities located in that country were eligible for consideration for sourcing.

In order to start sourcing from a new facility, Nike sourcing executives would initiate the "New Source Approval Process" (NSAP) by submitting a NSAP form to Nike's compliance staff. The compliance team would then carry out a Management Audit, which was usually conducted by a third-party monitor during the first implementation year, as well as a SHAPE Audit to determine the facility's current compliance performance. If each of these scores were high enough (taking local standards into consideration), the VP of Compliance would approve the factory for sourcing. Such approval was contingent on the factory's agreement to strive towards meeting Nike's compliance standards, which often included undertaking several corrective actions to come into compliance with Nike's Code.

During Year One, 63 applicable facilities of Nike were monitored by FLA-accredited independent external monitors, in accordance with its Charter obligations<sup>11</sup>. Thirty percent of these were conducted in footwear factories, and seventy percent of these in apparel and equipment factories. In consultation with the FLA, Nike chose to commission independent external monitoring visits in a sampling of facilities and countries. In order to diversify this first experience with FLA independent external monitoring, Nike contracted with both global and local monitoring groups accredited by the FLA.

### *Remediation and Follow-up*

When noncompliance issues were identified during SHAPE, Management Audits, and FLA independent external monitoring visits, Nike compliance staff worked with factory management to develop a “Master Action Plan” that addressed the findings of past audits and periodic compliance visits. These corrective action plans designated specific individuals within the factory responsible for addressing each identified issue, along with timeframes for completion. Often, remediation involved incremental improvements, since Nike reported that it generally was not possible to remediate every problem in a factory simultaneously. Through management and worker training, as well as other corrective actions, Nike maintained a general policy of committing the necessary time to bringing cooperative factories into compliance.

Corrective action plans were communicated to sourcing and quality control departments so that they could use their leverage with the factory to bring about effective and rapid remediation. These business units also followed up with factories with regard to remediation. In most instances, either compliance staff or sourcing or production staff followed up on remediation through return visits to factories. The compliance department also relied on information provided by management that proved corrective action had been taken, such as photographs, copies of newly mandated policies, revised employee handbooks, and training attendance sheets.

Despite Nike’s focus on close cooperation with management to address workplace issues during the reporting period, Nike maintained a policy to terminate relationships with factories that refused to undertake corrective action plans in earnest.

### **Nike’s Efforts to Fulfill FLA Company Obligations**

The information in this section is organized according to the FLA participating company obligations listed in the FLA Charter (see Appendix A). Since these obligations represent minimum standards for participation in the FLA, the FLA encourages companies to surpass these standards, which they often do. The information provided in this section is in no way an exhaustive recounting of all Nike’s compliance activities during the reporting period. Rather, this section includes information that Nike reported to the FLA in order to demonstrate progress in the implementation of its human rights program.

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<sup>11</sup> Please refer to the “FLA Process” section of this report for a description of the differences between Year One and Year Two in the conduct of FLA independent external monitoring.

## **A) Establish Clear Standards**

- Nike revised its Code of Conduct during the reporting period. While the Nike Code standards remain the same, changes were made in the way they were presented for increased clarity of the standards. The Nike Code has been translated into 20 languages.
- Also during this reporting period, Nike finalized its *Code Leadership Standards (CLS)* which clarify each standard and provide guidance to management and Nike staff with regard to ways to implement the Nike Code most effectively.
- Upon contracting with suppliers, Nike provided them with *Contractor Compliance Manuals*, which included the Nike Code, guidelines for Nike Code implementation and SHAPE Audits, explanations of the monitoring process, etc.
- Suppliers were required to submit NIKE Contractors Compliance Profiles which included their commitment to abide by the Nike Code, and to inform workers of the Code. When they signed Nike Supplier Agreements they also committed to implement the Nike Code and to submit to periodic announced and unannounced inspections.

## **B) Create an Informed Workplace**

- Nike required all factories producing Nike goods to post the company's Code in the workplace languages and English. Moreover, Nike mandated that local labor law was posted in factories wherever required by law.
- Nike provided to the majority of its factories laminated Code summary cards for distribution to workers.
- Nike engaged suppliers in trainings about the Code of Conduct. Trainings used Nike's *Code Leadership Standards* and *Contractor Compliance Manuals* to improve suppliers' understanding of Nike standards.
- Nike undertook several worker training initiatives during the reporting period. In Vietnam, the company arranged that more than 31,000 workers received training on sexual harassment in the workplace. In factories in the Americas where management and workers came from different cultures, Nike arranged cross-culture training programs for management and workers. In Vietnam, machine safety trainings took place in 6 factories, involving more than 19,200 workers and supervisors.
- Nike compliance staff periodically conducted trainings for Nike production managers to equip them to conduct SHAPE inspections when visiting factories. All new compliance department hires, and a range of existing and new Nike employees from other departments, received compliance training in different venues – from formal training sessions to brown bag discussions on particular compliance topics.

## **C) Develop an Information Database**

- During the reporting period, Nike compliance staff undertook a review of its compliance database to ensure that it was up-to-date and included all of the facilities where Nike produced. This database was designed to run in conjunction with the Nike sourcing database to ensure that all factories producing for Nike were being monitored. The database also recorded each factory's remediation efforts in order to track the progress of "continuous improvement" in each workplace.

- This database was available to all compliance staff. Information generated from the database was shared on a routine basis with the Nike production and sourcing groups to ensure their participation in efforts to improve particular factory conditions.
- Contractor Compliance Profiles (described in Section A above) were used to collect basic data about suppliers, which were in turn input into the database. These are collected from suppliers annually.

#### **D) Establish Program to Train Company Monitors**

- New monitors received training in SHAPE auditing through on-site visits with experienced staff.
- With the introduction of Nike's *Code Leadership Standards* (CLS), the compliance staff participated in trainings that focused on different modules of the CLS. Trainings took place over the course of several weeks for each regional team, and provided participants with hands-on material that covered domestic labor law, key international labor standards, management systems, and health, safety and environmental practices.
- The Nike compliance department also developed a CD-Rom called "Pre-Game" to train all internal compliance staff and other Nike employees about Nike's compliance standards and processes. The CD-Rom was also designed as a training tool for new employees coming into the compliance program, who go through the Pre-Game process.
- Nike's staff included experts who benchmarked international practices and norms and contributed to staff trainings. Their expertise covered international labor standards, environmental practices, health and safety and training. In addition, trainings during this reporting period were offered to staff and suppliers in cooperation with a range of groups, including the International Labour Organization (ILO), International Standards for Occupational Safety, Global Alliance, World Vision, and Environmental Resource Management-Certification and Verification Services (ERM-CVS).

#### **E) Conduct Periodic Visits and Audits**

- Nike performed 1,056 SHAPE inspections globally during the reporting period. As described above, these inspections focused on basic health and safety, and environmental compliance issues. These were carried out every six months in the majority of the facilities where Nike produced during the first implementation year.
- Nike contracted with third-party monitoring groups to conduct 426 Management and Pre-sourcing audits, which included a more in-depth factory visit, and records-reviews, worker and management interviews, and factory walkthroughs.
- In consultation with the FLA, Nike arranged for FLA independent external monitoring visits in 63 of its applicable facilities, as mentioned in the "Monitoring" section above. This amounted to eight percent (8%) of Nike's applicable facilities. These independent external monitoring visits were conducted by the following FLA-accredited monitors: Cal Safety (7), Cotecna (4), Global Standards (3), Intertek Testing Services (35), Kenan Institute Asia -Thailand (1), Merchandise Testing Laboratory (9), Phulki (2), and Verité (2).

- Nike upgraded the audit tool used by compliance staff for Management Audits for use in Year Two. The tool incorporated monitoring approaches suggested by various stakeholders.

#### **F) Provide Employees with the Opportunity to Report Noncompliance**

- Nike's standards required suppliers to provide workers with confidential and effective grievance mechanisms.
- Nike reported that its compliance staff in Asia developed a relationship with workers, who periodically report noncompliance issues or other grievances to them.
- During the reporting period, Nike made improvements to its internal Management Audit program, designed to provide workers the means to contact local compliance staff following an audit in order to report noncompliance or other concerns.

#### **G) Establish Relationships with Labor, Human Rights, Religious or Other Local Groups**

- Nike's primary NGO partner during the reporting period was Global Alliance. Nike worked with Global Alliance in six factories in Thailand to offer training in legal and civic education, and health to a total of 16,800 workers. They also conducted three-day intensive trainings for supervisors on communication, team building and supervisory skills. In Vietnam, they conducted a health training program for approximately 4,500 workers. In Indonesia the partnership conducted worker interviews with 2,275 workers to re-assess their needs, while close to 40,000 workers participated in health awareness seminars. Management also participated in management/communication seminars. Smaller-scale programs were also conducted in China and India.
- In Indonesia, Nike partnered with International Standards for Occupational Safety (ISOS) to evaluate and upgrade occupational health program practices in 10 Nike contractor footwear factories.
- Nike engaged with the Mexican NGO, Espiral, which did a pilot study through worker interviews and group discussions. The group's report, entitled "Voices of the Workers", recommended approaches to worker interviews, which were incorporated in Nike's new Management Audit tool.
- Nike partnered with the Ministries of Education and local footwear suppliers in Vietnam and Indonesia, and World Vision in China, to provide after-work educational and vocational training to factory workers.
- Nike is a signatory to the Global Compact and is actively engaged in ongoing forums facilitated by the Compact.
- Nike compliance field teams consulted with various local ILO offices and local and national unions during the reporting period. For example, Nike communicated with the AFL-CIO in Mexico to remediate noncompliance in two facilities in Latin America, and worked with local union leaders in Vietnam to benchmark local factories against Nike-contracted facilities.

#### **H) Establish Means of Remediation**

- All monitoring reports were submitted to Nike compliance staff, who created Master Action Plans (MAPs) for factories in order to address particular noncompliance issues within specified timeframes.
- MAPs, or corrective action plans, were provided to Nike sourcing and production staff. Nike compliance staff and these departments regularly monitored factory progress on the implementation of corrective action plans.
- During the reporting period, compliance regional leaders communicated regularly about MAPs so as to develop common approaches to remediation.
- While Nike reported that it aimed to cooperate with factory management towards continuous improvements, it maintained a policy to terminate relationships with factories if they did not undertake corrective action in good faith.

### **Nike: “Remediate. Don’t Terminate”**

In today’s global marketplace where companies can choose to produce in thousands of factories worldwide, it is not difficult for companies to flee from production sites where serious noncompliance issues arise. Often companies opt to avoid the challenges and complexities involved in remediating problems in the workplace in consultation with factory management. Although this is a tall order at times, FLA participating companies commit to a policy of “remediate, don’t terminate” in factories where management is willing to cooperate in corrective action. The example below exemplifies Nike’s commitment to its FLA obligation. (Reebok, another buyer of the factory’s products, was also intensively involved in forming a resolution to the conflict, but is not detailed in this section).

In the first week of January 2001, workers at Kukdong International Mexico, an apparel contractor for Nike in the state of Puebla, staged a work stoppage. The stoppage was in response to the illegal firing of 5 workers and the forced resignation of 20 other workers who had reportedly complained of low wages and rotten food served in the factory cafeteria. In the ensuing days there was a tense stand-off, which was followed by violence and continued tension between management and many workers.

Nike compliance staff went to the factory to address the situation in the days following the factory stand-off. Workers were eager to establish an independent union in the factory, citing that the current union was corrupt and did not represent their interests. Continued targeting of pro-independent-union workers, and other ongoing noncompliance issues in the workplace indicated serious problems in the factory. Therefore, Nike commissioned Verité to conduct an independent external monitoring visit to the factory under the auspices of the FLA.

Among other findings, the independent monitor reported that factory workers were not permitted to form and join unions of their choice. Continued reports of harassment and discrimination against pro-independent-union workers implied that the workers’ rights to freely associate were being violated.

Following the monitoring visit, Nike worked out a remediation plan with management. With regard to freedom of association, first steps included reinstatement of workers and an end to harassment and discrimination against those workers who were trying to organize. Nike also worked with the Ministry of Labor and other local authorities to ensure that the labor law was enforced fairly in the factory.

After nine months of discussions, internal and independent external monitoring, observations by independent groups such as the Worker Rights Consortium (WRC), and remediation, the workers at Mex-Mode (the new name for Kukdong) achieved a precedent-setting victory as the only independent union with a signed collective agreement in Mexico’s maquila sector. By April 2002, the new union, SITEMEX, reached a settlement with Mex-Mode that increased workers’ wages and benefits at the factory. At that point, Nike stood by its commitment to reward factories that make improvements in accordance with its Code by placing an order at the factory for 75,000 fleece sweatshirts.

Nike reports that it considers the Kukdong/Mex-Mode situation to have been a valuable learning experience. It taught Nike about where it could improve its internal monitoring



program, as well as the value of cooperation with other brands and the FLA in remediating serious noncompliance issues.

## Nike Factory/Audit Profile

In accordance with the FLA Charter, the chart below lists the countries where Nike’s applicable facilities were located during the reporting period, as well as the number of internal and FLA independent external monitoring visits that took place during that time.

*Please note* that this chart represents only one of a number of activities undertaken by participating companies to ensure factory compliance with the FLA Workplace Code of Conduct. The number of site visits conducted by a participating company does not indicate whether one or more of a company’s applicable facilities are in compliance with the Code. While this information can help readers gain a better grasp of the geographic scope and focus of participating companies’ compliance efforts, it should be interpreted in the context of the more qualitative characteristics of each company’s compliance program.

Nike Monitoring Program Year One		
Description	Countries (number)	Total
Applicable Facilities *	United States (155), China (138), Thailand (92), South Korea (80), Mexico (72), Malaysia (54), Taiwan (54), Indonesia (53), India (42), Italy (39), Sri Lanka (39), Portugal (33), Turkey (32), Canada (26), Vietnam (23), Philippines (22), Brazil (21), Japan (18), Pakistan (17), El Salvador (15), Greece (15), Australia (14), Hong Kong (13), South Africa (11), Bangladesh (8), Bulgaria (8), Tunisia (8), United Kingdom (8), Dominican Republic (7), Morocco (6), Guatemala (5), Spain (5), Argentina (4), Germany (4), Honduras (4), Macau (4), Holland (3), Israel (3), Peru (3), Romania (3), Belarus (2), Chile (2), Egypt (2), Fiji (2), Micronesia (2), Singapore (2), Albania (1), Colombia (1), Ecuador (1), Hungary (1), Lithuania (1), Macedonia (1), New Zealand (1), Russia (1)	1181
Internal Monitoring Visits (8/01-7/02)**	SHAPE Audits United States (66), China (242), Thailand (144), South Korea (96), Mexico (44), Malaysia (8), Taiwan (56), Indonesia (56), India (26), Italy (11), Sri Lanka (14), Portugal (42), Turkey (34), Canada (23), Vietnam (48), Philippines (19), Brazil (19), Japan (9), Pakistan (4), El Salvador (21), Greece (1), Australia (0), Hong Kong (11), South Africa (0), Bangladesh (9), Bulgaria (3), Tunisia (5), United Kingdom (0), Dominican Republic (5), Morocco (7), Guatemala (1), Spain (2), Argentina (9), Germany (0), Honduras (4), Macau (5), Holland (0), Israel (1), Peru (0), Romania (3), Belarus (2), Chile (1), Egypt (2), Fiji (1), Micronesia (0), Singapore (0), Albania (0), Colombia (0), Ecuador (1), Hungary (1), Lithuania (0), Macedonia (0), New Zealand (0), Russia (0)	1056

	<b>Management Audits</b>	United States (45), China (84), Thailand (43), South Korea (30), Mexico (32), Malaysia (4), Taiwan (17), Indonesia (21), India (17), Italy (0), Sri Lanka (11), Portugal (9), Turkey (17), Canada (3), Vietnam (7), Philippines (4), Brazil (11), Japan (12), Pakistan (0), El Salvador (3), Greece (0), Australia (6), Hong Kong (11), South Africa (5), Bangladesh (2), Bulgaria (2), Tunisia (4), United Kingdom (0), Dominican Republic (0), Morocco (3), Guatemala (4), Spain (0), Argentina (3), Germany (0), Honduras (4), Macau (3), Holland (0), Israel (0), Peru (0), Romania (1), Belarus (2), Chile (1), Egypt (1), Fiji (1), Micronesia (2), Singapore (0), Albania (0), Colombia (0), Ecuador (0), Hungary (0), Lithuania (0), Macedonia (0), New Zealand (1), Russia (0)	<b>426</b>
	<b>FLA Independent External Monitoring Visits Counted for Year One</b>	United States (10), China (14), Thailand (4), South Korea (4), Mexico (3), Taiwan (2), Indonesia (8), Portugal (4), Turkey (2), Vietnam (3), Philippines (3), Bangladesh (2), El Salvador (4)	<b>63</b>

\* Represents the number of facilities that produced Nike, Cole Haan and Bauer products during the reporting period. These numbers include facilities that were dropped from the sourcing base during the same period as well as facilities that newly began producing during the same period. Therefore, collectively, these facility counts are larger than the actual number of facilities producing Nike-related products at the beginning or ending of the reporting period.

\*\* Nike's compliance department distinguished between SHAPE Audits and Management Audits during the reporting period. SHAPE Audits were undertaken by Nike staff and involved factory walkthroughs to evaluate basic health and safety, as well as reviews for environmental compliance and some management practices, such as reviewing time cards and management and worker training records. Management Audits were conducted by third-party monitoring groups during the reporting period and included full examination of payroll and time records, worker and management interviews, as well as factory inspection for health and safety and working conditions. As is evident in some of the country numbers, many factories were SHAPE audited several times during the year; others were not visited at all.

# Phillips-Van Heusen

## Basic Facts about Phillips-Van Heusen:

<b>Phillips-Van Heusen consolidated revenue in FY2001:</b>
US\$1.43 billion
<b>Applicable Phillips-Van Heusen Brands (percentage of total sales):</b>
Van Heusen apparel (30%)*
<b>Total applicable facilities worldwide:</b>
73 facilities

\* Note: PVH points out that although only the Phillips-Van Heusen label is officially listed as applicable under the FLA system, the PVH monitoring program has had spillover effects for other PVH brands, such as Izod and Geoffrey Bean, which are often produced in FLA applicable facilities.

## Phillips-Van Heusen's Approach to Compliance during FLA Year One

In this section, we review some key aspects of the Phillips-Van Heusen (PVH) compliance program. In addition to some basic facts about the structure of PVH's compliance program and its participation in the FLA, it provides readers with a general overview of the company's approach to monitoring, remediation and follow-up on noncompliance issues during the reporting period. The activities described below took place during the Year One reporting period (August 1, 2001 through July 31, 2002).

### *The Compliance Program*

Phillips-Van Heusen Corporation was a founding member of the Apparel Industry Partnership, the FLA's predecessor. PVH's standards are enumerated in "A Shared Commitment," which was formulated in 1991, and later revised to correspond with FLA standards. During the reporting period, PVH's compliance program focused to a large degree on critical engagement with factory suppliers and other stakeholders in order to have a greater impact on working conditions. Through new programs, such as the Critical Engagement and Impact Program (described below), and staff trainings focused on new approaches for coaching and educating management, PVH aimed to address some of the more serious and prevalent noncompliance issues in East Asia (i.e., hours of work, freedom of association, forced overtime). Engagement in various regions of the world also aimed at establishing systems in factories for self-monitoring.

In 2001 PVH committed to implementing its Company Obligations in accordance with the FLA Charter over the course of three years. During this reporting period, the first of those three years, the PVH Human Rights Programs Department was overseen by the Vice President of Human Rights Programs, who reported to the Executive Vice President of Foreign Offices and the Chairman/President of the PVH Board. Eight part-time Human Rights Regional Leaders (split between footwear and apparel) functioned as managers in four geographic regions. They directed the field efforts of 8 full-time

Human Rights Officers and 31 part-time human rights trained monitors. The Human Rights Regional Leaders reported directly to the VP of Human Rights Programs. Internal monitoring undertaken by PVH human rights associates was supplemented by Verité, Intertek Testing Services, Global Social Compliance, LIFT Standards, and Merchandise Testing Laboratories on 17 occasions during the reporting period. PVH relied on these third-party monitors to do internal audits in countries where PVH staff was not located or did not have language capacity; when PVH Human Rights staff had too large a workload; or, to obtain an independent opinion when controversial issues arose.

In addition to the Human Rights Program staff, PVH has established several committees which involved executives and staff whose official responsibilities did not fall under Human Rights Programs, but who contributed to the integration of “A Shared Commitment” into the business during the reporting period. The Human Rights Approval Committee, which oversaw factory compliance ratings (see description below), as well as the Human Rights Executive Committee, which influenced the direction of the Program, are two cases in point. Similarly, three Human Rights subcommittees (for training, database and engagement) brought compliance staff from different regions together to address key compliance issues.

### *Monitoring*

PVH conducted 143 monitoring visits of 73 factories during the reporting period. One hundred percent of PVH’s applicable facilities were internally monitored at least once during Year One. The company’s internal monitoring process started with the pre-approval of factories. This means that new factories were evaluated and approved by the PVH Human Rights associates before purchase orders were issued to suppliers. In addition to pre-approval audits, internal monitoring visits focused on re-evaluation of factories that were in the process of remediation, as well as periodic audits of active facilities to ensure on-going compliance. Moreover, the Human Rights staff used focused audits (i.e., visits that monitor compliance with a particular Code element in a given country or region where local practice may not uphold it) and surveillance audits (i.e., surprise visits to facilities where PVH Human Rights staff suspect noncompliance) to address various noncompliance patterns more effectively.

PVH reported that its approach to monitoring was generally risk-based during the reporting period. Factories that were “approved”, or assessed to be in compliance following pre-approval or follow-up evaluations, fell into a “lower risk” category. Factories that were located in higher risk regions or countries were considered to be higher risk facilities, and were often targeted for PVH audits. Nonetheless, all applicable factories, including “lower risk” facilities, could be subjected to on-going monitoring. In some cases, surprise follow-up monitoring was employed to confirm the factory’s continued compliance.

During the reporting period, PVH monitors utilized the PVH audit instrument to conduct audits, which incorporated FLA monitoring protocols and included an evaluation of working conditions, a review of factory records, and confidential interviews with workers and management. PVH also consulted with local NGOs to supplement information gained during monitoring visits. Generally, pre-approval audits were scheduled in advance, while periodic, surveillance, focused and re-evaluation audits were unannounced.

During Year One, 5 applicable facilities of PVH were monitored by FLA-accredited independent external monitors, in accordance with its Charter obligations<sup>12</sup>. At the start of Year One, PVH and the FLA had agreed upon a list of 8 facilities for independent external monitoring, which represented 10% of PVH's applicable facilities. These facilities were selected on the basis of a risk assessment of country risk and other factors. However, three of the selected facilities were located in countries where the FLA expected to have monitors accredited during the course of Year One, but by the end of the reporting period, there were still no accredited monitors available for these countries.

### *Remediation and Follow-up*

PVH established the Human Rights Approval Committee to improve the consistency and neutrality of the company's factory assessments and sourcing decisions. Committee members received comprehensive audit reports and recommendations from a Human Rights Regional Leader in a region that was different from the one for which they were responsible. After reviewing these assessments, the committee members evaluated the compliance of the factories under review based on specific rating guidelines established by PVH. They assigned the factory status (i.e., "Approved," "Requires Follow-up Visit," or "Not Approved"), which then determined PVH sourcing from that factory. By empowering an executive from another region to assign these ratings, PVH endeavored to ensure that sourcing pressures would not influence the status assigned to factories. This status was then entered into the PVH Human Rights database on a weekly basis. This information was used by PVH Sourcing and Merchandising staff to make sourcing decisions.

In those cases where remediation and follow-up were necessary, the Human Rights associate who undertook the audit was responsible for engaging the factory in a remediation process to bring the factory into compliance. PVH reported that it worked to center its remediation program on the engagement and education of suppliers. The aim was to achieve full disclosure on the part of the supplier, and sustainable remediation of noncompliance issues for all stakeholders.

PVH reported that Human Rights associates conducted one or more follow-up audits of such factories during Year One, on a mostly unannounced basis, to establish whether the factory had made progress and had fully implemented the corrective action plan. If corrective action plans were fully implemented, factories were "approved" with an expiration date. The length of time between the visit and the expiration date depended on the assessed risk of the facility. Two months prior to the expiration date, the process of re-evaluation would begin again. The status of "approved" or "unapproved" was not permanent, and served as a basic indicator for sourcing decisions.

### **Phillips-Van Heusen's Efforts to Fulfill FLA Company Obligations**

The information in this section is organized according to the FLA participating company obligations listed in the FLA Charter (see Appendix A). These obligations represent minimum standards for participation in the FLA, and many participating companies surpass these standards. The information provided in this section is in no way an

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<sup>12</sup> Please refer to the "FLA Process" section of this report for a description of the differences between Year One and Year Two in the conduct of FLA independent external monitoring.

exhaustive recounting of all PVH compliance activities during the reporting period. Rather, this section includes information that PVH reported to the FLA in order to demonstrate progress in the implementation of its Human Rights Program.

#### **A) Establish Clear Standards**

- PVH revised its “A Shared Commitment” (created in 1991) code of conduct to incorporate FLA standards. These standards have been enumerated on a poster designed by PVH and translated into 9 languages for distribution to factories.
- Before engaging in business relationships, PVH associates met with suppliers to review PVH’s Human Rights Program. Documents used to outline the application of the PVH Human Rights Program included: “A Shared Commitment” (code of conduct); the Human Rights Evaluation Form; “Most Commonly Asked Questions”; an initial letter highlighting PVH requirements with regard to pre-approval, confidential worker interviews, and access to all areas of the factory and dormitories, and documentation; and, the Human Rights Evaluation Request Form outlining the information required for submission. Suppliers were in turn required to read and sign PVH’s letter of agreement committing to comply with PVH standards.
- PVH has included a human rights clause in all purchase orders and key business agreements relating to sourcing. The clause specifies that all products must be manufactured in accordance with PVH human rights standards, and that PVH reserves the right not to accept merchandise made in conditions where these standards have not been upheld.

#### **B) Create an Informed Workplace**

- PVH conducted “Awareness Sessions” for PVH vendors and PVH staff around the world. These sessions addressed PVH standards and requirements with regard to compliance. PVH also requested that suppliers participate in regional conferences, conducted by organizations like Business for Social Responsibility (BSR), Verite and Intertek Testing Services (ITS). During the reporting period, suppliers attended conferences in Mexico, Brazil, India, Hong Kong, Bangladesh, Thailand, Honduras, and the Dominican Republic.
- PVH published a Human Rights Newsletter every two months, which was distributed internally to PVH associates, and externally to agents, key suppliers, and other business associates. The newsletter included articles that highlighted innovative approaches to compliance and other monitoring training tools.
- PVH Human Rights associates conducted periodic individual meetings with suppliers, agents, and licensees to address the code of conduct and corrective actions in particular factories.
- PVH’s Human Rights Program held periodic meetings with Sourcing Divisions, which focused on the integration of human rights into all company activities.

#### **C) Develop an Information Database**

- PVH Human Rights associates were able to access the PVH database from headquarters and regional offices.

- As part of the pre-approval process, PVH required that its suppliers disclose all facilities producing PVH products, as well as other key data used for factory tracking. PVH Merchandising and Sourcing staff used the PVH Human Rights Evaluation Request Form to submit this information to the Human Rights Program. The submission of this document initiates the pre-evaluation process and the inclusion of factory information in the human rights database.
- Records on each supplier were periodically updated with information about audits, corrective action plans, red-flag suppliers, etc. With read-only access to this database, the PVH Sourcing Divisions could make sourcing decisions according to compliance ratings.

#### **D) Establish Program to Train Company Monitors**

- Monitors received training during compliance training sessions, which included slide presentations, training videos, case studies, mock worker interviews, and conflict prevention training. They also participated in conferences and workshops on specific compliance subjects hosted by BSR, Verite, ITS, the U.S. Department of Labor, and UN/Global Compact.
- PVH conducted trainings for sourcing staff, who were involved in remediation and follow-up activities in factories.
- PVH developed various written materials for Human Rights associates and monitors to supplement training. These included: a Walk-Through Guide; Health and Safety Manual; guidance documents on techniques for confidential interviews, follow-up, remediation, payroll verification, and detection of falsified records; and, “A Shared Commitment” Evaluation Form – Training Tool, which included photos, policies, examples of best practices, and detailed instructions for finding and measuring various noncompliance issues.
- The PVH “training subcommittee” developed the following training tools for the Human Rights team, suppliers, workers and other stakeholders: “Most Commonly Asked Questions by Factories Guide”; “Guide to Basic Ergonomic Practices”; and “Non-Intrusive Body Search Guide.”

#### **E) Conduct Periodic Visits and Audits**

- As mentioned above, PVH conducted 143 internal factory visits (including pre-approval visits, internal audits, and follow-up visits) in a total of 73 facilities. One hundred percent of PVH’s applicable facilities were internally audited during the reporting period, and most facilities were audited more than once.
- All PVH associates were responsible for reporting any serious noncompliance issue observed in factories directly to the VP of Human Rights and the Executive VP of Foreign Offices. Such serious noncompliance issues were treated as “red flags.” When a “red flag” was reported, a representative of the Human Rights Program (and often the VP of Human Rights or Human Rights Regional Leaders) performed a factory audit, and undertook corrective action as soon as possible.
- In consultation with the FLA, PVH commissioned 5 FLA independent external monitoring visits, as mentioned in the “Monitoring” section above. These visits were undertaken by Intertek Testing Services (2), Verité (2), and LIFT Standards (1) and represented seven percent of PVH’s applicable facilities.



## **F) Provide Employees with Opportunity to Report Noncompliance**

- PVH viewed confidential worker interviews as a means by which workers could report noncompliance. Auditors were instructed to conduct these interviews on- or off-site and in a manner that protected the identity of the worker. Moreover, Human Rights associates provided their phone numbers to the workers they interviewed, so workers could contact them should additional issues arise.
- PVH required that internal audits verify secure channels of communications within the factories. In the event that these were not in place, PVH prescribed the implementation of an internal secured complaint system in the factory, including the installation of complaint forms and boxes in bathrooms, in addition to worker training, as corrective action plans.
- PVH reported that its associates acted as facilitators in newly unionized facilities until effective modes of communication between workers' representatives and management were developed.
- PVH also relied on NGOs as sources of information about working conditions.

## **G) Establish Relationships with Labor, Human Rights, Religious or Other Local Groups**

- During 2001 and 2002, PVH established and strengthened relationships with various labor, human rights, religious and local groups. PVH conducted meetings, consulted and/or collaborated with various organizations in the following countries: Bangladesh, Brazil, Chile, China, Dominican Republic, El Salvador, Guatemala, Honduras, Hong Kong (and Macao), India, Indonesia, Mexico, Thailand, the UK, the US, and Vietnam.
- PVH actively participated in Business for Social Responsibility (BSR) meetings during the reporting period, and sponsored activities undertaken by the BSR Human Rights Group. PVH has also been a member of the Prince of Wales International Business Leaders Forum in England.
- PVH continued its long-term cooperation efforts with faith-based organizations in the US.
- Through participation in the FLA, PVH exchanged information with the Lawyers Committee for Human Rights (US), Phulki (Bangladesh), Lift Standards (Bangladesh), and Kenan Institute (Thailand).
- PVH also developed working relationships with various groups focusing on labor conditions in China.
- PVH also reported that labor rights organizations provided important information to the company, particularly in regards to Central America.
- PVH Human Rights associates draw from information from various sources, such as the International Labor Organization (ILO).

## **H) Establish Means of Remediation**

- Upon completion of an audit, PVH Human Rights associates reported results of audits to factory owners, managers, supervisors and workers, as well as PVH

sourcing staff. The company reported that “transparency” among key actors proved effective in bringing about compliance.

- Once the noncompliance issues were communicated to factory management, PVH required the factory to establish a comprehensive corrective action plan, and a timeline for its execution. The corrective action plan and timeline were then reviewed by the Human Rights Regional Leader, with input from the Human Rights Officer.
- Once the plan was approved, the Human Rights Officer monitored its implementation through on-going communication with the factory. The Officer returned to the factory to monitor progress, when necessary.
- When the factory communicated the required corrective actions were completed, PVH staff conducted a follow-up audit, usually unannounced, to verify compliance.
- During the reporting period, PVH Human Rights Regional Leaders and Officers endeavored to provide factory management with examples of best practice and other compliance know-how to assist them in reaching full compliance. They also focused on finding ways to close the communication and commitment gap between the factory owners and their managers/supervisors, as well as vendors and factory management, that it found at the heart of many noncompliance issues.
- During this reporting period, the PVH Human Rights Program laid out plans for the Critical Engagement and Impact Program (CEIP), aiming to address the problems PVH encountered in many of its facilities in East Asia with regard to lacking transparency, inconsistent books, coaching of workers before audits, and other related issues. The CEIP was designed to provide the means for Human Rights Program associates to establish stronger, more transparent relationships with suppliers, and then work with management to implement sustainable corrective action plans with specific and realistic guidance from the PVH Human Rights team. This project will be carried out in the second FLA implementation year, and will be reported upon in greater detail in the next public report.

### **Phillips-Van Heusen: Conditions for Chinese Migrant Workers in the Americas**

Migrant workers are vulnerable in today's global economy, in which domestic governments often fail to protect their rights. FLA participating companies commit to ensure that all workers, regardless of nationality, are treated in accordance with FLA standards. However, local practices sometimes represent considerable obstacles to participating company efforts to uphold these standards. Phillips-Van Heusen (PVH) found that intensive engagement with factory owners and managers can improve the treatment of migrant workers in the workplace.

In 2001, PVH conducted an internal monitoring visit in a factory in the Americas and found that the conditions of work for migrant workers from China were abusive and discriminatory. Monitors reported that migrant workers were working mandatory hours that were in excess of 60 hours a week, and that they were not being paid adequately for their regular or overtime work. What compensation they did receive was paid to family members in China, which meant added costs in terms of double taxation, unreasonable deductions, and significant delays in funds reaching families. They found that pregnancy tests were required of the mostly female worker population, and that workers' passports were being withheld by management. Moreover, the monitors found that migrant workers' dormitories were unsafe and inadequate, and that the Chinese workers were verbally abused, and did not receive the same legal benefits enjoyed by local workers.

In order to address the numerous code violations that were occurring in this factory, PVH employed a two-tiered approach: 1) PVH brought factory owners and management to New York for meetings to discuss the situation and find realistic solutions to these serious problems; and 2) PVH undertook a program of intensive and frequent monitoring and coaching visits at the factory level.

Over the course of months of engagement, PVH was able to work with factory owners to implement a remediation plan which included the following corrective actions:

- Factory management and supervisors underwent training to learn about PVH's Code of Conduct and ways in which to communicate effectively with workers. Policies were also instated that penalized supervisors who engaged in discriminatory or abusive behavior.
- Work policies that led to forced overtime and inadequate pay were revised in accordance with PVH and FLA standards.
- The factory opened bank accounts for migrant workers, in order to offer them easy access to their money and to help reduce fees involved in transferring funds overseas.
- Excessive employment fees charged to workers by a Chinese recruitment agency were renegotiated to a reasonable level.
- Pregnancy testing was discontinued, and passports were returned to the workers.
- The migrant workers were relocated to a safer, cleaner dormitory with more suitable living quarters.
- The factory started to provide benefits to migrant workers that were equal to those enjoyed by local workers.

While the remediation of this situation is ongoing, and while solutions to such serious noncompliance have required a great deal of engagement with factory owners, management, supervisors and workers, PVH has seen considerable changes in this factory. Most importantly, migrant workers are no longer treated as second-class workers as a matter of policy and are aware of their rights enumerated in local labor laws and the FLA code.

## Phillips-Van Heusen Factory/Audit Profile

In accordance with the FLA Charter, the chart below lists the countries where PVH applicable facilities were located during the reporting period, as well as the number of internal and FLA independent external monitoring visits that took place during that time.

*Please note* that this chart represents only one of a number of activities undertaken by participating companies to ensure factory compliance with the FLA Workplace Code of Conduct. The number of site visits conducted by a participating company does not indicate whether one or more of a company's applicable facilities are in compliance with the Code. While this information can help readers gain a better grasp of the geographic scope and focus of participating companies' compliance efforts, it should be interpreted in the context of the more qualitative characteristics of each company's compliance program.

Phillips-Van Heusen Monitoring Program Year One		
Description	Countries (number)	Total
<b>Applicable Facilities</b>	India (14), Honduras (7), China (9), Bangladesh (8), USA (4), Korea (5), Hong Kong (4), Mongolia (4), Indonesia (3), Thailand (1), Taiwan (2), Macau (2), Ukraine (2), Israel (1), El Salvador (1), Philippines (1), Pakistan (1), Jamaica (1), Egypt (1), Costa Rica (1), Cambodia (1)	<b>73</b>
<b>Internal Monitoring Visits*</b>	India (25), Honduras (16), China (18), Bangladesh (16), USA (8), Korea (9), Hong Kong (8), Mongolia (7), Indonesia (5), Thailand (3), Taiwan (4), Macau (4), Ukraine (2), Israel (2), El Salvador (3), Philippines (2), Pakistan (2), Jamaica (4), Egypt (1), Costa Rica (2), Cambodia (2)	<b>143</b>
<b>FLA Independent External Monitoring visits**</b>	India (1), China (1), Bangladesh (2), USA (1)	<b>5</b>

\* These figures include pre-approval, periodic, re-evaluation, focus, and surveillance audits. PVH conducted at least one internal audit per applicable factory during the reporting period.

\*\* At the start of Year One, PVH and the FLA had agreed upon a list of 8 facilities for independent external monitoring (10% of PVH applicable facilities). However, three of the selected facilities were located in countries where the FLA expected to have monitors accredited during the course of Year One, but by the end of the reporting period, there were still no accredited monitors available for these countries.

## Reebok International Ltd.

### Basic facts about Reebok:

<b>Reebok consolidated revenue in FY2001:</b> US\$ 2.99 billion
<b>Applicable Reebok Brands (percentage of total sales in FY2001):</b> Reebok® footwear (53%) Reebok® apparel (28.4%)* *This includes Reebok's NFL/NBA licensed apparel
<b>Total applicable facilities worldwide during reporting period:</b> 569 facilities

### Reebok's Approach to Compliance during FLA Year One

In this section, we review some key aspects of Reebok's compliance program. In addition to some basic facts about Reebok's participation in the FLA and the structure of its compliance program, this section provides readers with a general overview of the company's approach to monitoring, remediation and follow-up on noncompliance issues during the reporting period. Please keep in mind that the activities described below took place during the Year One reporting period (August 1, 2001 through July 31, 2002), and were undertaken in accordance with Reebok's monitoring plans for its footwear and apparel lines. The company committed to implement its monitoring plans over the course of two or three years, as described below.

#### *The Compliance Program*

Reebok International Ltd. (referred to in this report as "Reebok") is a founding participant in the Fair Labor Association, and its predecessor, the Apparel Industry Partnership. Reebok's Human Rights Production Standards (referred to as "the Standards") correspond with the FLA's Workplace Code of Conduct. The company made minor modifications to its Internal Audit Instrument and the *Guide to Reebok Human Rights Production Standards* to incorporate FLA monitoring principles.

Reebok submitted two separate monitoring plans to the FLA for its footwear and apparel production lines, respectively. The monitoring plan for footwear will be implemented over a period of two years (July 2001 – July 2003), while the monitoring plan for apparel will be implemented over a period of three years (September 2001 – August 2004). During the first year of implementation, the Reebok Human Rights Team was headed by the Vice President of Human Rights Programs, who reported to the CEO and Chairman of Reebok International Ltd. Reebok's Human Rights Program consisted of 12 full-time, and 4 part-time, staff located in Asia, Latin America and Europe, and 2 full-time staff members, in addition to the VP of Human Rights Programs, based at headquarters. Reebok also worked with specialized consultants with regard to health, safety and environmental matters during the reporting period. In countries where Reebok did not

have dedicated field staff to visit facilities that were deemed to be “high-risk,” the company worked with the following FLA accredited monitors: A&L Group (ALGI), Cal Safety Compliance Corporation, Cotecna Inspections, Global Standards/Toan Tin, Intertek Testing Services (ITS), Kenan Institute Asia, Merchandise Testing Labs (MTL), Phulki, and Verité. Moreover, compliance was aided by the active collaboration of dozens of Reebok footwear production staff and apparel sourcing managers at head quarters and in producing countries.

### *Monitoring*

Reebok monitored 42% of its apparel facilities, and 63% of its footwear facilities during the reporting period. In selecting facilities to monitor internally, Reebok favored those facilities in “high-risk” countries (i.e., 32 of 37 [86 %] footwear facilities in high-risk countries were audited, while 157 out of 222 [71%] high-risk apparel facilities were audited). Reebok reported that the Human Rights Program also relied on information provided by manufacturing personnel, who visited facilities daily, to supplement official monitoring visits to all facilities where Reebok production took place.

Reebok has described its strategy for monitoring in terms of sustainability. It found that worker involvement in problem-solving on small and large problems lessened Reebok’s role in remediation of noncompliance issues, and served as a more sustainable method of enhancing code compliance. In the interest of sustainable solutions and decreased intervention by Reebok staff, the company focused on fostering worker representation projects (see sidebar on programs in China, Indonesia and Thailand), and on training workers and management to communicate and problem-solve with one another.

During internal audits, Reebok monitors reviewed records, interviewed management and workers (in private), visually inspected factory premises, and consulted with local worker-focused organizations. They also reviewed collective bargaining agreements to assess whether obligations of facilities under those agreements were being implemented. During these visits, monitors were trained to focus on finding systematic noncompliance issues by corroborating workers’ experiences with regard to particular violations. Reebok reported that its continued policy to distribute Reebok monitors’ cell phone numbers to workers resulted in more open communication between workers and Reebok field staff.

Reebok monitors typically announced their first visits to facilities and, during these first audits, reminded facilities that the company reserved the right to make unannounced visits at any time. Monitors based the need for unannounced visits on the degree of noncompliance in a given facility, the volume of Reebok goods being produced at a facility, reports of noncompliance, and random selection for spot-checking purposes.

Before placing orders with any new factories, Reebok conducted preliminary evaluations of the factories’ compliance with regard to what the company called “threshold issues”. Reebok defined threshold issues as: minimum wage and overtime wage noncompliance, poor fire safety, child labor, forced labor, major health and safety concerns, discrimination, harassment of unions, or unauthorized subcontracting. If one or more of these threshold issues was determined to be a problem in a factory, then Reebok did not approve the factory for production until recommended corrective actions were made.

If initial evaluations did not indicate that threshold issues were arising in the workplace, factories received the factory designations “data on file; no factory inspection” (i.e., management signed the factory commitment to apply the Standards and submitted a “self assessment form”) and “no data on file; not approved” (i.e., there was insufficient information provided by management) until full factory inspections took place.

A sourcing manager was able to place orders at facilities that had received a “data on file; no factory inspection” designation; however, he/she was responsible for considering whether the factory was located in a “high-risk” region or country, and whether there were substantial claims of noncompliance in the factory. If either of these was the case, sourcing managers were asked to request a third-party audit of the facility prior to placing orders there. Once Reebok conducted follow-up inspections at factories, or if noncompliance issues arose, factory designations would be revisited.

During Year One, 27 applicable facilities (20 apparel and 7 footwear) of Reebok were monitored by FLA-accredited independent external monitors, in accordance with its Charter obligations<sup>13</sup>. Reebok and the FLA agreed on the list of facilities to be subject to independent external monitoring, targeting high-risk or high-volume facilities. The majority of visits were unannounced, although Reebok reports that some monitors did announce their visits before arriving onsite.

#### *Remediation and Follow-up*

Once a facility was internally or externally monitored, the Reebok Human Rights Program evaluated its compliance and then designated facilities as “approved” (minimal corrective action required), “conditionally approved” (need for corrective action on non-threshold issues), or “not approved” (failure to meet adequate compliance on threshold issues). Sourcing managers were instructed not to place orders in “not approved” factories, and the Human Rights Program followed up with factories where remediation was prescribed. Depending on the completion of corrective actions, factory designations would be modified.

During the reporting period, Reebok Human Rights staff worked with management and workers to remediate noncompliance issues uncovered during audits. If a factory did not demonstrate a willingness to make necessary improvements to meet Reebok Standards, the factory was designated “not approved”. If orders were in-process in facilities that were designated as “not approved”, sourcing managers were required to demonstrate that steps were being taken to immediately address serious noncompliance issues or all future orders would be ceased.

During the reporting period, Reebok maintained that if a facility was unwilling or unable to make good faith efforts to comply with the Reebok Standards, the company would terminate its business relationship. However, Reebok reported that termination is a last resort. Reebok would first work with the factory to fix problems, as they would rather invest resources to improve conditions for workers, than leave a factory and risk the displacement of workers.

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<sup>13</sup> Please refer to the “FLA Process” section of this report for a description of the differences between Year One and Year Two in the conduct of FLA independent external monitoring.



## **Reebok's Efforts to Fulfill FLA Company Obligations**

The information in this section is organized according to the FLA participating company obligations listed in the FLA Charter (see Appendix A). Since these obligations represent minimum standards for participation in the FLA, the FLA encourages companies to surpass these standards, which they often do. The information provided in this section is in no way an exhaustive recounting of all Reebok compliance activities during the reporting period. Rather, this section includes information that Reebok reported to the FLA in order to demonstrate progress in the implementation of its human rights program.

### **A) Establish Clear Standards**

- Reebok's *Guide to the Reebok Human Rights Production Standards* outlines the Reebok Standards and explains approaches to their application in facilities. Reebok translated the *Guide* into 8 languages, and transmitted it to factory managers, as well as internal and external monitors, who used it as a reference tool in their work during the reporting period.
- Reebok's agents and suppliers signed manufacturing agreements and the "Welcome Kit", by which they agreed to apply the Reebok Standards and to permit internal and external monitoring of all factories and subcontractors producing for Reebok.
- In December 2001 and February 2002, Reebok notified footwear and apparel facilities, respectively, that FLA-accredited independent external monitors must be allowed access to factory sites, records, and workers at any time -- for announced or unannounced audits.
- The Human Rights staff developed a manual for apparel sourcing managers, which was designed to facilitate the consistent application of the Reebok Standards.
- Reebok communicated with agents and factory management about the Reebok Standards and FLA requirements at periodic meetings and trainings.

### **B) Create an Informed Workplace**

- During the first implementation year, Reebok changed its code of compliance poster which was posted in each factory for years. The new poster, "Notice to Workers", outlined the Standards and provided contact information for the local Reebok Human Rights monitor. The posters also included the clarification that the posting of the Notice did not indicate that the factory was in compliance with the Reebok Standards. As of the end of the reporting period, the posters had been translated into 25 languages.
- During worker interviews, Reebok monitors informed workers about the Reebok Standards, in addition to asking about noncompliance issues.
- Reebok conducted trainings for suppliers to promote effective communication between workers and management, and to institutionalize human rights compliance. These took place in Guatemala, El Salvador, Mexico, Peru, Sri Lanka, Thailand, China, Malaysia, Indonesia, Korea, and Macau. In many of these countries, Reebok sponsored more than one supplier training session annually in order to ensure supplier knowledge of the Reebok Standards. Reebok conducted health and safety training for worker representatives in China.

- The company also organized trainings for management and workers in association with groups like Business for Social Responsibility (BSR), Verité, and other qualified individuals or organizations for improved communication and comprehension of the Standards.
- In the first half of 2002, the Human Rights staff trained Reebok apparel sourcing managers in the United Kingdom, Canada, United States, Mexico, Spain, Korea, France and India.

### **C) Develop an Information Database**

- Reebok required all facilities to complete Self-Assessment forms, included in the Welcome Kit, to provide the initial factory tracking information for the Reebok Human Rights Database. The information is used to conduct an initial risk assessment of the facility.
- The Reebok Human Rights Database has two primary components: the factory tracking sheet (factory logistics, number of workers, product type, and Reebok approval designation) and the audit report (summaries of monitors' findings and corrective action plans).
- During this reporting period, Reebok made plans for a new web-based database to be launched in the FLA's second implementation year.

### **D) Establish Program to Train Company Monitors**

- Reebok monitors received the *Guide to Reebok Human Rights Production Standards*, the Reebok audit instrument, and detailed instruction on management practices that support compliance. Labor law summaries were updated for 2001 using international labor sources such as BSR's web-based legal database.
- Reebok paired less experienced monitors with more experienced monitors for training purposes in order to improve consistency in monitoring and reporting across regions.
- Reebok Human Rights staff participated in an annual meeting aimed at refreshing and improving monitoring skills and consistency across regions.
- Reebok Human Rights staff participated in a "train the trainer" session in Hong Kong, which was associated with the Ivey School, as well as a "train the trainer" session in Bangkok. They also participated in trainings offered by different groups, such as BSR, where topics included compliance with local labor law, wage and hour issues, the benefits of compliance, and internal compliance teams.

### **E) Conduct Periodic Visits and Audits**

- Reebok monitored 240 apparel and footwear facilities (out of 569) over the course of the reporting period. Reebok used a "risk-based" model to determine which facilities to monitor, by concentrating in facilities and countries with a history of poor labor standards and poor compliance. Most of these facilities received multiple site visits during this time. In primary footwear facilities, for instance, Reebok monitors visited once a month or more. In the monitored apparel facilities, Reebok monitors visited an average of 2 ½ times during the year. Follow-up site visits were used to verify remediation and to assess additional code provisions.
- Reebok commissioned FLA independent external monitoring visits of 20 apparel facilities and 7 footwear facilities, as mentioned in the "Monitoring" section above.

Independent external monitoring visits were conducted by Cotecna (4), Global Standards –Vietnam (1), Intertek Testing Services (12), Kenan Institute Asia – Thailand (1), Merchandise Testing Laboratory (5), Phulki – Bangladesh (1), SGS (1), Verité (2). Thus, five percent of Reebok’s applicable factories were monitored by independent external monitors during the reporting period.

- During the first implementation year, Reebok created the internal Reebok Audit Instrument, which matches the revised version of the *Guide to Reebok Human Rights Production Standards*.

#### **F) Provide Employees with the Opportunity to Report Noncompliance**

- Reebok reported that monitors routinely assessed the grievance systems that factories had in place, and made clear the extent to which these were useful for addressing the legitimate concerns of workers. Facilities were required to adopt a non-retaliation policy and to communicate it to workers.
- Reebok launched a Worker Communication System (WCS) in 1997 to provide a secure channel for workers in footwear facilities to report noncompliance issues directly to Reebok. Reebok distributed pre-paid mailers to factory workers at specified intervals during the year to provide them with the means to report instances of noncompliance directly to Reebok.
- The new “Notice to Workers” posters also listed direct telephone contact information for local Reebok monitors, which workers utilized to contact monitors by phone or SMS messaging.
- During the reporting period, Reebok monitors began pilot programs in Guatemala, El Salvador and Turkey to foster communications committees for improved communication between management and workers as well as increased worker participation in factory management decisions. Worker committees were elected by confidential ballot and met with factory management at least once a month. In Turkey, meeting minutes were posted on factory notice boards, while in El Salvador and Guatemala, they were documented by the factory’s Human Resources Department, and were available to Reebok – along with management responses – upon request. This process is on-going.

#### **G) Establish Relationships with Labor, Human Rights, Religious or Other Local Groups**

- Reebok updated its monitoring protocols to require that collective bargaining agreements be examined as part of the internal monitoring process, and included interviews with union representatives in the monitoring process at unionized facilities. If unions were present at facilities using Reebok’s Worker Communication System (WCS), issues raised through this system were routed through union representatives in order to encourage union participation in resolving differences.
- Consultation with local NGOs was also included in Reebok’s monitoring process. Each Reebok monitor was accountable for managing NGO contacts in his/her country/region. At a more global level, Reebok participated in seminars with the Ethical Trading Initiative (ETI) and consultation with the International Business Leaders Forum in London to discuss innovative approaches to code compliance in China. In the Dominican Republic, Reebok collaborated with the Research Center for Feminist Action (CIPAF) for worker interviews and factory inspections at the BJ&B apparel factory. Reebok also worked with union activists in this factory throughout the worker-management dispute. In Mexico, Reebok worked with local labor experts

and the International Labor Organization to facilitate worker education on freedom of association and collective bargaining. In Bangladesh, Reebok worked with Phulki to facilitate day care services for two Reebok producing apparel facilities.

- In China, the company cooperated with the following NGOs on a project aimed at improving health and safety conditions in footwear facilities: Chinese Women Workers Network (CWWN), Hong Kong Christian Industrial Committee (HKCIC), Asia Monitor Resource Centre (AMRC), and the Hong Kong Confederation of Trade Unions (HKCTU). HKCIC and the Labor Education Service Network (LESN) also worked with Reebok on training programs for the union committee of Kong Tai Shoes (KTS) factory, as well as trade union training for workers at KTS. Reebok also reported that it served on the executive committee of the China Business Principles Working Group (CWG), a coalition of businesses, non-governmental organizations and socially responsible investors addressing working conditions in China.

#### **H) Establish Means of Remediation**

- Reebok Human Rights staff shared all internal and external monitoring reports with factory managers and Reebok sourcing managers. Where instances of noncompliance were found, Reebok monitors called for particular action steps to be taken to remediate the noncompliance. Reebok monitors were then accountable for ensuring that the factory took steps to correct the areas of noncompliance. Compliance was aided by the active collaboration of dozens of Reebok footwear production staff and apparel sourcing managers at headquarters and in producing countries. They offered advice and oversaw many remediation processes in coordination with Reebok monitoring staff and factory management. The time period allotted for corrective action generally ranged from immediate action to 60 days, with some special projects taking longer (e.g., extensive training programs which require planning and outside resources).
- In instances where facilities failed to correct noncompliance in the agreed-upon timeframe, Reebok issued a final warning, and then reviewed the factory's response. If unsatisfactory, Reebok terminated its relationship with the factory.
- Reebok reported that remediation and prevention of future noncompliance focused on education and good management systems during this reporting period. Reebok considered that by supporting the development of communication channels and shared decision-making between workers and management, and by advancing management approaches that address problems systematically, its monitoring program would have sustainable results.

## **Worker Representation Groups in Indonesia, Thailand and China**

Reebok has found that the need for external remediation is greatly reduced when workers act responsibly on their own behalf. Acting upon this principle, Reebok has been engaged in ongoing efforts to promote workers' freedom of association in Indonesia, Thailand and China.

In countries like **Indonesia** and **Thailand**, where the right to free association is protected by law, there is a general lack of enforcement of this right. Union organizers often experience resistance to their organizing efforts with limited legal recourse. In other instances, trade unions are controlled by the government or management. In an effort to address these trends, which have often left workers without a voice vis-à-vis workplace issues, Reebok has encouraged the development of democratically-elected worker committees through its establishment of Worker Representation Projects.

Reebok has facilitated union/welfare committee training conducted by non-governmental organizations (NGOs) and various academics focusing on labor issues in Thailand and Indonesia. Moreover, in order to expose worker representatives to new ideas and strategies, Reebok conducted an exchange between Thai welfare committee leaders and their counterparts in Indonesian factories, as well as exchanges between more-experienced and less-experienced worker representatives in different Reebok factories. In Thailand, worker populations of various factories attended training sessions conducted by academics and local labor leaders, who taught workers how to exercise their rights in accordance with internationally recognized standards and local law. Furthermore, as a general policy, Reebok's compliance staff has challenged workers to become involved in factory problem-solving, and to professionalize the administration of unions and welfare committees.

In **China**, the rights of workers to organize and bargain collectively in accordance with internationally recognized standards are not fully recognized. Nevertheless, during this reporting period, Reebok took steps to augment the ability of workers to represent their views with management in various factories. Towards this end, Reebok facilitated the introduction of the first democratically-elected worker representative group in a Reebok-producing footwear factory near Shenzhen. It also worked on other similar ground-breaking projects on the mainland. Since these are such novel projects, the long-term outcomes of these efforts remain to be seen. However, many commentators from the labor rights community and China have hailed these projects as revolutionary. Reebok reported that the Worker Representative Project has served to improve communications and negotiations between worker leaders and management. They considered that a large percentage of tensions and problems arise as a result of misunderstanding and miscommunication, and that capable worker representatives have already proven to be effective as mediators between workers and factory management as a result of these programs.

## Reebok International, Ltd. Factory/Audit Profile

In accordance with the FLA Charter, the chart below lists the countries where Reebok applicable facilities were located during the reporting period, as well as the number of internal and FLA independent external monitoring visits that took place during that time.

*Please note* that this chart represents only one of a number of activities undertaken by participating companies to ensure factory compliance with the FLA Workplace Code of Conduct. The number of site visits conducted by a participating company does not indicate whether one or more of a company's applicable facilities are in compliance with the Code. The geographic scope and the number of monitoring visits reflects the approach to compliance taken by participating companies, based on the likelihood of noncompliance and other risk factors. While this information can help readers gain a better grasp of the geographic scope and focus of participating companies' compliance efforts, it should be interpreted in the context of the more qualitative characteristics of each company's compliance program.

Reebok Monitoring Program Year One		
Description	Countries (number)	Total
<b>Applicable Facilities</b>	China* (83), South Korea (82), United States (52), Taiwan* (44), Peru (29), Vietnam* (29), Indonesia* (26), Mexico* (24), Spain (21), El Salvador* (19), Guatemala* (18), Thailand* (17), Canada (16), Portugal (15), Malaysia* (14), Macau* (7), Bangladesh* (6), Italy (6), Philippines* (6), Dominican Republic (5), Sri Lanka (5), India* (4), Brazil (3), Cambodia* (3), Honduras* (3), Turkey* (6), Albania (2), Bulgaria (2), Costa Rica (2), Hong Kong (2), Japan (2), United Kingdom (2), France (1), Jordan (1), Macedonia (1), Morocco (1), Scotland (1), Singapore (1), Slovakia (1), Swaziland (1), Venezuela (1)	<b>561</b>
<b>Internal Monitoring Visits (8/01-7/02)**</b>	China* (59), South Korea (12), United States (4), Taiwan* (0), Peru (11), Vietnam* (25), Indonesia* (24), Mexico* (11), Spain (0), El Salvador* (14), Guatemala* (13), Thailand* (17), Canada (0), Portugal (0), Malaysia* (9), Macau* (4), Bangladesh* (5), Italy (0), Philippines* (6), Dominican Republic (3), Sri Lanka (5), India* (3), Brazil (0), Cambodia* (0), Honduras* (2), Turkey* (6), Albania (0), Bulgaria (0), Costa Rica (1), Hong Kong (0), Japan (0), United Kingdom (0), France (0), Jordan (0), Macedonia (0), Morocco (0), Scotland (0), Singapore (1), Slovakia (0), Swaziland (0), Venezuela (0)	<b>235</b>
<b>FLA Independent External Monitoring Visits Counted for Year One</b>	China* (8), United States (1), Vietnam (1), Indonesia (3), Mexico (2), El Salvador* (4), Thailand* (3), Bangladesh* (1), Philippines* (1), Turkey* (3)	<b>27</b>

\* denotes high-risk countries.

\*\* Numbers reported in this row represent the number of factories where internal monitoring activities took place in this reporting period, as reported by Reebok in accordance with the FLA Charter. In some cases, in various footwear facilities, for example, Reebok human rights staff visited facilities more than once a month. However, multiple visits to the same facility during the reporting period are not included in these numbers.

#### **IV. FLA Findings and Remediation**

## Introduction

The purpose of this section is to describe the FLA's efforts to promote adherence to the FLA Workplace Code of Conduct ("FLA Code") in factories around the world, focusing specifically on the role of independent external monitoring and remediation, and the challenges to compliance in the countries where FLA participating companies operate.

During the reporting period covered in this report, the FLA conducted independent external monitoring visits of 185 production facilities in 19 countries. Each of these independent external monitoring visits were conducted by FLA-accredited<sup>14</sup> monitors, who were responsible for investigating and assessing factory compliance with each provision of the FLA Code. After the conclusion of each visit, the participating company/companies submitted a report on its/their remediation plan to the FLA and the action taken by the company/companies in accordance with the plan.

The information provided in this section has been drawn primarily from monitoring reports completed by FLA-accredited monitors, participating company remediation plans, and participating company reports describing their compliance programs. Where appropriate, external sources are referenced to provide a broader contextualization of the Code element in question.

This section begins with a global overview of the countries where independent external monitoring visits were conducted in Year One. The following sub-sections are organized by each separate provision of the FLA Code. Each of the sub-sections pertaining to the specific FLA Code provision includes the following information:

- *A description of the FLA Code standard.* Each of the Code provisions is based on fundamental and internationally-recognized principles of labor rights, including International Labor Organization (ILO) Conventions.
- *The monitoring scope of an independent external monitoring visit and methods<sup>15</sup> employed by FLA monitors.* In assessing compliance with the FLA Code, it is important to note that monitors are required to evaluate compliance with the FLA compliance benchmarks and any applicable national and local laws and regulations in the country where monitoring is being conducted.
- *A general description of the relevant compliance issues with respect to the FLA Code provision.*
- *Examples of findings from independent external monitoring visits.*
- *Graphs depicting the incidence of noncompliance as a percentage of aggregate findings and a regional breakdown of the noncompliance issues identified.*
- *Examples of remediation activities of participating companies in response to findings by internal or FLA-accredited independent external monitors.*

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<sup>14</sup> The FLA accreditation process requires prospective monitors to demonstrate independence, impartiality, and meet the core competency requirements of monitors, as specified in the FLA Charter. For more information on the accreditation process, please visit the FLA website at [www.fairlabor.org](http://www.fairlabor.org).

<sup>15</sup> The complete FLA monitoring methodology is outlined in the FLA Monitoring Guidance Compliance Benchmarks, which are available on the FLA website at [www.fairlabor.org](http://www.fairlabor.org).



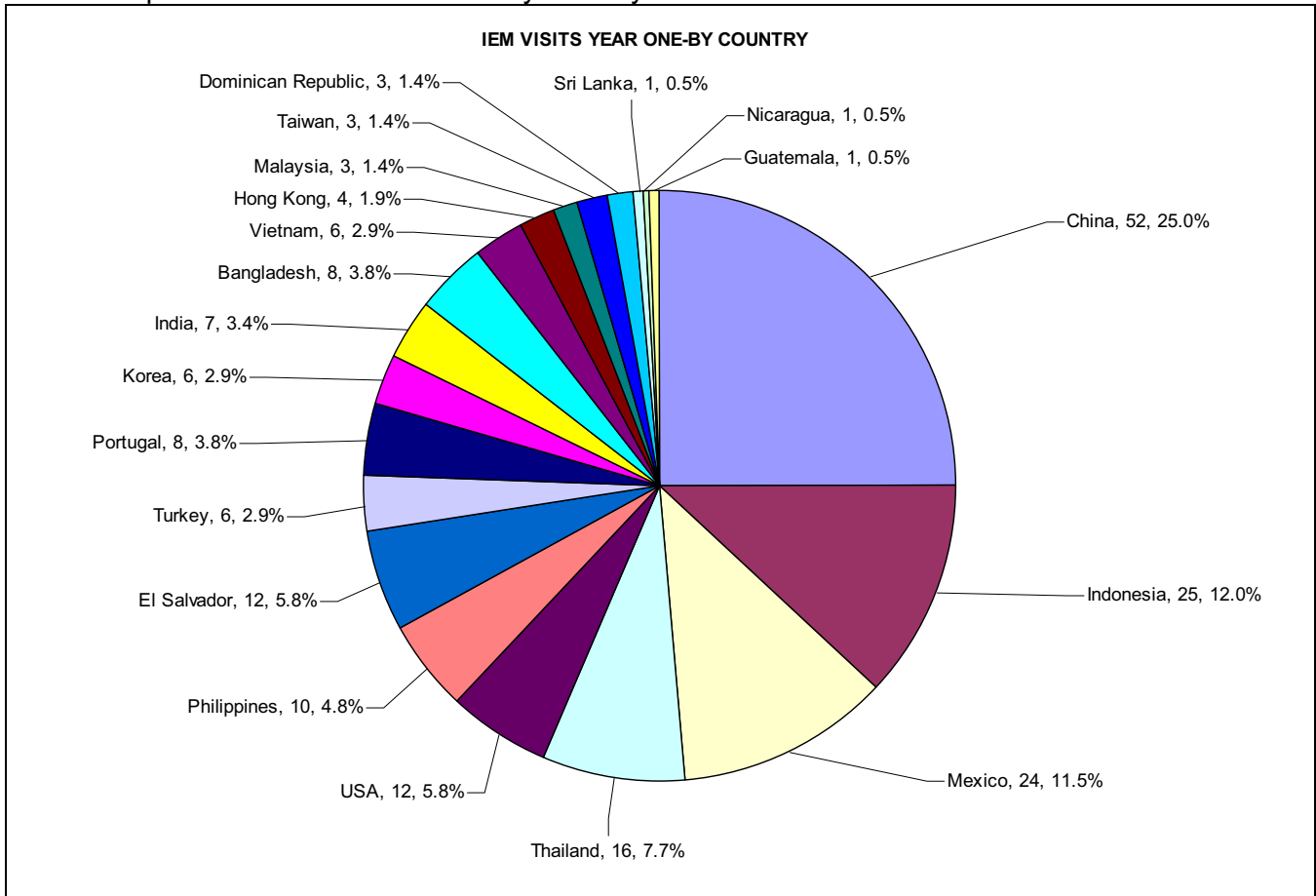
It should be noted that given the limited time span of our data, no statistical analysis of trends over time has been provided. This presentation of FLA findings from Year One is an attempt to enhance the understanding of the FLA Code compliance issues identified by monitors and the remediation efforts of participating companies, and in doing so, to contribute to improvements in participating companies' compliance programs and the FLA system.

## YEAR ONE MONITORING VISITS

In Year One, the FLA undertook independent external monitoring (IEM) of 185 facilities in 19 countries. The graph below provides a global overview of where IEM took place and illustrates the percentage of total IEM visits that each country represents.

In the graph, the country name is followed by the number of IEM visits performed in that country and the percentage of all IEM visits that the number represents. For example, 52 of the 185 IEM visits took place in China, which represents 25% of all IEM visits for Year One.

Graph 4.1: Year One IEM Visits by Country



Within each of the following code element sections, two graphs are presented. The first graph depicts the percentage that noncompliance with that code element represents out of the global aggregate, and the second graph presents a regional breakdown, which represent the percentage of noncompliance that each code element represents out of the total noncompliance found within the region. The regions are broken down as follows: China, East and South East Asia (SEAsia), Latin America (LAmérica), Europe and the Middle East (EMEA), South Asia (SAsia), and the United States (USA). Given the large number of IEM visits that were conducted in China, it was decided to include

this information separately from the rest of East and South East Asia. The findings from the United States were also highlighted to provide further context for readers who may be more familiar with the labor rights situation in this country. The East and South East Asia region includes: Korea, Hong Kong, Indonesia, Thailand, Taiwan, Malaysia, the Philippines and Vietnam. The Latin America region includes: Mexico, Dominican Republic, Nicaragua, El Salvador and Guatemala. The Europe and Middle East region includes: Turkey and Portugal. Finally, the South Asia region includes: India, Sri Lanka and Bangladesh.

## CODE AWARENESS

### **FLA Code of Conduct/Obligations of Companies**

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

### **ILO Conventions**

No applicable ILO Conventions

### **Other Relevant International Instruments**

Universal Declaration of Human Rights, 1948

### **Monitoring Scope and Methods**

To investigate Code Awareness, monitors are required to ensure that workers are informed of their rights under the FLA Code, both orally and through the posting of the Code in prominent places (in the local languages spoken by employees and managers) and to ensure that other efforts to educate employees about the standards take place on a regular basis. This includes an assessment as to whether workers are properly informed and aware of their legal rights, including any legal benefits to which they are entitled.

### **Compliance Issues**

High labor turnover and low literacy levels in many of the regions where factories are located complicate the task of ensuring workers and management are made aware of the standards enumerated in the FLA Code.

These issues are particularly pronounced in countries such as India, where, according to the International Confederation of Trade Unions, workers were often employed temporarily.<sup>16</sup> According to Asha for Education, an action group advocating education in India, only 52% of the population is literate, and literacy among rural women is only 10%.<sup>17</sup> The combination of the use of temporary labor contracts and low levels of literacy among the workforce contributes to high levels of Code Awareness noncompliance in countries such as India.

Ensuring Code Awareness is also particularly challenging in countries or regions where there is a high presence of foreign workers, as foreign workers are often not informed or aware of their legal rights, and the local laws may not be posted in the workers' native languages.

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<sup>16</sup> ICFTU (June 21, 2002) REPORT FOR THE WTO GENERAL COUNCIL REVIEW OF TRADE POLICIES OF INDIA (<http://www.icftu.org/displaydocument.asp?Index=991215480&Language=EN>)

<sup>17</sup> Asha (1991) The Need for Literacy in India (<http://www.ashanet.org/stanford/resources/need.html>)

## FLA Findings

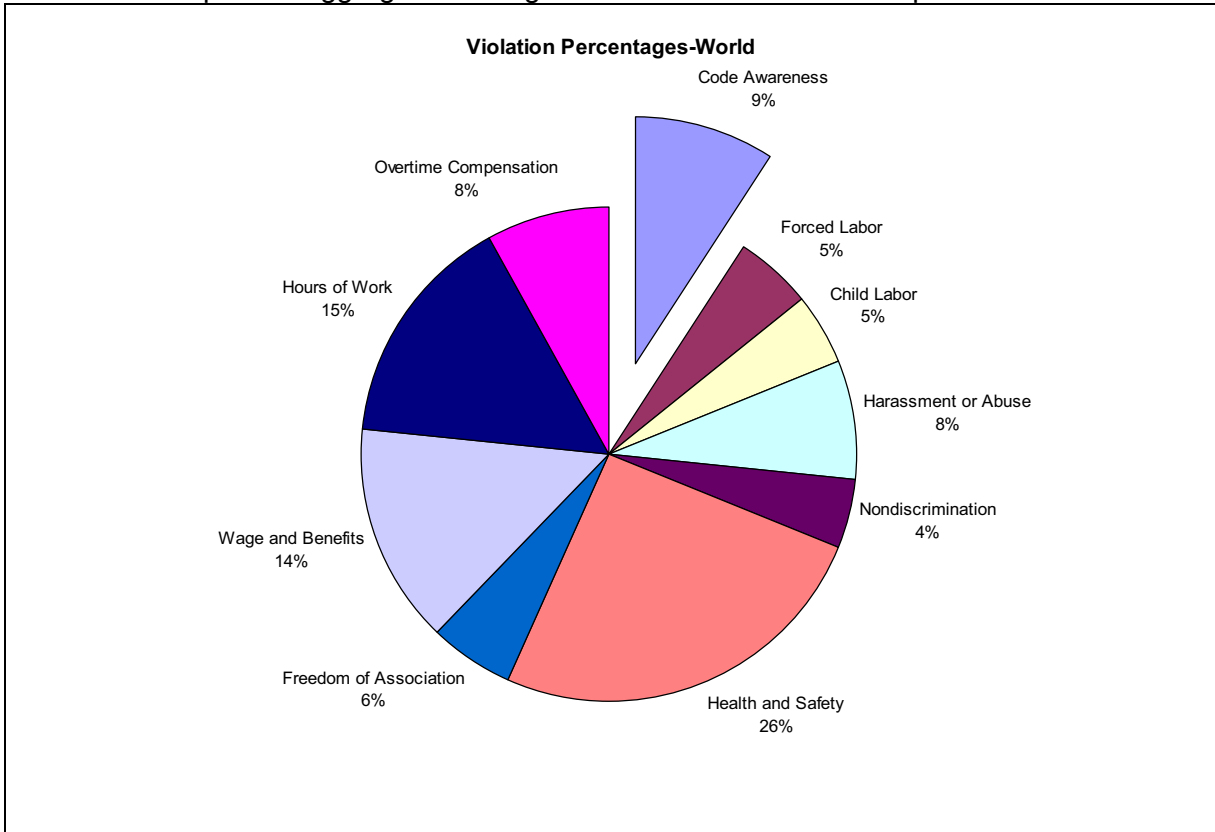
The most common findings from independent external monitoring visits related to low worker awareness of their legal rights and their rights under the Code of Conduct or participating companies' workplace standards.

For example, at a factory in Mexico, an FLA independent external monitor reported that no labor laws regarding minimum wage, overtime rates or collective bargaining and freedom of association were posted in the factory. The monitor also reported that although there were laws regarding benefits and work hours posted, they were written only in Spanish, and the Chinese contract workers were unable to read them. It was also reported that in general, worker awareness of the Code was low.

During an independent external monitoring visit of a factory in Turkey, a monitor reported that workers had low awareness of some of their legal rights, including their right to freedom of association. For example, more than half of the workers interviewed reported that they did not know whether they have legal rights to associate freely or to form or join unions.

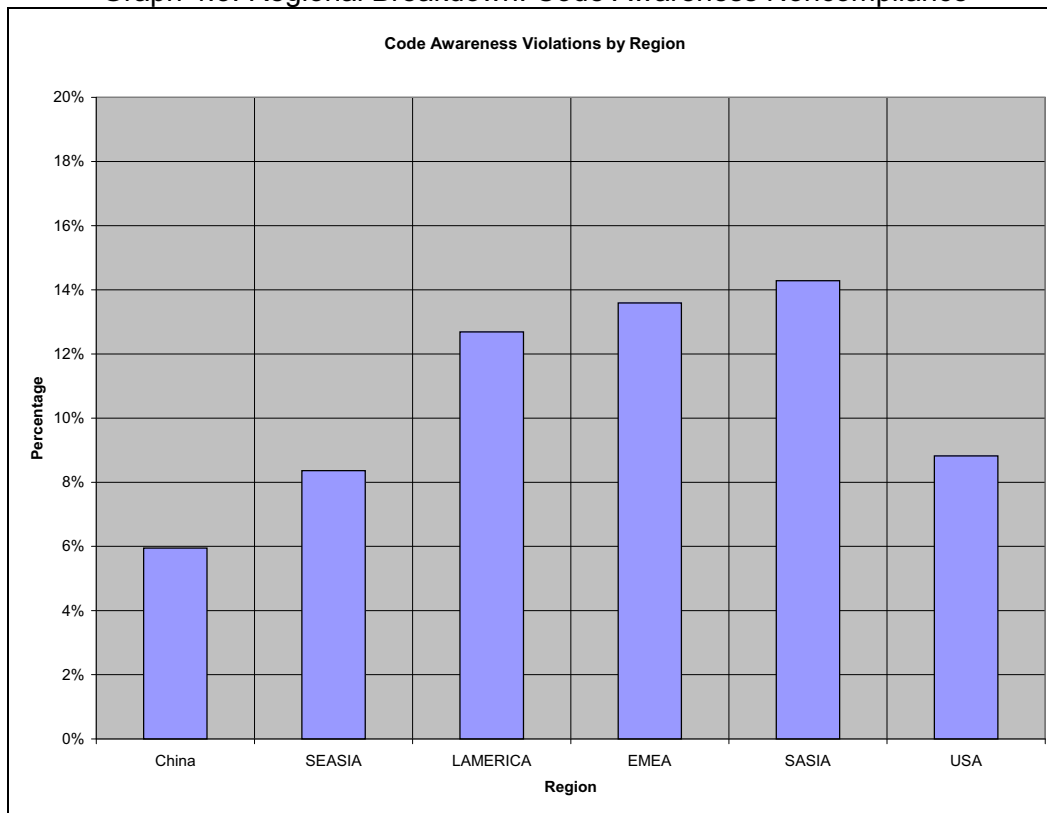
## Graphs:

Graph 4.2: Aggregate Findings: Code Awareness Noncompliance



Source: Manual Compilation of Independent External Monitoring Reports for Year One.

Graph 4.3: Regional Breakdown: Code Awareness Noncompliance



Source: Manual Compilation of Independent External Monitoring Reports for Year One.<sup>18</sup>

Noncompliance with Code Awareness represented 9% of all noncompliance internationally, and represented 6% of all Code noncompliance in China, 8.5% of all Code noncompliance in Southeast Asia, 12.8% of all Code noncompliance in Latin America, 13.6% of all Code noncompliance in the Europe/Middle East/Africa region (EMEA), 14.3% of all Code noncompliance in South Asia, and 8.8% of all Code noncompliance in the USA.

### Participating Company Remediation Efforts

Participating companies pursued a number of strategies to promote awareness of the standards enumerated in the FLA Code. At a minimum, they required the factory management to post the Code in locations throughout the factory in the workers' native language or languages. Some participating companies also stipulated that the Code be

<sup>18</sup> The regional breakdown of Code noncompliance in each Code category section shows the percentage that each Code noncompliance category (i.e. Code Awareness, Forced Labor, Child Labor, etc.) represents out of the total number of noncompliance issues found within each region. Thus, the higher percentage of Code Awareness noncompliance in South Asia than in Latin America, for example, does not necessarily mean that the Code Awareness is more prevalent, in absolute terms, in that region. Rather, it means that as a percentage of the total noncompliance in each region, Code Awareness represents a higher percentage in South Asia than in Latin America. The number of noncompliance issues within each Code category was divided by the total number of noncompliance issues found within each region to calculate the percentage. The formula = (number of Code category noncompliance issues in region/ total noncompliance issues in region) x 100.

posted in locations which are outside the purview of management, such as in bathrooms.

Participating companies also undertook various initiatives to promote worker awareness of their rights. For example, in Guatemala, Liz Claiborne (LCI) collaborated with COVERCO, a local NGO, to produce an illustrated pamphlet which described workers' rights using a cartoon format. Below are two additional cases that demonstrate efforts by participating companies to promote Code Awareness.

In India, Liz Claiborne (LCI) discovered through its internal monitoring program that many of its contract facilities needed to inform workers of the Code of Conduct, internal policies, or terms of employment. In response, LCI worked with suppliers to ensure that the Code of Conduct was posted in factories and that workers were able to meet with each other and management to improve worker awareness of the Code and of their rights. LCI also reported that workers were provided with information explaining benefits and payroll calculations.

Despite these efforts, follow-up worker interviews by monitors revealed that many workers still did not understand their rights. At a minimum, Liz Claiborne insists that the Code is posted in the workers' native language and in prominent locations in the factory, and is undertaking other efforts to inform workers of their rights.

Phillips-Van Heusen (PVH) also considered that factory management's awareness of the FLA Code was an essential component in efforts to achieve sustainable compliance in workplaces. In this regard, PVH conducted many HR Awareness and Training sessions for factories in their supply chain. They also conducted a number of individual meetings, where education, brainstorming and coaching were all key elements.

PVH also required the participation of factories in training sessions provided by independent third-parties in an effort to provide more information and promote interaction with a different set of stakeholders and factories. PVH reported that the external training sessions included: BSR training in Jakarta, Indonesia; Verite training in Dalian, China; BSR training in Shenzhen in China; Verite training in Xiamen in China; BSR training in Ho Chi Minh City, Vietnam; and United Nations, Global Compact conference in Beijing, China.

## FORCED LABOR

### **FLA Code of Conduct**

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

### **ILO Conventions**

Forced Labor Convention, 1930 (C. 29)

Abolition of Forced Labor Convention, 1957 (C. 105)

### **Other Relevant Instruments**

ILO Declaration on Fundamental Principles and Rights at Work, 1998

Universal Declaration of Human Rights, 1948

International Covenant on Civil and Political Rights, 1966, Article 8

### **Monitoring Scope and Methods**

In assessing the Forced Labor situation of a factory, monitors are required to investigate, *inter alia*, any known or suspected cases of forced labor at the factory, the employment terms and conditions of migrant workers, and any restrictions on the ability of workers to move freely in and out of the factory. Additionally, monitors are required to investigate the use of employment deposits or excessive recruitment fees, which restrict the ability of workers to terminate their contracts.

### **Compliance Issues**

Severe cases of Forced Labor in the manufacturing sector more commonly involve the abuse of migrant workforce populations. The increased migration of workers from countries with labor surplus economies to countries with labor shortages has led to various forms of exploitation of migrant workers. In labor-receiving countries, it is often the case that recruitment and employment practices used to attract and maintain foreign workers effectively amount to situations of forced labor. For example, migrant workers are often recruited through brokers or agents, who require excessive recruitment fees from workers who must then work to pay off the debt. In extreme cases, the employer retains workers' passports and personal documents in order to prevent migrant workers from leaving.

### **FLA Findings**

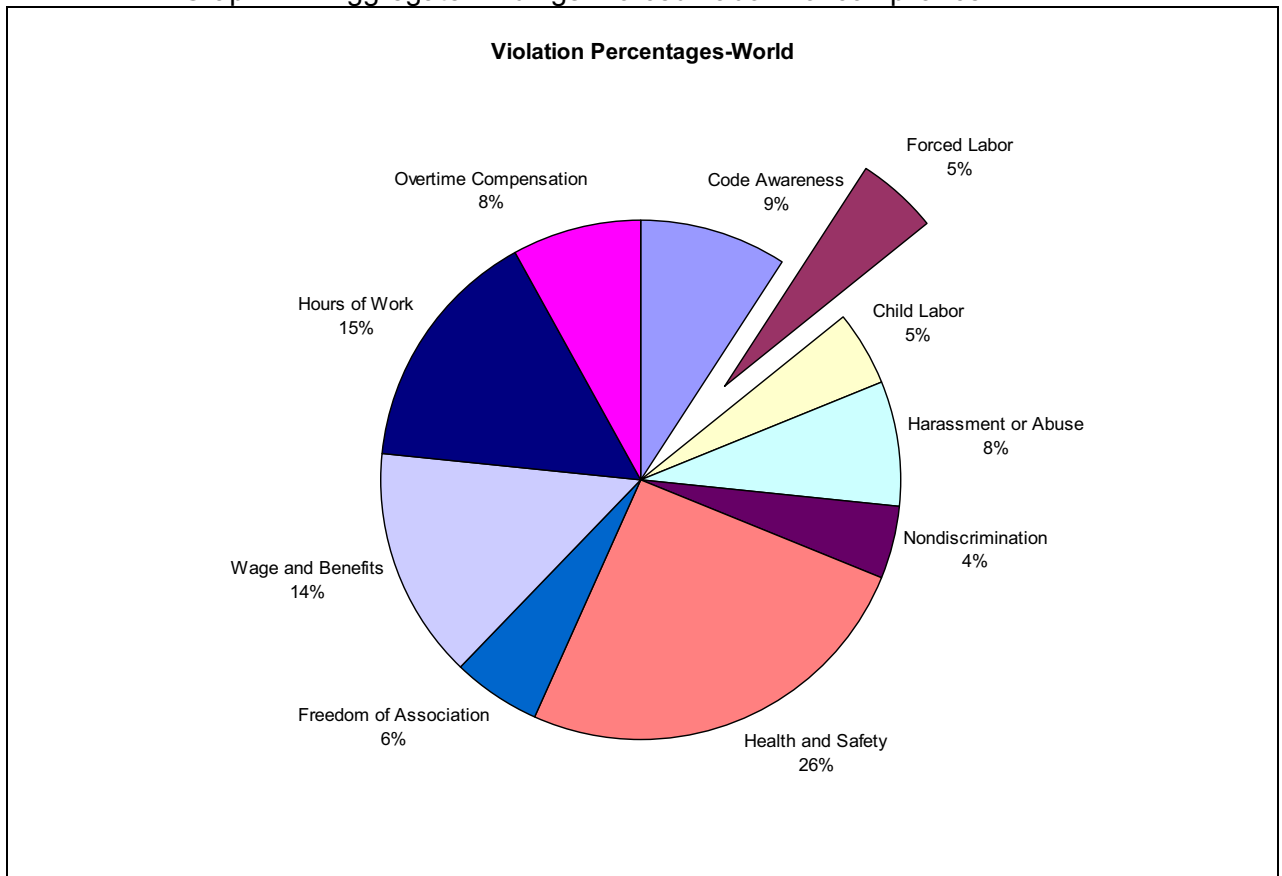
The most common findings of noncompliance with Forced Labor related to unreasonable restrictions on workers' freedom of movement. For example, FLA independent external monitors discovered a number of cases in which workers were not allowed free egress to leave the factory premises. During an independent external monitoring visit of a factory in Mexico, a monitor reported that some workers interviewed indicated that they were physically barred from leaving the factory at will, and other workers reported that they were not permitted to leave the factory under reasonable conditions.



While less common, FLA monitors also identified situations in which the ability of workers to terminate their employment was restricted. These findings included the confiscation by factory management of workers' personal identification documents, such as identity cards. This issue was more prevalent in countries where there is a high presence of internal migrants or foreign migrant workers within a factory workforce. For example, at a factory in China, it was reported that the factory kept the identification cards of new employees for one month.

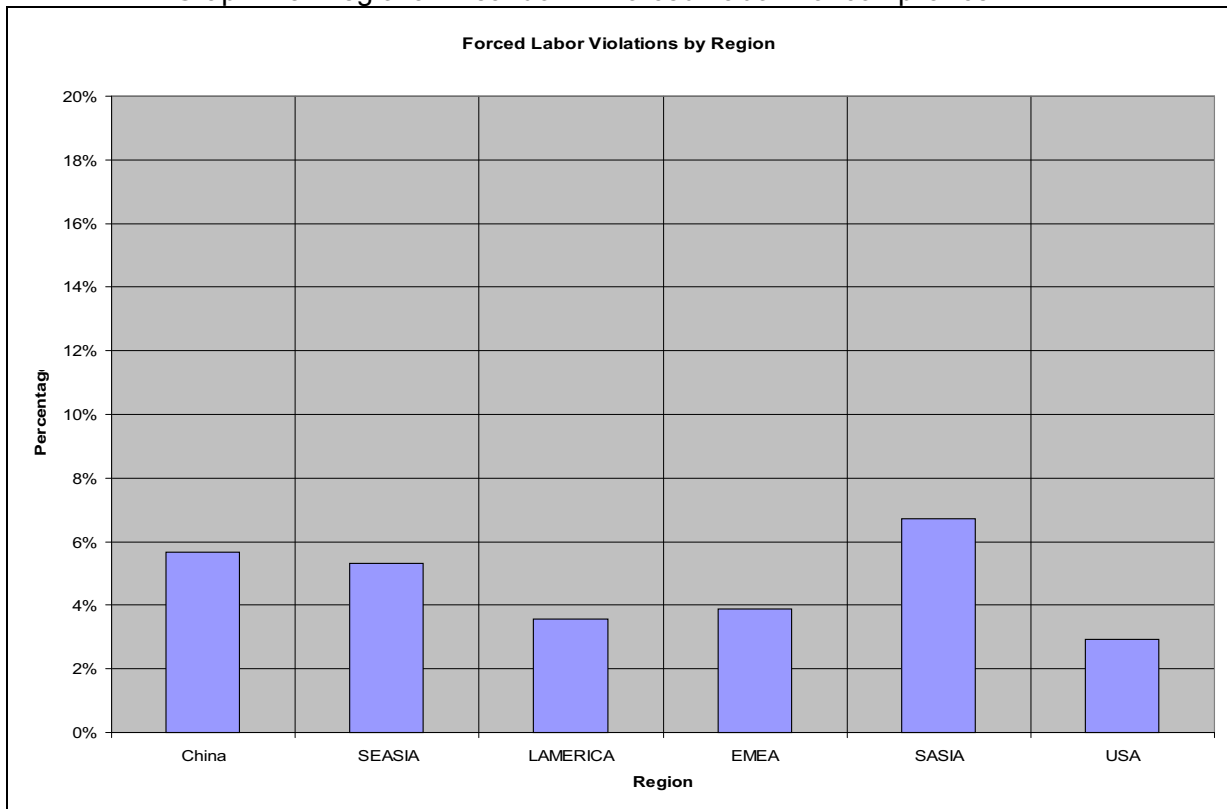
**Graphs:**

Graph 4.4: Aggregate Findings: Forced Labor Noncompliance



Source: Manual Compilation of Independent External Monitoring Reports for Year One.

Graph 4.5: Regional Breakdown: Forced Labor Noncompliance



Source: Manual Compilation of Independent External Monitoring reports for Year One.<sup>19</sup>

Forced Labor noncompliance represented 5% of all Code noncompliance internationally, 5.7% of all Code noncompliance in China, 5.4% of all Code noncompliance in Southeast Asia, 3.6% of all Code noncompliance in Latin America, 3.9% of all Code noncompliance in the Europe/Middle East/Africa region (EMEA), 5% of all Code noncompliance in S. Asia, and 2.9% of all Code noncompliance in the USA.

### Participating Company Remediation Efforts

Given the vulnerability of migrant workers in global supply-chains, most of the efforts of participating companies with respect to Forced Labor were concentrated on identifying and combating labor abuses associated with migrants. A number of initiatives were undertaken by participating companies to better inform migrant workers of their rights, to eliminate the use of excessive recruitment fees, and to ensure that migrant workers received their legal benefits.

<sup>19</sup> The regional breakdown of Code noncompliance in each Code category section shows the percentage that each Code noncompliance category (i.e. Code Awareness, Forced Labor, Child Labor, etc.) represents out of the total number of noncompliance issues found within each region. Thus, the higher percentage of Code Awareness noncompliance in South Asia than in Latin America, for example, does not necessarily mean that the Code Awareness is more prevalent, in absolute terms, in that region. Rather, it means that as a percentage of the total noncompliance in each region, Code Awareness represents a higher percentage in South Asia than in Latin America. The number of noncompliance issues within each Code category was divided by the total number of noncompliance issues found within each region to calculate the percentage. The formula = (number of Code category noncompliance issues in region/ total noncompliance issues in region) x 100.

Below are two examples of participating company remediation activities in this area: Phillips-Van Heusen's remediation efforts to address excessive employment fees and exploitative contracts, and a Nike project aimed at minimizing the negative effects of migration on rural workers by relocating production to rural communities.

In Jordan, an internal monitoring visit to one of Phillips-Van Heusen's (PVH's) contract facilities revealed that Chinese migrant workers were subject to excessive employment fees and exploitative contract terms. According to PVH, "[this] put the financial burden on the worker, and therefore, if the worker was being abused, he/she would have hesitated to terminate the contract as they could have lost the fees already invested and the cost of their ticket back home. " Additionally, PVH internal monitors discovered that maternity leave was not provided to these workers and that the workers demonstrated a lack of knowledge of Jordanian labor law.

In response to these findings, PVH worked closely with the factory management to remediate the Code noncompliance and to institute better practices. According to the remediation plan, factory management renegotiated the abusive terms of the employment agency's contracts with the agency on behalf of the workers. The fees were reduced and a clause was included in the contract that allowed the workers to resign for just cause without suffering financial burden. PVH reported that following their remediation efforts, workers were informed of their rights, benefits and legal protections under Jordanian law prior to signing the employment agreement, and maternity leave was granted without any financial penalty to migrant workers.

To address the societal and individual difficulties associated with migrant labor, Nike developed the NIKE Village project, which encourages contractors to establish production facilities in rural areas, so workers do not have to move to the cities for formal sector employment. In a village where the NIKE Village project has been established, Nike funded the construction of a community center; sponsors community programs such as education and women's advocacy; and has launched micro-credit initiatives and deforestation programs.

Nike believes that by relocating production to rural areas, workers in those communities will not be forced to move to unfamiliar urban centers to find formal employment. By employing local laborers in rural areas, Nike believes that a number of the problems associated with migrant labor, such as the use of recruitment fees and attempts to hold workers' documents, may be alleviated.

# CHILD LABOR

## FLA Code of Conduct

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

## ILO Conventions

Minimum Age Convention, 1974 (C. 138) and Recommendation (C.146)

Worst Forms of Child Labor Convention 1999 (C. 182) and Recommendation (C. 190)

## Other Relevant Instruments

UN Convention on the Rights of the Child, 1989

ILO Declaration on Fundamental Principles and Rights at Work, 1998

Universal Declaration of Human Rights, 1948

International Covenant on Social, Economic and Cultural Rights, 1966, Article 10

## Monitoring Scope and Methods

To investigate Child Labor, monitors are required to use, *inter alia*, methods of verifying workers' ages appropriate to the local area and to identify common techniques for falsifying proof of age. It is also important to note that monitors review and report on factory compliance with national laws or regulations governing the employment of *child* workers, as well as *young* workers,<sup>20</sup> when monitoring factories with regard to Child Labor. For example, monitors are required to assess whether the factory maintains appropriate documentation for young workers and whether the factory is in compliance with legal regulations on the type of work and working hours of young workers.

## Compliance Issues

Child labor in the manufacturing sector has been the subject of international media attention and a source of growing public concern. Increasingly, in order to attract multi-national buyers, factories producing for export have begun enforcing stricter controls on age limits for workers. This trend is due in part to media scrutiny and the public shaming of factories that have been found using child labor. The US Department of Labor reports that as a response to public concern, some factory managers have instituted policies against hiring 14-17 year-old workers, even if domestic law and codes of conduct permit workers of these ages to work.<sup>21</sup> Additionally, the ILO has reported that in some developing countries, initiatives have been undertaken at the national level to eliminate child labor in order to improve the country's image to attract foreign investment.<sup>22</sup>

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<sup>20</sup> For the purposes of this report, "young worker" refers to any worker above the age of a child, as defined by national law, and under the age of 18.

<sup>21</sup> US Department of Labor, Bureau of International Labor Affairs, *The Apparel Industry and Codes of Conduct: A Solution to the International Child Labor Program?*, 1996.

<sup>22</sup> Globalization of the footwear, textiles and clothing industries: Report for discussion at the Tripartite Meeting on the Globalization of the Footwear, Textiles and Clothing Industries: Effects on Employment and Working Conditions (Geneva: International Labor Organization) 1996, 75 [hereinafter ILO Textile Report].

However, while there have been fewer reported cases of child workers in production facilities that are regularly monitored, it is suspected that the problem of child labor has shifted to less transparent areas of the supply chain, such as through home work or illegal subcontracting. UNICEF reports that larger factories sometimes contribute indirectly to child labor by subcontracting certain production tasks to small workshops and home workers, which make extensive use of child labor, and which are generally not covered by domestic child labor law, and much more difficult to monitor.<sup>23</sup> Additionally, in some cases, the exclusion of child workers from the formal sector has contributed to forcing children to seek work in the informal economy, which is unregulated and therefore often more dangerous and exploitative.

Child labor is a complex phenomenon that must be examined by understanding the root causes of the problem. A comprehensive strategy to address these basic causes should involve the broad-based participation of all concerned actors – including governments, international and national organizations, and representatives of working children. Accordingly, strategies should be developed specific to local economic, social and cultural conditions. While companies alone cannot effectively address the causes of child labor, they should play a role in cooperating with other stakeholders to design and implement action plans that are child-centered, appropriate, and sustainable. The effective enforcement of this Code provision should aim at not only eliminating child labor from the production of goods, but also to improve the quality of life of child workers, with an emphasis on creating viable economic alternatives for children and their families.<sup>24</sup>

## **FLA Findings**

FLA independent external monitors reported very few cases where child workers (as defined by the FLA Code) were found working in factories that were independently monitored. The most common compliance issue identified with respect to Child Labor related to inadequate or fraudulent age documentation. For example, at a facility in Vietnam, a monitor reported that:

*Worker interviews, external information and management interviews indicate that the factory has had cases of juvenile workers (15-18) who have been hired after presenting false identification and who were 'encouraged to leave' once they were discovered with a promise that they would be hired back upon turning 18. Workers believe that some young workers are still employed (with false identification), yet the factory lacks policies to protect such workers and terminates those it discovers. Age checks performed by the factory appear insufficient to prevent such problems from continuing... The factory's social security office confirmed that since 2001 there have been up to 100 workers with fake ID files who have applied to change to new files (in order to receive their social security benefits) and that many of them were under 18 years of age.*

Other findings of noncompliance with this Code provision pertained to factories lacking appropriate protections for young workers. In a case at a factory in China, workers reported to the FLA monitor that young workers were not given special consideration in

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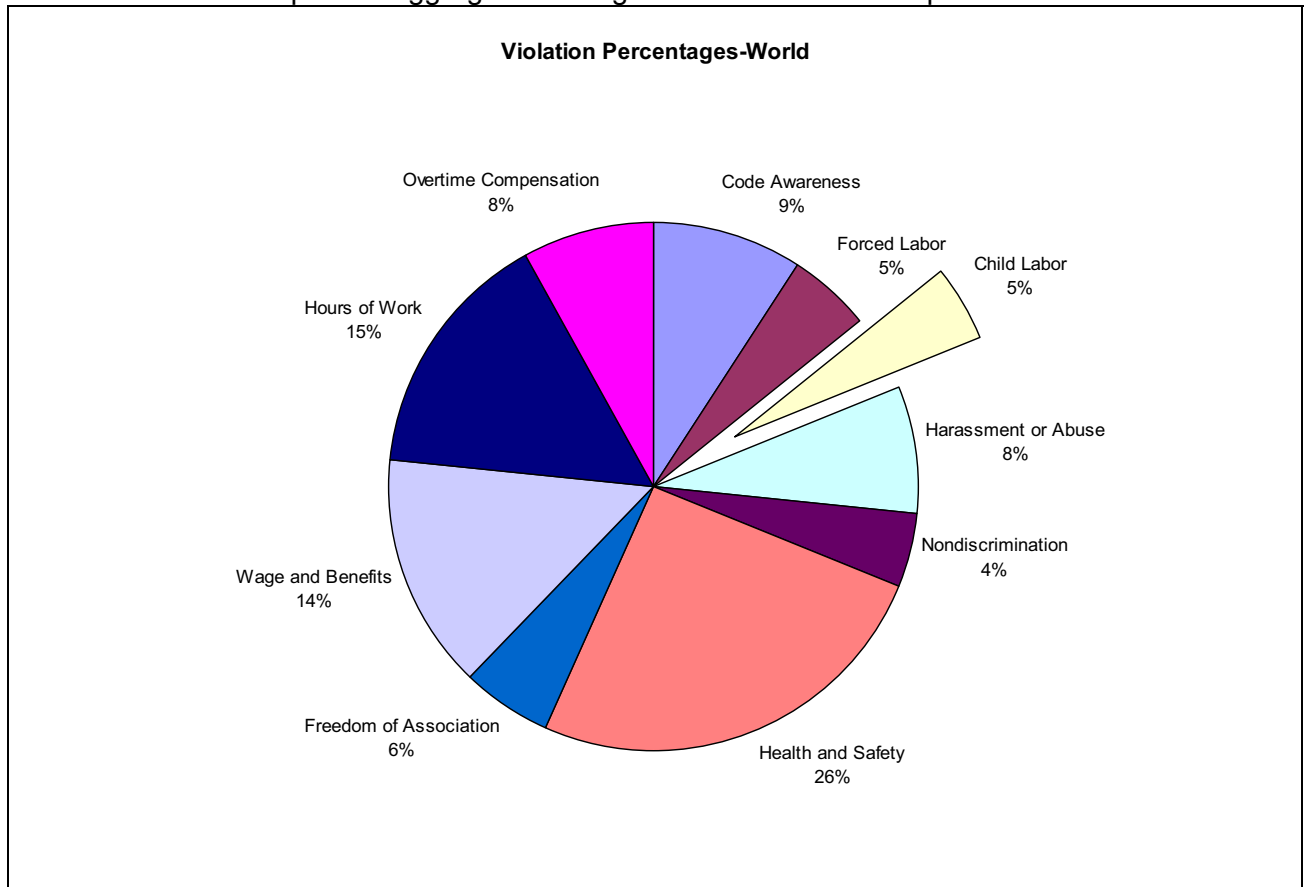
<sup>23</sup> UNICEF: The Nature of the Problem: Some Basic Facts.  
<http://www.unicef.org/programme/cprotection/focus/legal/problabour.htm>

<sup>24</sup> Ibid.

the assignment of duties and hours at the factory. This was corroborated by the monitor's observation of young workers working in the printing and leather print sections of the factory where toxic chemicals are handled. During this independent external monitoring visit, the monitor also found no evidence indicating that the juvenile workers were registered with the local labor department.

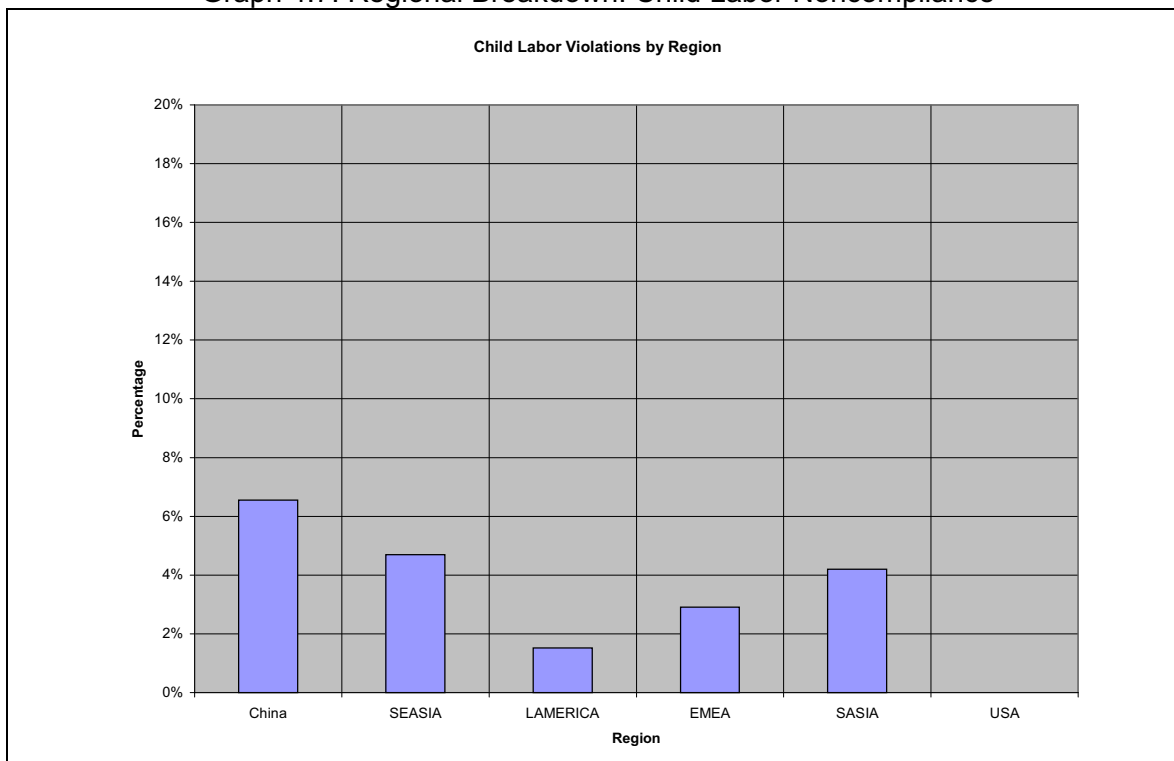
**Graphs:**

Graph 4.6: Aggregate Findings: Child Labor Noncompliance



Source: Manual Compilation of Independent External Monitoring Reports for Year One.

Graph 4.7: Regional Breakdown: Child Labor Noncompliance



Source: Manual Compilation of Independent External Monitoring Reports for Year One<sup>25</sup>.

Child Labor noncompliance represented 5% of all noncompliance internationally, and represented 6.5% of all Code noncompliance in China, 4.7% of all Code noncompliance in Southeast Asia, 1.5% of all Code noncompliance in Latin America, 2.9% of all Code noncompliance in the Europe/Middle East/Africa region (EMEA), 4.2% of all Code noncompliance in S. Asia, and 0% of all Code noncompliance in the USA.

### Participating Company Remediation Efforts

Participating companies, through their internal monitoring programs, also discovered a number of cases of noncompliance with Child Labor in facilities that produce their products. For example, in some instances where young workers were identified during factory visits, participating company internal monitors found that they had been working overtime hours and handling chemicals, in noncompliance with the Code and local law. As a remedial response, participating companies worked with their factories to ensure that the employees were relocated to areas requiring lighter work and that their hours of work were under the legal limit. Additionally, in some cases, participating companies worked with factories to ensure that young workers were provided with regular health checks, per their legally mandated benefits.

<sup>25</sup> The regional breakdown of Code noncompliance in each Code category section shows the percentage that each Code noncompliance category (i.e. Code Awareness, Forced Labor, Child Labor, etc.) represents out of the total number of noncompliance issues found within each region. Thus, the higher percentage of Code Awareness noncompliance in South Asia than in Latin America, for example, does not necessarily mean that the Code Awareness is more prevalent, in absolute terms, in that region. Rather, it means that as a percentage of the total noncompliance in each region, Code Awareness represents a higher percentage in South Asia than in Latin America. The number of noncompliance issues within each Code category was divided by the total number of noncompliance found within each region to calculate the percentage. The formula = (number of Code category noncompliance in region/ total noncompliance in region) x 100.

Below are three examples of initiatives undertaken by participating companies to improve compliance with Child Labor in their supply chains.

In Mexico, Reebok reported that their internal monitors routinely ask management to provide age-related documentation during factory inspection, including parental permission forms and proof of employee registration with local labor authorities. Reebok has also worked with factory management to implement a hiring process that better ensures age limit compliance, and requires monitored factories to provide documentation of social security payments and employee payroll for up to six months.

In a project initiated in 1997 in Pakistan, adidas, Nike and Reebok engaged with international and local organizations to support an independent monitoring body aimed at eliminating the use of child labor in the soccer industry. The monitoring body was formed by the International Labour Organization (ILO), UNICEF, and Save the Children in partnership with a range of local organizations, including the Sialkot Chamber of Commerce and Industry. In the past, the ILO has implemented the program. Now, the ILO is one of many international and local organizations in a Board of Governors set up to oversee the performance of the partnership that will appoint the monitors. This is an on-going project, in which adidas, Nike and Reebok have continued to participate.

In addition to participating in the Sialkot partnership, some participating companies have undertaken programs to support educational opportunities for area children and to improve working conditions for factory workers in the region.

In Vietnam, adidas undertook a comprehensive and long-term remediation project to address child labor in consultation with international NGOs and local actors.

The project was developed in response to the findings of adidas internal monitors (the SOE team), who found that many young workers were working overtime illegally and that at least one child worker (14 years old) was employed at a supplier facility in Vietnam. The SOE team discussed the problem with the factory management and explained that simply laying off the young workers was not an option. As an alternative, adidas established an education program with the assistance of Verité, an international NGO based in the U.S. The workers below 16 were offered full-time schooling at the factory and local teachers from the district were invited to lead the group through the Vietnamese primary curriculum.

The program is currently being assessed by the local Vietnamese staff of Save the Children, Sweden, and the assessment will be provided to all parties directly involved with the program. It will also provide adidas with broad recommendations regarding the control of underage workers and education programs for young workers.



## HARASSMENT OR ABUSE

### **FLA Code of Conduct**

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

### **ILO Conventions**

No applicable ILO Conventions

### **Other Relevant International Instruments**

Universal Declaration of Human Rights, 1948

International Covenant on Economic, Social and Cultural Rights, 1966

### **Monitoring Scope and Methods**

As part of their monitoring methodology, monitors are required to identify particular groups of workers that might be at risk with respect to Harassment or Abuse and determine whether workers feel free to complain and use the factory's internal grievance procedures without fear of reprisal. In order to investigate compliance with this FLA Code standard, monitors investigate any reported situations of verbal and physical harassment and/or abuse; whether the factory has written disciplinary procedures and a system of progressive discipline; and whether managers and supervisors are trained in appropriate disciplinary practices.

### **Compliance Issues**

Harassment or Abuse is a difficult and complex Code provision to investigate and resolve, often due to social, cultural and ethnic factors. In many countries the subordinate position that young women workers occupy in society brings with it treatment that is often exploitative and abusive. Monitors need to be highly sensitive to patterns of abuse that may be obscured by various social factors, leading to workers' reluctance to speak.

In some factories, cultural or linguistic differences between managerial staff and the production workforce have complicated the development of effective communications between management and workers. This divide exacerbates workplace tensions and increases the risk of noncompliance with harassment or abuse.

### **FLA Findings**

Incidents or situations of verbal abuse ranked among the highest number of cases reported by FLA independent external monitors with respect to this Code provision.

For example, during an independent external monitoring visit of a factory in Sri Lanka, workers interviewed by the monitor reported that a line supervisor shouted at workers

when they did not reach their production targets. It was also reported that the factory did not have standard procedures to deal with harassment and abuse.

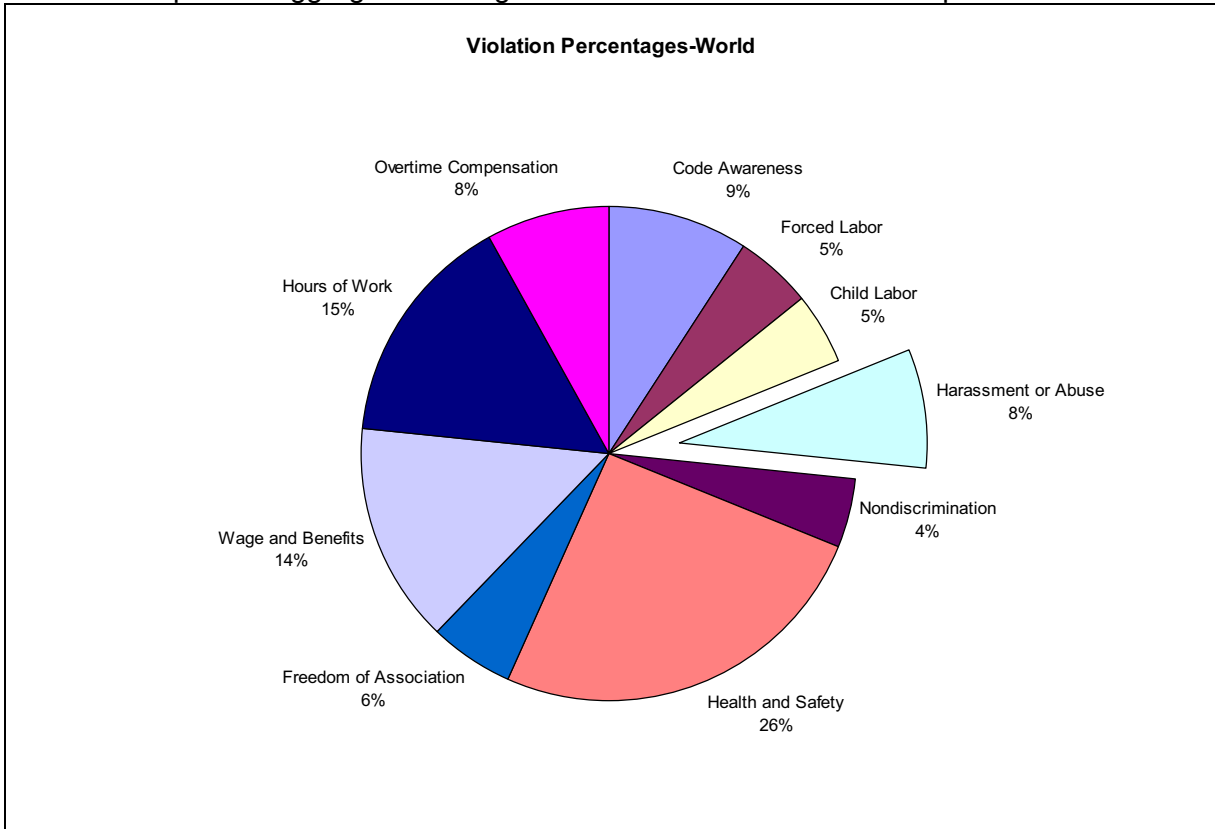
In other monitored factories, there were reports that supervisors physically abused workers. During an independent external monitoring visit in Bangladesh, workers informed the monitors that physical abuse, such as slapping, pushing and pulling the workers' hair occurred daily. Cases of sexual harassment, while less common, were also reported. In a factory in the Dominican Republic, a monitor noted that:

*Workers reported on-going sexual harassment at the factory. A worker reported that a supervisor had dated a woman inside the factory and had dismissed workers who refused to go out with him. Another female worker reported that she received "unwelcome/indecent solicitations" from various people all the time and that she has not reported the incidents because "it is so common, nobody would care".*

Independent external monitors also found that some factories imposed monetary fines or penalties for poor performance. For example, at a factory in Thailand, a monitor found that monetary fines were levied on the workers for being late or for not punching their time cards.

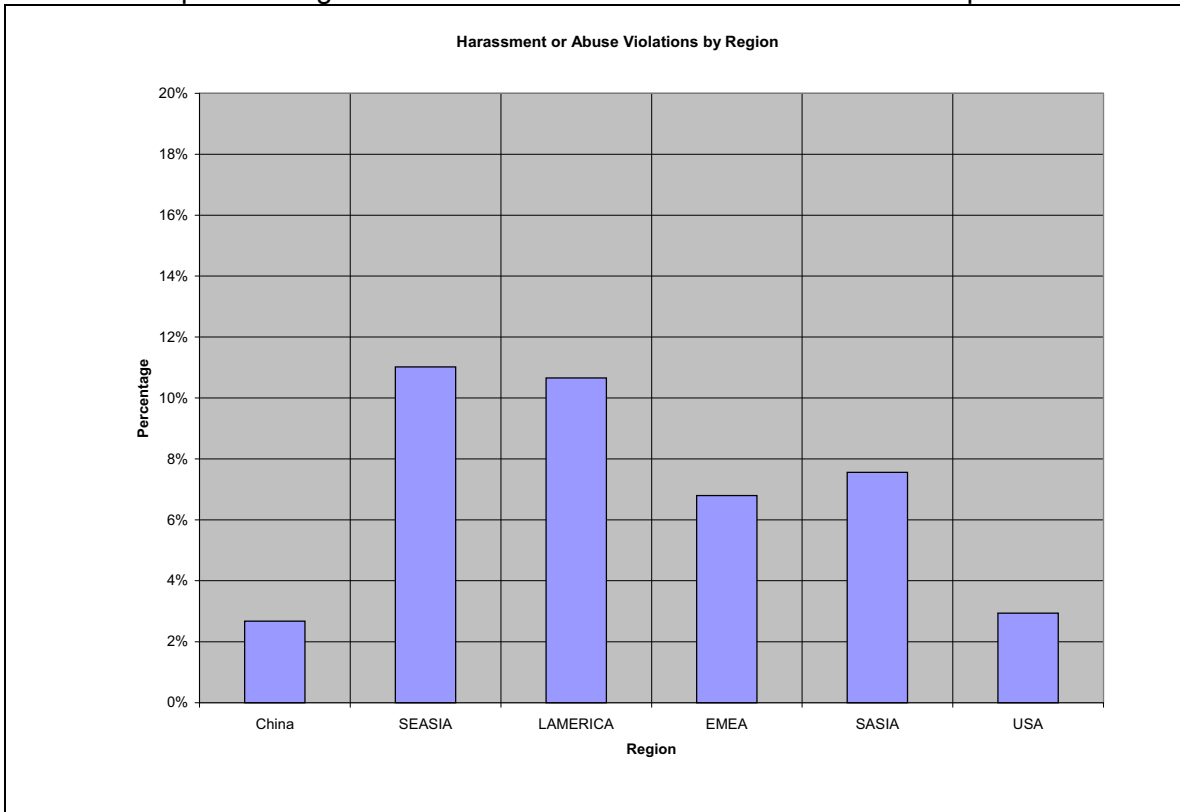
**Graphs:**

Graph 4.8: Aggregate Findings: Harassment or Abuse Noncompliance



Source: Manual Compilation of Independent External Monitoring Visit Reports for Year One.

Graph 4.9: Regional Breakdown: Harassment or Abuse Noncompliance



Source: Manual Compilation of Independent External Monitoring Visit Reports for Year One.<sup>26</sup>

Harassment or abuse noncompliance represented 8% of all noncompliance internationally, and represented 2.7% of all Code noncompliance in China, 11% of all Code noncompliance in Southeast Asia, 10.7% of all Code noncompliance in Latin America, 6.8% of all Code noncompliance in the Europe/Middle East/Africa region (EMEA), 7.6% of all Code noncompliance in S. Asia, and 2.9% of all Code noncompliance in the USA.

### Participating Company Remediation Efforts

When internal or FLA monitors have identified cases of harassment or abuse, it has been critical for participating companies to develop an appropriate and culturally sensitive remediation response that ensures the protection of workers interviewed from any retaliation. Participating companies have been able to facilitate remediation

<sup>26</sup> The regional breakdown of Code noncompliance in each Code category section shows the percentage that each Code noncompliance category (i.e. Code Awareness, Forced Labor, Child Labor, etc.) represents out of the total number of noncompliance issues found within each region. Thus, the higher percentage of Code Awareness noncompliance in South Asia than in Latin America, for example, does not necessarily mean that the Code Awareness is more prevalent, in absolute terms, in that region. Rather, it means that as a percentage of the total noncompliance issues in each region, Code Awareness represents a higher percentage in South Asia than in Latin America. The number of noncompliance issues within each Code category was divided by the total number of noncompliance issues found within each region to calculate the percentage. The formula = (number of Code category noncompliance issues in region/ total noncompliance issues in region) x 100.

programs by developing cooperative relationships with factories and implementing preventative measures.

Below are examples of steps taken by participating companies to prevent and remediate harassment or abuse in their supply chains.

In the United States, Reebok monitors have witnessed worker discrimination and harassment in some independently owned and operated facilities. These factories tend to be characterized by clear cultural, ethnic, or linguistic divisions between management and the worker population, and Reebok monitors have been alerted to related preferential hiring and promotion practices. To counter this, Reebok has required that factories provide documentation of ability and performance reviews to support workers' wage rates and promotion. To further combat intimidating work environments, Reebok producing factories are required to adopt, develop, and train management in accordance with a non-harassment policy, and to publicly post these corporate policies workplaces in all languages spoken by the community of workers.

Sexual harassment has been an even more complex and difficult issue to detect and remediate. To counter the practice, some participating companies' compliance efforts have involved implementing prevention training to promote awareness about the problem.

In order to combat sexual harassment at their supplier facilities, Nike developed a video training program to educate supervisors and workers on how to recognize and report sexual harassment noncompliance in the workplace. In Vietnam, more than 31,000 supervisors and workers took the training. This program was translated into three other Asian languages, and was made available in Korea, Taiwan, China, and Indonesia.

During an independent external monitoring visit of a factory manufacturing products for Phillips-Van Heusen in Bangladesh, an FLA-accredited monitor discovered through on-site and off-site worker interviews that workers were subject to harassment and abusive practices in certain areas of the factory. To address these serious issues, PVH cooperated with the factory chairman to facilitate a remediation plan at the facility and to monitor its progress. PVH reported that the following corrective actions have taken place in this factory:

- A comprehensive "worker manual" was implemented and distributed to each worker, stating his or her rights and benefits. Management conducted meetings to ensure that the workers understood all the information.
- A training and awareness program was implemented for supervisors and middle management on appropriate treatment of workers.
- A female team was formed to conduct periodic secured interviews and report directly to the chairman and personnel manager of the division. A human rights compliance consultant was later hired to continue monitoring and reporting noncompliance to the factory chairman.
- An internal monitoring program was implemented with guidance from PVH in order to continue to make improvements to workplace conditions.

# NONDISCRIMINATION

## **FLA Code of Conduct**

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

## **ILO Conventions**

Discrimination (Employment and Occupation) Convention, 1958 (C. 111)  
Equal Remuneration Convention, 1951 (C. 100)

## **Other Relevant International Instruments**

Universal Declaration of Human Rights, 1948  
International Covenant on Civil and Political Rights, 1966  
International Covenant on Economic, Social and Cultural Rights, 1966  
Convention on Elimination of All Forms of Racial Discrimination (CERD), 1965  
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979.

## **Monitoring Scope and Methods**

In investigating noncompliance with Nondiscrimination, monitors are instructed to pay particular attention to categories of workers that would most likely be victims of discriminatory practices in the country where they are monitoring (i.e. migrant workers, women, union members, young workers, pregnant workers, ethnic minorities, etc.). Monitors are responsible for determining whether employment decisions are made solely the basis of education, training, demonstrated skills or abilities, and that there are no differences in compensation and benefits attributable to gender. The FLA Monitoring Guidance provides suggested approaches to uncovering discrimination during a monitoring visit, and pays special attention to issues relating to pregnancy and reproductive health. For example, monitors are required to assess whether factories require pregnancy testing of female employees; whether employers unfairly discriminate against pregnant workers; and whether pregnant workers are afforded appropriate protections.

## **Compliance Issues**

Discrimination can take many different forms in the workplace, including both direct and indirect forms of discrimination. Cultural practices and social attitudes also contribute to discrimination as an endemic problem, manifested differently in various countries. As discriminatory practices can be both pervasive and subtle, they are often difficult to uncover, document and quantify.

In the supply chain covered by the FLA system, the labor force is predominately comprised of women workers in developing countries, who are often the most vulnerable to exploitative conditions of work. J. G. Frynas, in a survey based on Clean Clothes Campaign findings, reports that “among the most typical concerns voiced by female workers in different countries are lower pay or inferior contract terms than men, no provision for, or difficulties in obtaining, maternity leave; sexual harassment by supervisors, forced pregnancy tests and dismissal of pregnant women” (Frynas, 2000). In *We in the Zone, Women Workers in Asia’s Export Processing Zones*, the Asia Monitor Resource Centre corroborates this observation. Allegations reported in that publication include age discrimination; lack of promotion opportunities; lack of child care options, effectively preventing women from applying for certain positions; non-receipt of legally-entitled benefits (such as menstrual leave); and sexual harassment (AMRC, 1998).

Migrant workers are also vulnerable to mistreatment, as they often lack legal status in host countries and are either not protected by the law, or lack knowledge of their rights under law. Factories located in countries with a high presence of migrant workers present a particular challenge with regards to the application of the Nondiscrimination FLA Code provision.

For example, in Taiwan, migrant laborers (mostly from the Philippines and Thailand) reportedly pay anywhere from US\$364 to US\$5,454<sup>27</sup> in recruitment fees to be placed in factories. Added costs are incurred, for instance, when recruitment agents “kickback” money to employers to secure contracts (AMRC, 1999).<sup>28</sup> The end result of this corruption is that workers must borrow at interest rates as high as 25%<sup>29</sup> to pay fees. Workers, moreover, are often forced to use their homes and farms as collateral to receive needed loans.

In Korea, where there are approximately 350,000 migrant workers, approximately 30% are foreign trainees. Like other migrants, “trainees” pay excessively high recruitment fees, have their identification documents confiscated, and are often assaulted on the job. In addition to trainees, there are an even greater number of undocumented workers in Korea. It is estimated that 65% of migrant workers in Korea are undocumented<sup>30</sup> and subject to the same abuses suffered by “trainees” (Common Committee for Elimination of Discrimination against Migrant Workers, 2002).

In Southeast Asia, Malaysia has a large presence of migrants from other countries in the region with labor surplus economies, such as Indonesia, Vietnam, Bangladesh, India and Nepal. While Malaysia has no national minimum wage, in some cases the Malaysian government has a Memorandum of Understanding with migrant-sending countries that cites a basic wage for immigrant workers from these countries. As a result, employers are required by law to pay workers of different nationalities different wages.

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<sup>27</sup> The typical migrant worker in Taiwan has been reported to earn \$600 per month or \$7,200 per year; \$1,800 (20-30% of annual wages) is spent on recruitment fees.

<sup>28</sup> In “Contract Labor in Taiwan- Systemic Problems in Need of Reform” AMRC estimates that as many as 260 recruitment agencies are published in Taiwan’s Employment Department web site.

<sup>29</sup> Filipino and Thai “finance companies” are not formal banks but instead are part of an “informal finance network,” most closely resembling pawnshops. In Thailand, these “companies” reportedly charge between 3-5% in interest rates; whereas, Filipino “companies” charge up to 25%.

<sup>30</sup> This figure does not include legal “trainees.”

### FLA Findings

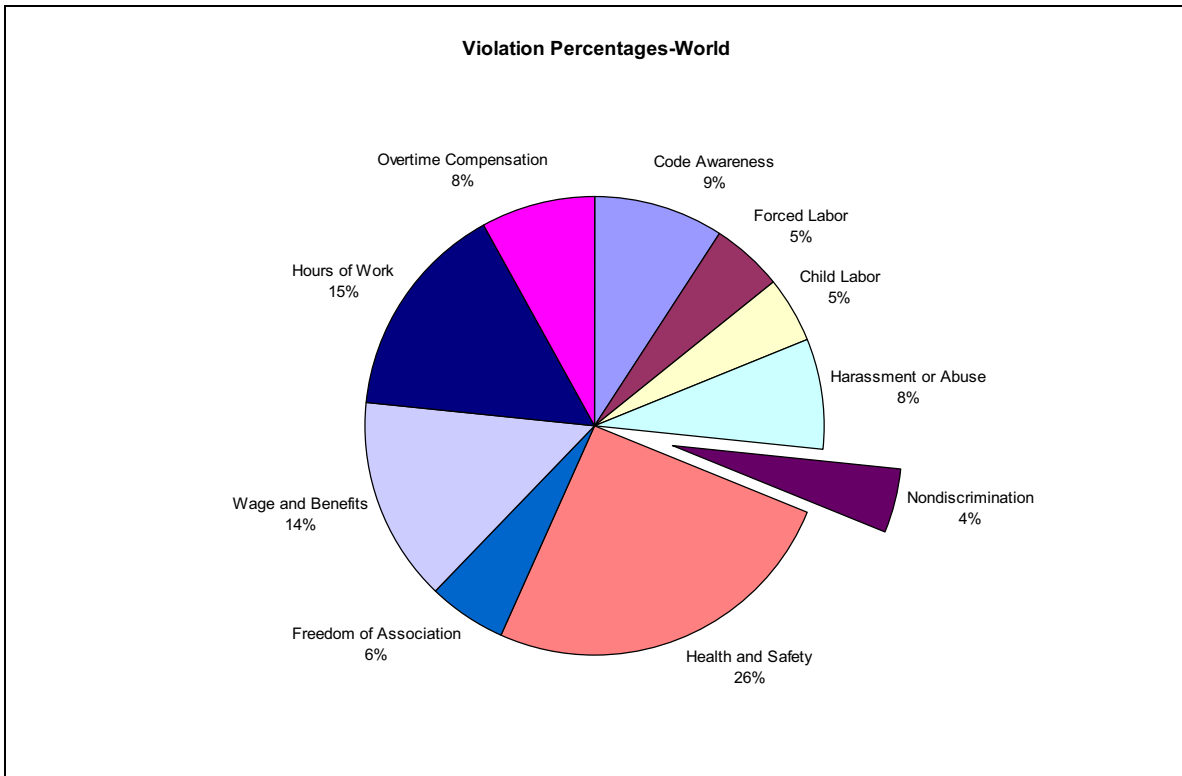
The most common noncompliance finding identified by FLA independent external monitors with respect to Nondiscrimination was the use of pregnancy testing in factories, either as a condition of hiring or of continued employment. For example, in Sri Lanka, a monitor found that a sample application for employment at the factory being monitored asked applicants about their marital and pregnancy status. During interviews, workers also reported that factory management did not lessen the workload of pregnant women. At the same factory, the management reported to the monitor that married women were only hired if they had experience, because only young women were hired as trainees. Management further explained that they only hire men to do button attachment and side-seaming work.

Another common compliance issue was the inconsistent use of factory policies with regards to hiring, assignment of work, bonuses, promotion, discipline, termination of employment and other employment decisions. At a factory in Vietnam, a monitor reported the following findings of noncompliance:

*For promotions, workers receive good evaluations based on their cooperative attitude and willingness to work overtime. Decisions on promotion and job assignments made by line supervisors based on their evaluations, which were largely subjective. Policies and guidelines for these evaluations were unwritten, unclear and open to discrimination or abuse.*

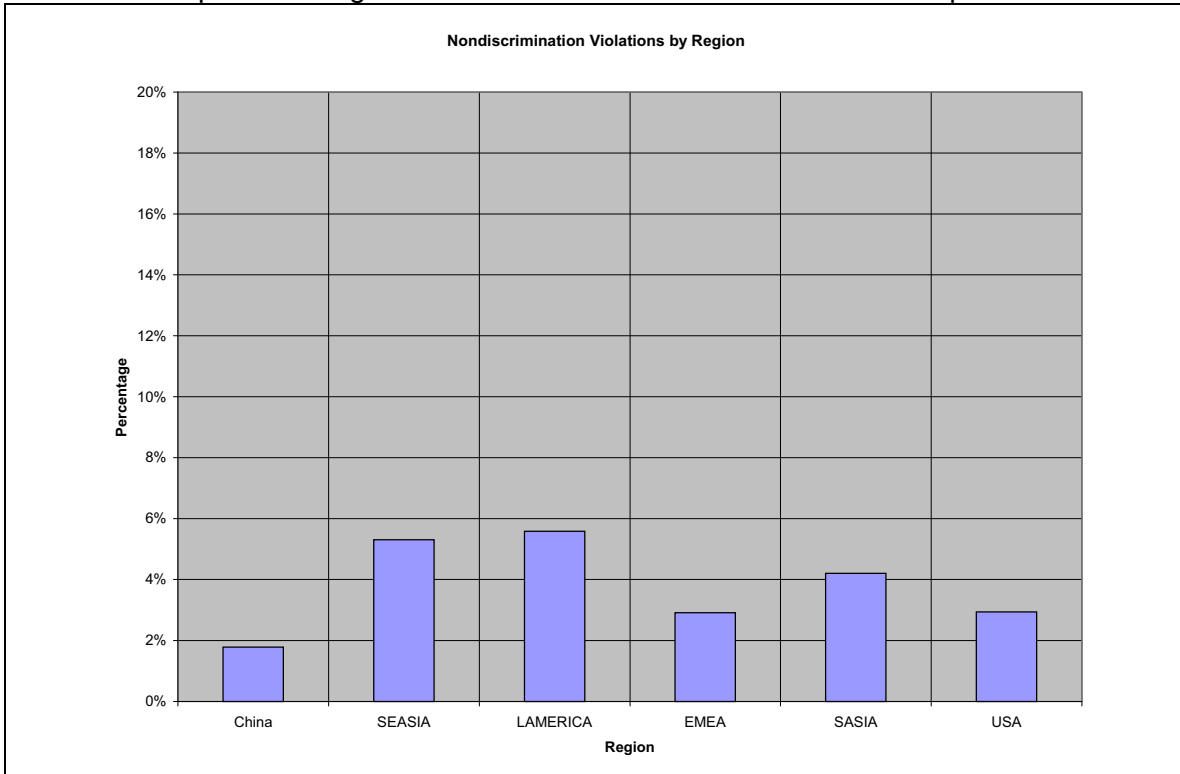
### Graphs:

Graph 4.10: Aggregate Findings: Nondiscrimination Noncompliance



Source: Manual Compilation of Independent External Monitoring Reports for Year One.

Graph 4.11: Regional Breakdown: Nondiscrimination Noncompliance



Source: Manual Compilation of Independent External Monitoring Reports for Year One.<sup>31</sup>

Nondiscrimination noncompliance represented 4% of all noncompliance internationally, and represented 1.8% of all Code noncompliance in China, 5.3% of all Code noncompliance in Southeast Asia, 5.6% of all Code noncompliance in Latin America, 2.9% of all Code noncompliance in the Europe/Middle East/Africa region (EMEA), 4.2% of all Code noncompliance in South Asia, and 2.9% of all Code noncompliance in the USA.

### Participating Company Remediation Efforts

Participating companies, through their internal monitoring programs, also investigated and uncovered cases of pregnancy testing and other forms of discrimination in their contract facilities. As a response, most participating companies undertook remediation that focused on changes in policy and, in some cases, management training programs.

<sup>31</sup> The regional breakdown of Code noncompliance in each Code category section shows the percentage that each Code noncompliance category (i.e. Code Awareness, Forced Labor, Child Labor, etc.) represents out of the total number of noncompliance issues found within each region. Thus, the higher percentage of Code Awareness noncompliance in South Asia than in Latin America, for example, does not necessarily mean that the Code Awareness is more prevalent, in absolute terms, in that region. Rather, it means that as a percentage of the total noncompliance issues in each region, Code Awareness represents a higher percentage in South Asia than in Latin America. The number of noncompliance issues within each Code category was divided by the total number of noncompliance issues found within each region to calculate the percentage. The formula = (number of Code category noncompliance issues in region/ total noncompliance issues in region) x 100.



Below are examples of steps taken by participating companies to prevent and remediate discriminatory practices in their supply chains.

In Thailand, Reebok monitors identified a situation in which female workers were required to submit a medical certificate which may include pregnancy testing, prior to employment. In order not to discourage the employment of married or pregnant women, Reebok required factories to formulate written hiring procedures that would help prevent discrimination. The procedures specifically prohibited inclusion of pregnancy testing or other methods utilized by management to gain this information. The company further established a system whereby recruiting staff would be disciplined if they required a pregnancy test or inquired about a female applicant's pregnancy status.

During an independent external monitoring visit of a factory producing for adidas in Mexico, the factory management informed the monitors that pregnant women could not be hired by the factory, and that this practice was the factory's official policy. As part of their remediation plan, adidas required the factory to develop a written nondiscrimination policy. The nondiscrimination policy included a guarantee that no pregnancy tests would be required in the hiring process and that no discrimination against pregnant women would take place. adidas also required that all employees be informed of the nondiscrimination policy and that it be posted in prominent locations throughout the factory.

During a follow-up visit to the factory, monitors found that the policy had not been implemented, and the management requested a temporary extension. The extension was granted, and at a subsequent monitoring visit, monitors found that the nondiscrimination policy had been developed and posted throughout the factory.

Participating companies also undertook efforts to combat discrimination against migrant workers. For example, in Malaysia, in order to address discrepancies in base pay, some participating companies have been working with their contract facilities in Malaysia to develop and institute performance-based pay scales, in which workers are paid according to objective criteria for job performance.

For more on FLA participating company remediation efforts to address discriminatory practices against migrant workers, see the case study in Phillips-Van Heusen's company review in Section III of this report.

## HEALTH AND SAFETY

### **FLA Code of Conduct**

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

### **ILO Conventions**

Protection of Workers Health Recommendation, 1953

Occupational Health Services Recommendation, 1959

Workers Representatives Convention, 1971 (C. 135)

Occupational Safety and Health Convention, 1981 (C. 155) and Recommendation

Prevention of Major Industrial Accidents Convention, 1993 (No. 174)

### **Other Relevant International Instruments**

Universal Declaration of Human Rights, 1948

### **Monitoring Scope and Methods**

The FLA audit instrument provides a checklist of the elements of Health and Safety to be reviewed in the visual inspection. These include readily discernable items such as general appearance and maintenance; fire safety including evacuation plans and fire extinguishers and alarms; electrical wiring; medical facilities and first aid kits; machine guarding; personal protective equipment; hazardous and combustible material use, storage and control; adequate chemical management, such as use of MSDS (Material Safety Data Sheets) and chemical labeling; comfort and cleanliness in bathroom facilities, dining facilities and food preparation; and dormitory conditions. Additionally, monitors are required to ensure that workers have received training in proper health and safety procedures.

### **Compliance Issues**

The prevalence of health and safety noncompliance is not only a reflection of the general conditions and workplace environment of the manufacturing industry, but can also be attributed to the fact that there are measurable indicators of noncompliance, which make it easier for monitors to identify and quantify. Moreover, monitors often have more training and experience in occupational health and safety.

In China, the Chinese press has reported on the increasing number of industrial accidents in the last few years. The latest statistics show that in the first two months of 2003 alone there were 1,639 deaths from 1,417 workplace accidents in industrial and mining enterprises. The government has responded to this trend by forming a new State Administration of Work Safety to promote safety at work. According to the China Business Weekly (April 17, 2003) the causes of the accidents could be found in the "prevailing ignorance among employers of working conditions resulting from irrational

pursuit of profits” but the “main reason is that many local officials have tolerated some employers' malpractice in a bid to pursue economic development at the cost of work safety.” The US State Department found that Health and Safety violations occurred in other Southeast Asian countries as well, and reported that violations were common in Indonesia.<sup>32</sup>

### **FLA Findings**

Issues related to fire safety were the most common health and safety noncompliance findings identified during independent external monitoring visits by FLA independent external monitors. Findings included: inadequate fire extinguishers, blocked exits or aisles, infrequent or no fire drills, and a lack of proper fire safety training for workers. For example, at a factory in India, an FLA monitor submitted the following finding:

*No evacuation plans posted on different floor. - Some fire extinguishers are blocked - Exposed wiring found - Fire extinguishers not marked with inspection and expiration dates - Some workers do not know how to operate fire extinguishers -Some doors marked as exits locked - Room to the Generator room not locked.*

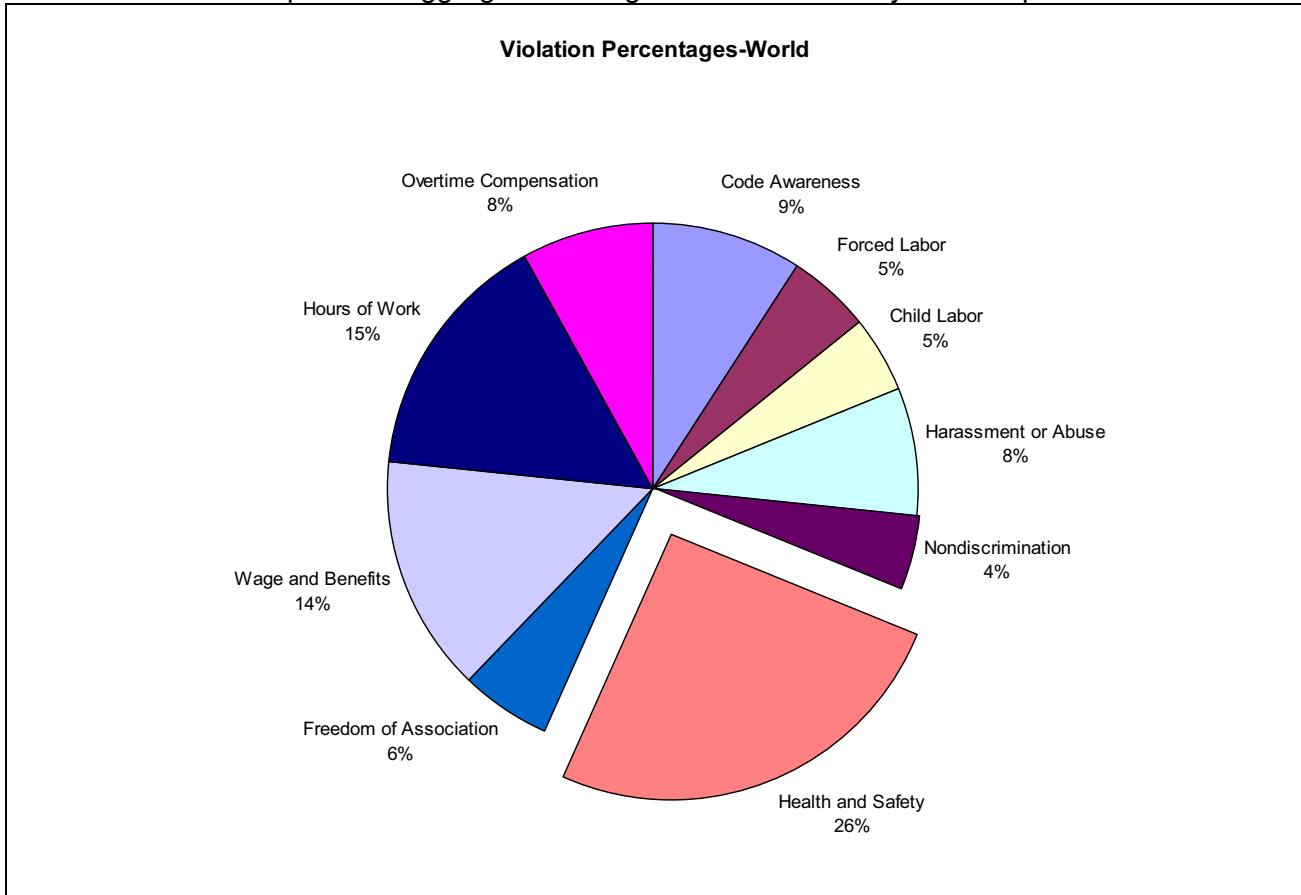
Independent external monitors also reported situations in which safety equipment was improperly used or not available, such as eye guards on sewing machines, face masks, or other personal protective equipment (PPE) for workers. For example, at a factory in China, during their visual inspection of the factory, the monitors reported that “workers working with toxic glues were wearing dust masks, not using filtered breathing masks.” Others reported health and safety issues related to access to clean drinking water on the factory floor, inadequate first aid kits, and improper storage and treatment of potentially harmful chemicals.

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<sup>32</sup> State Dept. (2003) Indonesia: Country Report on Human Rights Practices 2002 (<http://www.state.gov/g/drl/rls/hrrpt/2002/18245.htm>)

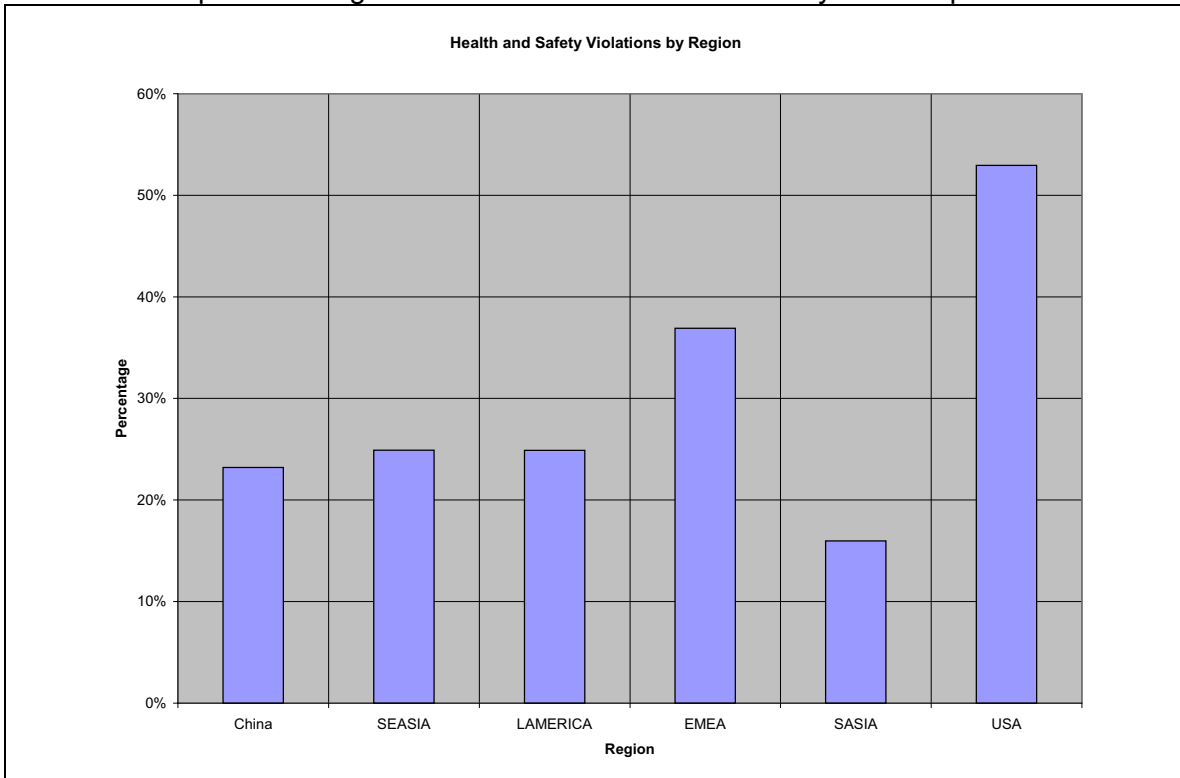
**Graphs:**

**Graph 4.12: Aggregate Findings: Health and Safety Noncompliance**



Source: Manual Compilation of Independent External Monitoring Reports for Year One

Graph 4.13: Regional Breakdown: Health and Safety Noncompliance



Source: Manual Compilation of Independent External Monitoring Visit Reports for Year One.<sup>33</sup>

Health and Safety noncompliance represented 26% of all Code noncompliance internationally, 23.2% of all Code noncompliance in China, 24.9% of all Code noncompliance in Southeast Asia, 24.9% of all Code noncompliance in Latin America, 36.9% of all Code noncompliance in the Europe/Middle East/Africa region (EMEA), 16% of all Code noncompliance in S. Asia, and 52.9% of all Code noncompliance in the USA.

### Participating Company Remediation Efforts

To combat health and safety noncompliance throughout their supply chains, participating companies undertook a number of projects that included local nongovernmental organizations and health experts. By engaging with local actors, participating companies were able to more effectively tailor their remediation plans to the needs of the local community. Below are three examples of health and safety projects undertaken by participating companies. The first case demonstrates the potential for collaborative remediation when multiple companies work with local groups to encourage change, while the second and third examples show how government and nongovernmental

<sup>33</sup> The regional breakdown of Code noncompliance in each Code category section shows the percentage that each Code noncompliance category (i.e. Code Awareness, Forced Labor, Child Labor, etc.) represents out of the total number of noncompliance issues found within each region. Thus, the higher percentage of Code Awareness noncompliance issues in South Asia than in Latin America, for example, does not necessarily mean that the Code Awareness is more prevalent, in absolute terms, in that region. Rather, it means that as a percentage of the total noncompliance issues in each region, Code Awareness represents a higher percentage in South Asia than in Latin America. The number of noncompliance issues within each Code category was divided by the total number of noncompliance issues found within each region to calculate the percentage. The formula = (number of Code category noncompliance issues in region/ total noncompliance issues in region) x 100.

organizations can work with companies to create safer working environments for factory workers.

Nike, Reebok, and adidas cooperated with international health and safety experts, Hong Kong-based NGOs, and local NGOs to develop a health and safety project in China. Project participants aimed to develop the capacity of local groups to address health and safety issues, while providing workers and management with the skills to establish workplace health and safety committees with support from local NGOs.

The project, which was based on a needs assessment conducted by China Working Women's Network (CWWN) in cooperation with other groups, has the potential to have an enormous impact by working in footwear factories with as many as 60,000 workers. The first stage of this project involved a four-day intensive training for local groups, and selected factory management and worker representatives. Lessons were conducted by an international training team, which consisted of representatives from the Maquila Health and Safety Support Network, the Labor Occupational Health Program at the University of California at Berkeley, and Massachusetts Institute of Technology, with input from NGOs, including CWWN, the Asia Monitor Resource Center (AMRC), the Hong Kong Christian Industrial Committee (HKCIC), and the Association for the Rights of Industrial Accident Victims.

The team used creative and participatory techniques to train participants in the identification and evaluation of health hazards, the impact of chemicals on the body, and key aspects of ergonomic, electrical, noise and fire safety. The trainings also addressed workers' legal rights, and workplace inspection techniques. Popular education training methods were also shared with participants so that they could pass along the information to others in their NGOs and communities. Participants also met with the labor practices managers of adidas and Reebok in Hong Kong, and visited a 60,000-worker shoe complex in Dong Guan City. All training materials were translated into Chinese; English-speaking instructors had simultaneous translation for their presentation and activities. After the training, each factory's participants reunited to create a proposal for setting up a health and safety committee in their respective factories.

Outcomes include:

- Local NGOs gaining expertise in monitoring, evaluating, and training about health and safety issues;
- Factory management from participating factories meeting to share their experiences in setting up the health and safety committees;
- New worker-management committees beginning to function as mechanisms for improving the health and safety of factory workers;
- One of the health and safety committees that evolved out of this project working in cooperation with democratically-elected worker representatives to improve conditions in one of the participating factories;
- Participating companies support of health and safety committees in their efforts to address remaining health and safety issues with the goal of sustainable improvements.

Another example of cooperation with government and non-governmental initiatives was adidas' work with the Vietnam Business Link Initiative to improve conditions in its Vietnamese factories. Jointly managed by the International Business Leaders Forum, the Vietnamese Chamber of Commerce, and the Vietnam footwear industry, the Business Link Initiative aimed to improve workplace conditions in footwear factories across Vietnam.

The Initiative, now in its third year, had focused on awareness-raising and health and safety training until the end of 2001, when it moved to a new stage with the development of a Management Support System (MSS). The MSS, available in both hard copy and CD-ROM, is a tool for factory managers to review factory conditions, practices and procedures against established standards, and then to address health and safety issues through remedial action plans. The first edition of the MSS was distributed to participating factories in the third quarter of 2001. The project also allowed factories to share best practice sessions, helping them model improvements on the achievements of other factories, and organized train-the-trainer programs.

In Indonesia, Nike joined with International Standards for Occupational Safety (ISOS) to observe occupational health programs in 10 Nike footwear production facilities, and to identify remediation opportunities and potential improvements in occupational health performance. This helped Nike implement an occupational health program that is compliant with government requirements and pertinent to the needs of Nike footwear contractors. A number of programs were reviewed: occupational health policies and standards; occupational health structure and performance; emergency response and referral procedure; health promotion activities; clinic and primary activities; and catering facilities. ISOS staff moved from factory to factory on a weekly basis, where they conducted first aid and occupational health training for factory staff and some workers. ISOS also conducted continuing occupational health evaluations with factory staff to gauge the progress made against the aims set out each year. As one result of this cooperation, Nike reports that all of its footwear factories in Indonesia have health doctors on staff.

## **FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING**

### **FLA Code of Conduct**

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

### **ILO Conventions**

Freedom of Association and Protection of the Right to Organize Convention, 1948 (C. 87)

Right to Organize and Collective Bargaining Convention, 1949 (C. 98)

### **Other Relevant International Instruments**

Universal Declaration of Human Rights, 1948

International Covenant on Civil and Political Rights, 1966, Article 22

International Covenant on Social, Economic and Cultural Rights, 1966, Article 8

### **Monitoring Scope and Methods**

To investigate freedom of association, monitors are required to inquire into any history of conflict or problems regarding workers' rights of association, including incidents relating to organizing efforts, union membership drives, union representatives' access to workers, and any management practices intended to counter unionization. They are also required to ask whether a collective bargaining agreement exists, and to identify the employee grievance procedure in the factory.

In "abstract" areas such as freedom of association, worker interviews are a crucial source of information. In interviewing workers a monitor will try to establish: whether they were asked about their union sympathies or affiliation at the time of hiring; if union supporters applying for jobs had been rejected; whether anti-union sentiments were expressed by managers or supervisors during the workers' orientation period; and, if union members had been unfairly dismissed. Sometimes the monitor will be able to corroborate the worker testimony with information gleaned from the personnel files or the management interviews. However, in most cases monitors were left with a series of reinforcing indicators that pointed to the likelihood that anti-union activities were probably taking place.

Understanding the local context is another key to identifying potential noncompliance. Monitors are required to be familiar with local laws and labor market dynamics, and to consult with knowledgeable local sources to establish general or factory specific compliance issues before conducting a monitoring exercise. They should also look at local cases regarding freedom of association, labor conflicts, the extent of worker organization in the area, and the degree of collective bargaining and of labor law enforcement. If the monitor establishes that the factory is located in an industrial zone in which no collective agreements exist and where the local labor inspectors have not made any findings with respect to freedom of association, they should be alert to the possibility of anti-union activity.



## Compliance Issues

Freedom of association may well represent the greatest challenge to the FLA system, both because of the extent of the problem and the difficulty of monitoring and remedying it. Detection of this issue represents a major area in which FLA independent external monitors need to improve in Year Two. The issue is further complicated by a plethora of legal limitations on freedom of association in a number of the countries where participating companies operate. Despite recent evidence showing that countries with effective labor relations regimes and workers organization performed better economically than those which repressed labor rights (Aidt and Tzannatos, 2003), a surprising number of countries either will not or cannot ensure that workers' rights to organize and bargain collectively are respected.

In countries such as China, one state-sponsored trade union is legally mandated to represent workers. In theory, the Chinese Constitution guarantees Freedom of Association, but this right is determined by the interests of the State and the Communist Party. In a complaint considered by the ILO Committee on Freedom of Association (Case #2031), the Committee noted that while the government of China believes that its laws guarantee the rights of workers to form and join organizations of their own choosing, the Committee concluded that many provisions of the Trade Union Act were contrary to the fundamental principles of freedom of association.

The Committee on Freedom of Association also recalled that it had concluded in two previous cases (#1652 and #1930) that the Trade Union Act prevented the establishment of trade union organizations independent of the Government and the Party. Only one trade union, the ACFTU, is recognized. It has traditionally seen its role as protecting the interests of the Party, the government, the employer and the worker. The growth of the market economy and the concomitant shift from state-controlled to private enterprise, however, is bringing about a reevaluation of that role, and many local union officials are adopting Western trade union techniques, and adapting them to their circumstances. According to the ACFTU, there were 103 million trade union members in China in 2000, and 67,000 unions in foreign-invested enterprises, with a membership of 6 million workers. However, unofficial estimates place the ACFTU presence in foreign-invested enterprises at less than 10%.

Export Processing Zones (EPZs) and Free Trade Zones (FTZs) represent a significant risk in terms of the right to organize and bargain collectively. EPZs and FTZs seek to create a 'pro-business' investment climate where freedom of association is restricted or prevented altogether – officially or unofficially. This is common throughout Central America, where a number of FLA participating companies reported that freedom of association noncompliance occurred, despite laws protecting freedom of association and ILO and US Government efforts to reform local labor laws and improve labor law enforcement. The ICFTU concluded that "Latin America is still the most dangerous region in the world to be a trade unionist. Harrassments, dismissals, attacks, even abduction and murder are part of their daily lot... The export processing zones of Central America are virtually rights-free zones... Trade unions are almost non-existent." (*Americas: Annual Survey of Violations of Trade Union Rights*, 2002).<sup>34</sup>

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<sup>34</sup>In recognition of the systemic and widespread nature of the issue in Central America, the FLA has decided to launch an initiative to address the most common instances of noncompliance in a coordinated and concerted way. The initiative will operate at multiple levels, from the Government through the zone authorities to the suppliers, and will draw on contributions from all FLA constituents. The core of the program will be the installation of common policies and procedures designed to prevent discrimination against union supporters in hiring and firing, and the introduction of

In El Salvador, for example, a number of organizations have pointed to a systemic failure to protect workers associational rights. A US State Department report found that “there are credible reports that some factories dismissed union organizers, and there are no collective bargaining agreements with the 18 unions active in the maquila sector” (El Salvador Human Rights Country Report, 2002). Perhaps the most damaging reports of anti-union activity came from the *Monitoring Report on the Maquila and Bonded Areas* prepared for the USAID, the Secretaría Técnica de Financiamiento Externo (SETEFE) and the Ministerio de Trabajo y Previsión Social. Working with the full support of the Government the researchers found that “blacklists” of the names of workers who belong, or at some point have belonged, to a union organization are retained by management in at least one EPZ. These workers are then not hired. The report also noted that workers belonging to the boards of unions that do exist in the EPZ are systematically fired. The report was withdrawn by the Government of El Salvador shortly after its release in June 2000.

### **FLA Findings**

The most common freedom of association noncompliance uncovered during independent external monitoring visits was a lack of knowledge of the freedom of association Code provisions among the factory workforces. A number of cases of attempts to prevent unionization and the firing of union organizers were also found. For example, in a factory in Guatemala, workers reported to the FLA independent external monitor that they were not free to join the unions and that they had suffered reprisals for having joined or for continuing to belong to the unions.

During an independent external monitoring visit of a factory in Mexico, a monitor reported the following:

*During the employee interviews there were comments on employees being fired for trying to form a union. During the management interview, the Vice-President of the company explained that those employees were trying to stop the production in an illegal way, and they were asked to stop. The ones that accepted, still work for the company, the others were liquidated. Papers [verifying] these liquidations were shown for us.*

At a factory in Vietnam, it was reported by a monitor that:

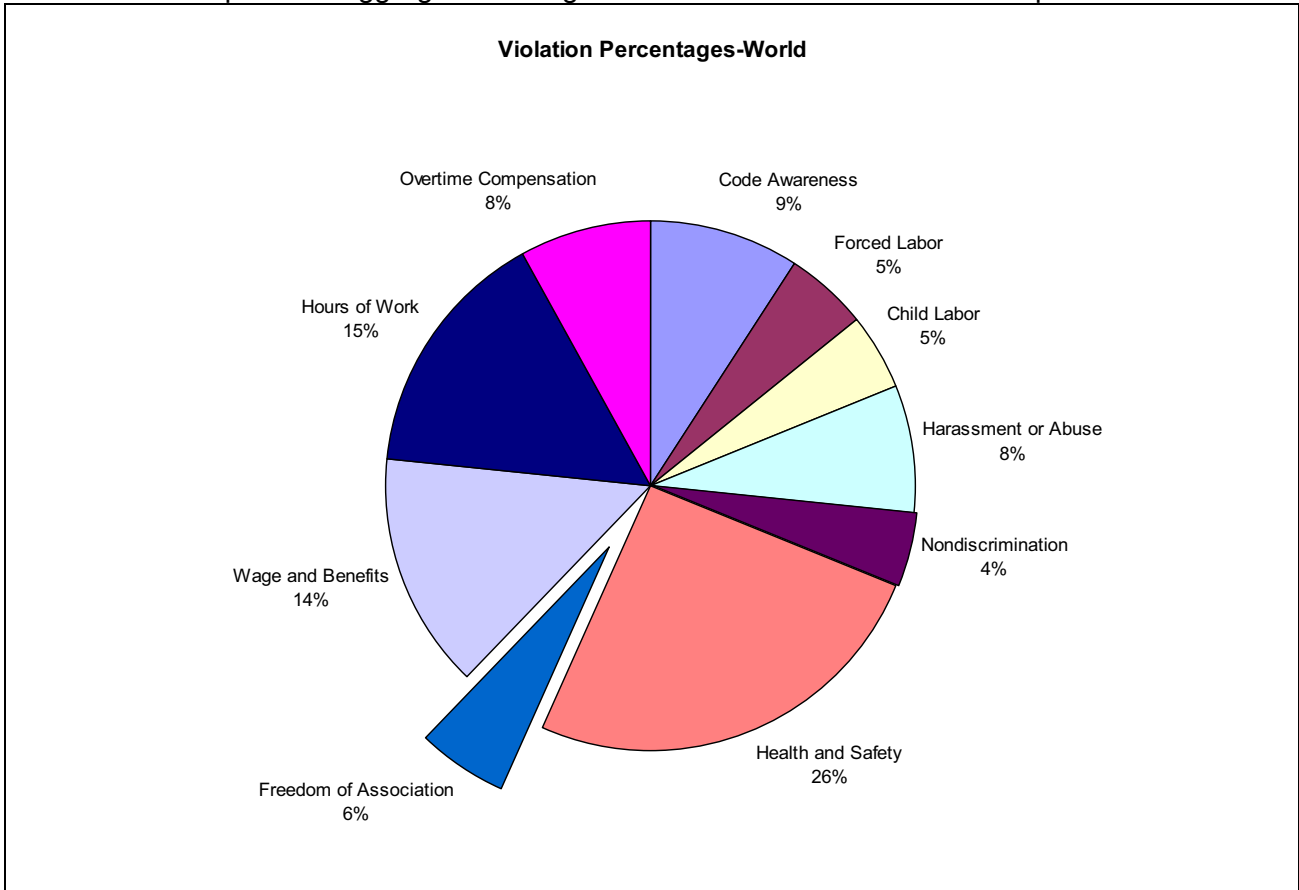
*The Labor Union President said the factory does not have suggestion boxes for the Union, but that Union shares boxes with the Mgt's Labor Practice [LP] office. All complaint letters to the Union are thus filtered through LP Dept. The Union office is also located inside the Mgt office beside the LP Department so there is no way for workers to communicate with or visit the Union without the knowledge and oversight of [the] LP Dept.*

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grievance and disciplinary processes and procedures. The exercise of these functions will be documented in a consistent way and monitored by independent monitors.

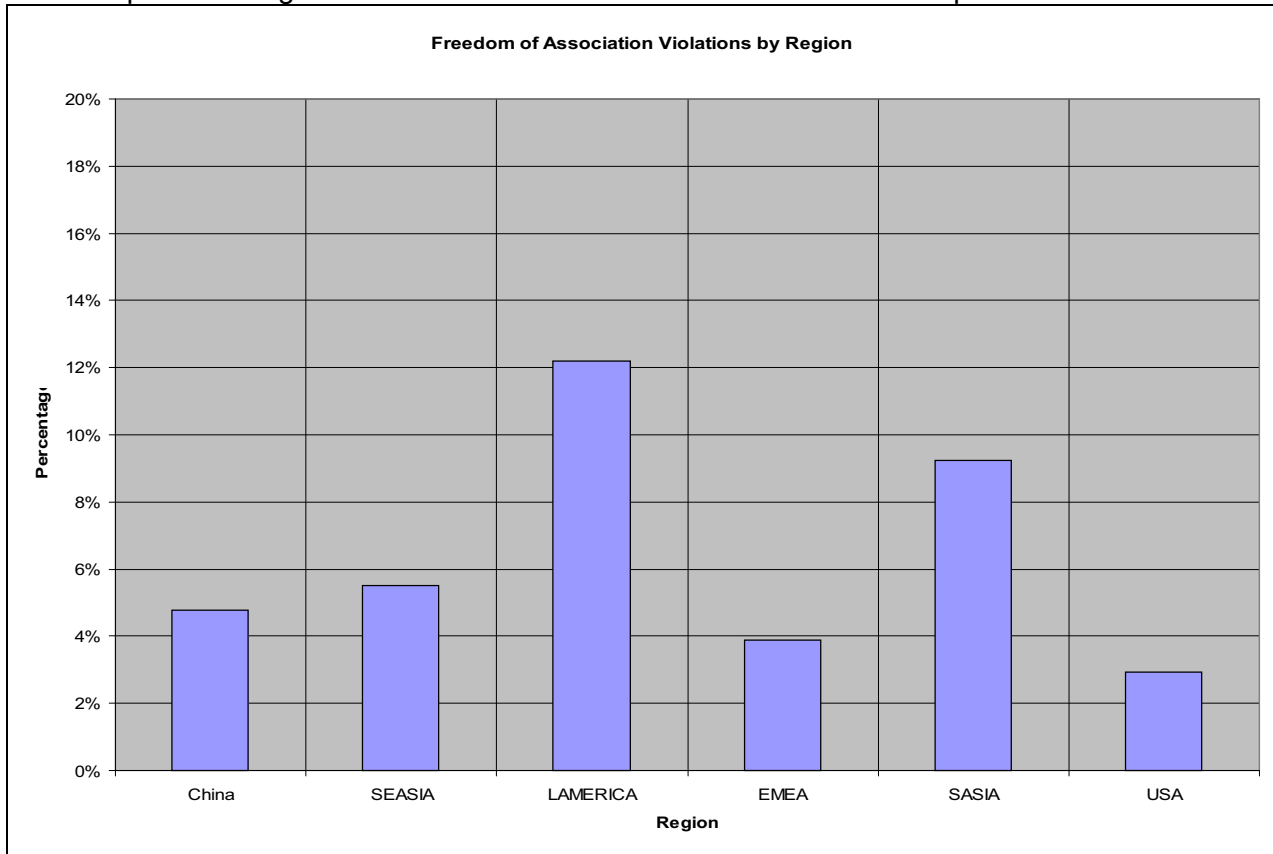
**Graphs:**

**Graph 4.14: Aggregate Findings: Freedom of Association Noncompliance**



Source: Manual Compilation of Independent External Monitoring Reports for Year One

Graph 4.15: Regional Breakdown: Freedom of Association Noncompliance



Source: Manual Compilation of Independent External Monitoring Reports for Year One.<sup>35</sup>

Freedom of Association noncompliance represented 6% of all Code noncompliance internationally, 4.8% of all Code noncompliance in China, 5.5% of all Code noncompliance in Southeast Asia, 12.2% of all Code noncompliance in Latin America, 3.9% of all Code noncompliance in the Europe/Middle East/Africa region (EMEA), 9.2% of all Code noncompliance in S. Asia, and 2.9% of all Code noncompliance in the USA.

### Participating Company Remediation Efforts

Participating companies have adopted a number of strategies to help inform workers of their right to freely associate, and have taken steps to ensure that management respects this right. For example, Reebok requires that factories adopt a non-retaliation, non-harassment, and non-discrimination policy to comply with Reebok Standards, and has concentrated upon management training to ensure proper respect for worker rights.

<sup>35</sup> The regional breakdown of Code noncompliance in each Code category section shows the percentage that each Code noncompliance category (i.e. Code Awareness, Forced Labor, Child Labor, etc.) represents out of the total number of noncompliance issues found within each region. Thus, the higher percentage of Code Awareness noncompliance issues in South Asia than in Latin America, for example, does not necessarily mean that the Code Awareness is more prevalent, in absolute terms, in that region. Rather, it means that as a percentage of the total noncompliance issues in each region, Code Awareness represents a higher percentage in South Asia than in Latin America. The number of noncompliance issues within each Code category was divided by the total number of noncompliance issues found within each region to calculate the percentage. The formula = (number of Code category noncompliance issues in region/ total noncompliance issues in region) x 100.

Despite a number of advancements, freedom of association represents a great challenge for the FLA and participating companies. Below are two examples of participating company efforts to systematically improve workplace conditions by encouraging worker organization and collective bargaining in regions where such practices are not widely accepted.

As part of its program to encourage factory workers to participate in workplace decisions, Reebok facilitated the democratic election of worker representatives in the Kong Tai Shoe factories located in Longgang, China, in July 2001. The athletic shoe factory is publicly listed in Hong Kong and employs just under 6,000 workers. Workers elected 27 representatives out of 63 self-nominated worker candidates. A second election was held in a Taiwanese-invested factory in October 2002. The 12,000 workers at the Fu Lu Sports Shoes factory in Fuzhou, China voted for 192 self-nominated candidates in seven election zones, reflecting different production departments. While both factory unions are officially affiliated with the ACFTU, these elections are the first known efforts to give workers the opportunity to elect their own worker representatives.

Both elections were preceded by:

- The enhancement or creation of a Union Charter that clearly defined the purpose and structure of the unions, and which supported open, transparent elections
- A decision to use a proportional representation system so every factory department would be represented proportionally on the union committee
- A series of steps to communicate with and inform workers, including Open Forums, to describe the process and answer workers' questions, and the distribution of "frequently asked questions"
- Campaign speeches given in public by all candidates prior to election day

The voting was conducted by secret ballot. Vote counting was fully transparent, and was observed by representatives of labor NGOs and academics. In Fu Lu, for example, 19 female and 12 male representatives were elected, while the incumbent chair person, who was supported by local officials of the state controlled union, was voted out.

Following the elections, Reebok provided elected representatives with training in its Code of Conduct and organizations that have the trust of workers provided additional training, which included skill-building for conducting meetings and recording grievances.

Longer term, Reebok will continue to provide ongoing informal guidance to worker representatives, and challenge them to become actively involved in factory problem-solving by involving them in the compliance resolution process undertaken by Reebok factory monitors. Reebok will also arrange opportunities for representatives to meet with their peers in other factories, and in other countries to expose them to new ideas.

Reebok has made an important contribution to the promotion of freedom of association with worker representation initiatives in Indonesia, Thailand, and increasingly in China. These experiments with worker representation are based on the idea that remediation will be most effective and sustainable when it focuses on education and training, and the development of systems for worker representation and participation. As Reebok maintains, workers are the best monitors. A detailed description of the initiative can be found in Reebok's company review in Section III of this report.

Phillips-Van Heusen (PVH) reported on its efforts to address systemic freedom of association non-compliance at the factory and Ministerial levels. In one such case, PVH reported that workers at a factory in El Salvador contacted the brand to inform it of anti-union activity. An investigation was immediately conducted, and the dismissal of several workers who were planning to organize a union was confirmed.

Following the investigation, PVH's Human Rights team worked closely with key government officials in El Salvador, and with the assistance of the Ministry of Labor, the dismissed workers were rehired with full benefits. The workers subsequently organized a union at the factory. During the unionization process, PVH required the factory management to ensure effective and open communication channels with the union organizers and the union (Sitehsa). PVH continues to monitor the situation and works to maintain clear lines of communication among all involved parties.

## **WAGES AND BENEFITS**

### **FLA Code of Conduct**

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

### **ILO Conventions**

Protection of Wages Convention, 1949 (C. 95)  
Social Security (Minimum Standards) Convention, 1952 (C. 102)  
Maternity Protection Convention, 1952 (C. 103)  
Employment Injury Benefits Convention, 1964 (C. 121)  
Medical Care and Sickness Benefits Convention, 1969 (C. 130)

### **Other Relevant International Instruments**

Universal Declaration of Human Rights, 1948

### **Monitoring Scope and Methods**

To investigate compliance with Wages and Benefits, monitors examine the factory's compensation system and review time-keeping and payroll records to ensure that records are maintained accurately, and that workers are paid the correct rate for their hours worked. Monitors are also required to review the factory's policies with respect to wages and benefits, including any policies regarding training wages. During worker interviews, monitors assess worker awareness about their wages, incentive systems, benefits and bonuses to which they are entitled in the company and under applicable law. They must also determine whether workers are provided with a pay statement for each pay period, showing their earned wages, regular and overtime pay, bonuses and all deductions.

### **Compliance Issues**

There is a nexus of Code noncompliance that involves wages, hours of work and overtime compensation. Contactors in global supply chains face increasing competition, which requires them to cut costs and increase output. Typically, they respond to those pressures by working harder, rather than smarter. Labor costs and rent are major components of their overall costs and so they try to limit those, working their existing labor force for longer hours rather than expanding the size of their facility and workforce. In addition, the uncertainties of the global market make contractors reluctant to take on new commitments in the form of workers and plant and equipment, so they tend to simply stretch their existing resources to try and cope with peak periods. The result is an increased risk of Code noncompliance in the areas of *wages*, *hours* and *overtime*. Remediation programs need to take this nexus into account, since attempts to address only one of the three intertwined variables may not succeed.

## **FLA Findings**

The most common issues of noncompliance with Wages and Benefits identified during independent external monitoring visits related to workers not receiving their legally mandated benefits, such as insurance or leave. For example, at a factory in China, an FLA independent external monitor reported the following finding:

*It was noted, based on the provided social insurance receipt, that all the employees participated in the retirement, illness or injury, unemployment and child-bearing insurance, but did not participate in the disability caused by work-related injury insurance or occupational disease insurance as required by law.*

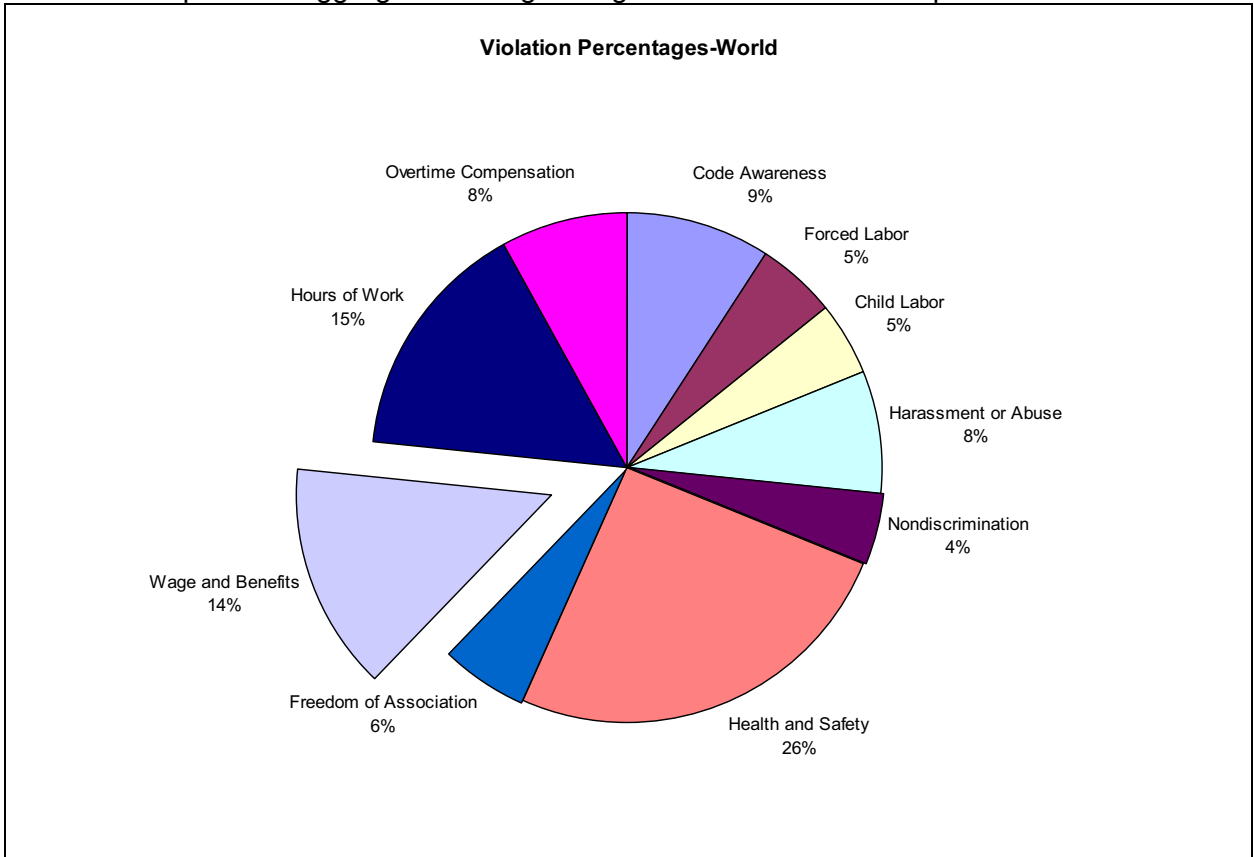
The second most common issue related to improper calculations of workers' wages, resulting in underpayment of wages. This finding often correlated to poor or inadequate time-keeping systems. In some cases, it was discovered that the factory was paying workers less than the legal minimum wage. For example, at a factory in China, a monitor found that "workers are paid less than minimum wage, about 35-85%."

FLA monitors also identified cases in which pay slips were not provided in the workers' native language or did not clearly delineate between regular and overtime hours worked. During an independent external monitoring visit of a factory in Mexico, a monitor reported that workers' pay slips did not detail the number of regular or overtime hours worked. In addition, the auditors reported that the factory's pay slips were very difficult to understand, as the factory used a code number system, which was not explained on the pay slips themselves. Eight of the fifteen workers interviewed reported that they did not understand how their wages were calculated.



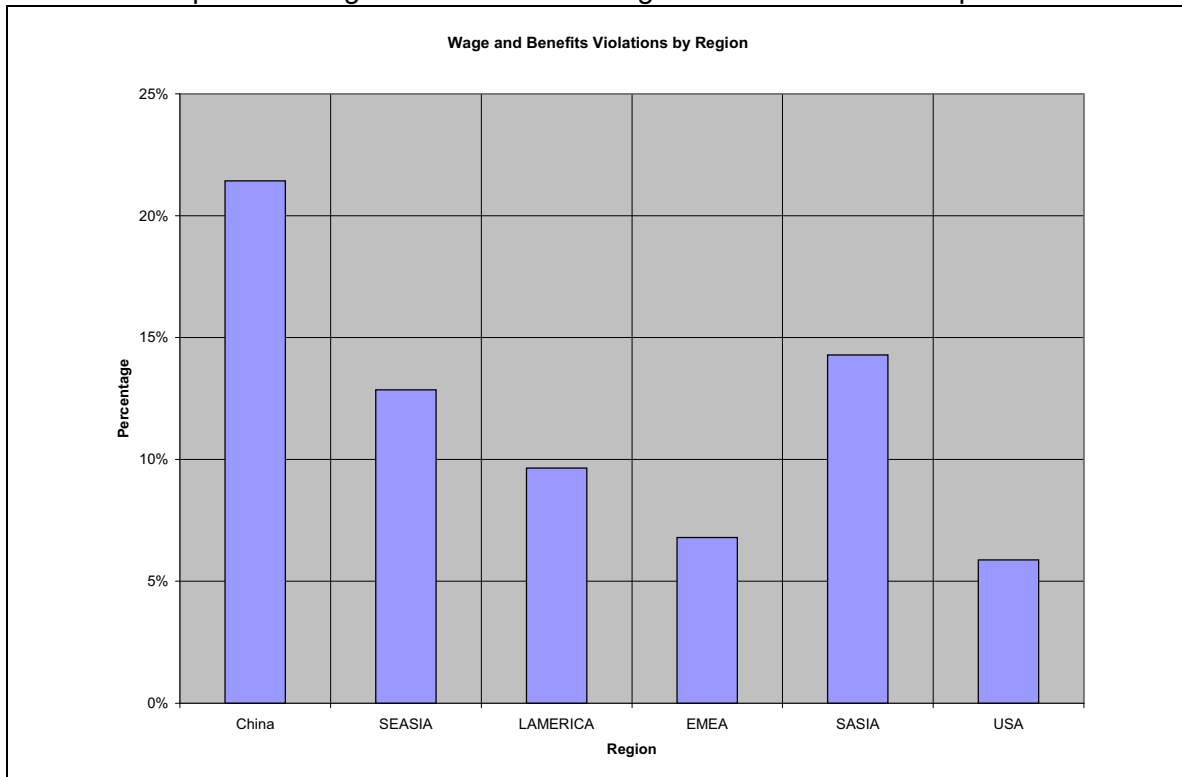
**Graphs:**

**Graph 4.16: Aggregate Findings: Wages and Benefit Noncompliance**



Source: Manual Compilation of Independent External Monitoring Reports for Year One.

Graph 4.17: Regional Breakdown: Wages and Benefit Noncompliance



Source: Manual Compilation of Independent External Monitoring Reports for Year One.<sup>36</sup>

Wages and Benefits noncompliance represented 14% of all Code noncompliance internationally, and represented 21.4% of all Code noncompliance in China, 12.9% of all Code noncompliance in Southeast Asia, 9.6% of all Code noncompliance in Latin America, 6.8% of all Code noncompliance in the Europe/Middle East region (EMEA), 14.3% of all Code noncompliance in South Asia, and 5.9% of all Code noncompliance in the USA.

### Participating Company Remediation Efforts

Compliance with the Code provision on Wages and Benefits is sometimes complicated by discriminatory wage practices and inadequate or fraudulent time-keeping systems. FLA participating companies developed a number of strategies to improve compliance in this area. The implementation of some participating company remediation plans involved working with factories to improve their time-keeping systems to ensure correct payment of wages to all employees.

<sup>36</sup> The regional breakdown of Code noncompliance in each Code category section shows the percentage that each Code noncompliance category (i.e. Code Awareness, Forced Labor, Child Labor, etc.) represents out of the total number of issues found within each region. Thus, the higher percentage of Code Awareness noncompliance in South Asia than in Latin America, for example, does not necessarily mean that the Code Awareness is more prevalent, in absolute terms, in that region. Rather, it means that as a percentage of the total noncompliance in each region, Code Awareness represents a higher percentage in South Asia than in Latin America. The number of noncompliance issues within each Code category was divided by the total number of issues found within each region to calculate the percentage. The formula = (number of Code category noncompliance in region/ total noncompliance in region) x 100.

Below are three examples of efforts undertaken by participating companies to promote improvements with respect to Wages and Benefits.

Reebok worked to promote fairer wages in Vietnam, a country in which footwear manufacturing is growing, and where Vietnamese law permits a two-tiered wage system based on the structure of factory ownership. State-owned factories and private Vietnamese-owned factories are allowed to pay a minimum wage of VND 240,000 (US\$16)/month, while foreign-invested factories are required to pay a minimum wage of between VND 556,000- 626,000 (US\$40 - 45)/month in areas in and around Ho Chi Minh City and Hanoi. The discrepancy between these two different legal minimum wages is dramatic and has a direct impact on the ability of workers to provide for themselves and their families. Reebok adopted a policy that requires Vietnamese factories to pay the foreign-invested minimum wage regardless of the ownership structure. In those instances where a factory is not paying the foreign-invested minimum wage, Reebok designates the factory as "conditionally approved" for production, provided that the factory provides a firm commitment to raise wages to the foreign-invested wage within six months.

In Thailand, Reebok monitors reported that Thai workers are sometimes underpaid due to the "projected target rate" calculation. Theoretically, the target wage rate is set for 8 working hours with payment above the minimum wage, but in practice the working hours are sometimes extended to meet the target, resulting in payment below the minimum wage. In factories where this is the case, many workers continue work during their lunch so as to meet the daily target as soon as possible. To counter this, Reebok required factories violating the minimum wage provision to institute a policy that workers are not allowed to work in the factory during the lunch break, and that workers who violate the policy will be subject to disciplinary measures. In the rare situation where it is necessary to work during lunch time due to pressures of production, the working hours must be recorded and paid with an overtime hourly rate. The factory must also post the working hours on a daily basis, as recorded by electronic swipe cards, so that workers can double check whether the payment received matches the actual number of hours worked.

Eddie Bauer was advised by an NGO that serious wage and other Code violations were occurring at one of its supplier factories located in an Export Processing Zone in Southeast Asia, resulting in labor unrest.

Upon learning of the allegations, Eddie Bauer launched a two-week onsite investigation which included an audit of the factory and other neighboring facilities of the vendor as well as interviews with workers, factory management, and local officials and organizations. A combined Eddie Bauer field and corporate monitoring team traveled to Southeast Asia to collect information and address the concerns. The investigation revealed that factories in the region operated by the vendor were violating the wage and benefit standards in Eddie Bauer's Workplace Code of Conduct. Issues included misclassification of job function, improper overtime calculation and incomplete time cards, all resulting in reduced compensation.

In order to improve practices, a joint team of senior vendor staff and Eddie Bauer associates guided and trained factory management on remediation. The vendor also adopted the new practices at all its local facilities.

Upon completion of the corrective action plan, the following improvements occurred at the factories as reported by the NGO and the factory, and observed by Eddie Bauer:

- A workers committee was formed at each of the vendor's local factories through which employees could inform factory management of its concerns and help remedy them. The formation of the committees helped relieve the tension between the workers and factory management
- A new computerized wage and hour system was implemented at the factories as well as employee training on the new system
- Full legal benefits began to be provided to all employees
- Payments of back wages were distributed to all employees

Eddie Bauer reported that their response to the alleged violations, the input of the NGO, and their partnership with the supplier resulted in improved wage and hour practices at the supplier's factories in the region, and improved relations between workers and factory management.

## HOURS OF WORK

### **FLA Code of Conduct**

*Except in extraordinary business circumstances, employees shall (i) not be required to work more than the lesser of (a) 48 hours per week and 12 hours overtime or (b) the limits on regular and overtime hours allowed by the law of the country of manufacture or, where the laws of such country do not limit the hours of work, the regular work week in such country plus 12 hours overtime and (ii) be entitled to at least one day off in every seven day period.*

### **ILO Conventions**

Hours of Work Convention, 1919 (C. 1)

Weekly Rest Convention, 1921 (C. 14)

### **Other Relevant International Instruments**

Universal Declaration of Human Rights, 1948

### **Monitoring Scope and Methods**

In order to assess compliance with hours of work, monitors are required to, *inter alia*, review the factory's time-keeping records and cross-check the information with workers' statements regarding their working hours. Monitors must determine whether the factory is in compliance with FLA Code limits on working hours (including any legal restrictions on regular and overtime hours), and whether workers have been afforded one day off in every seven-day period. Monitors are also required to interview management and workers on methods used to handle periods of peak production. Additionally, monitors must investigate and verify the "voluntary" nature of overtime hours worked. This can be facilitated through a combination of worker and management interviews where the monitor inquires about the factory's policies and procedures regarding overtime. These responses should then be cross-checked with the factory's actual performance records in the wage and hour records review.

### **Compliance Issues**

The principle behind the hours of work Code provision is that excessively long durations of work can have grave physiological effects on workers, such as increased mental and physical duress, which endanger the health and safety of workers. Workers should also be afforded adequate time off to meet their social needs, and to protect their welfare and that of their families. However, the reality is that the successful implementation of the hours of work standard is complicated by various factors.

For example, national and local labor laws in many countries of manufacture, such as Indonesia, China and India, often allow factories to request exemptions from hours of work limitations during peak production seasons. In China, regular working hours are limited by law to 40 hours per week and overtime is restricted to 36 hours per month. In order to override these standards, it is common practice for factories to obtain exemption certificates from the local authorities or acquire illegitimate certificates that appear to be

official. Similar practices exist in Vietnam and other countries. In some countries, the laws regulating working hours are felt to be antiquated, impractical, and/or not enforced by local labor authorities. Additionally, countries such as Thailand and Sri Lanka have legal working hour limits beyond the FLA's 60-hour/week cap on mandated work. Therefore, enforcing the Code limits on hours of work in these countries can create a competitive disadvantage for factories producing for participating companies, since other local factories can work longer hours and still be in legal compliance.

This issue is compounded by the fact that countries with surplus labor and low labor costs often suffer from high poverty rates, unemployment, and low wage and living standards. In these labor markets, workers are likely to want to work more overtime to supplement their incomes. As a result, it is sometimes the case that workers will not want to work at a factory that does not provide opportunities to work overtime. Additionally, the fluctuating and seasonal nature of production results in excess overtime at peak periods. Another problem is the fact that suppliers are often producing for multiple buyers and accept more orders than they can handle without extending hours of work beyond legal and Code limits.

### **FLA Findings**

The most common hours of work noncompliance finding during independent external monitoring visits was excessive working hours. For example, at a factory in China, an FLA independent external monitor found that during periods of peak production, the factory's overtime hours ranged from 40 hours to 70 hours per month on average, with the highest at 83 hours per month.

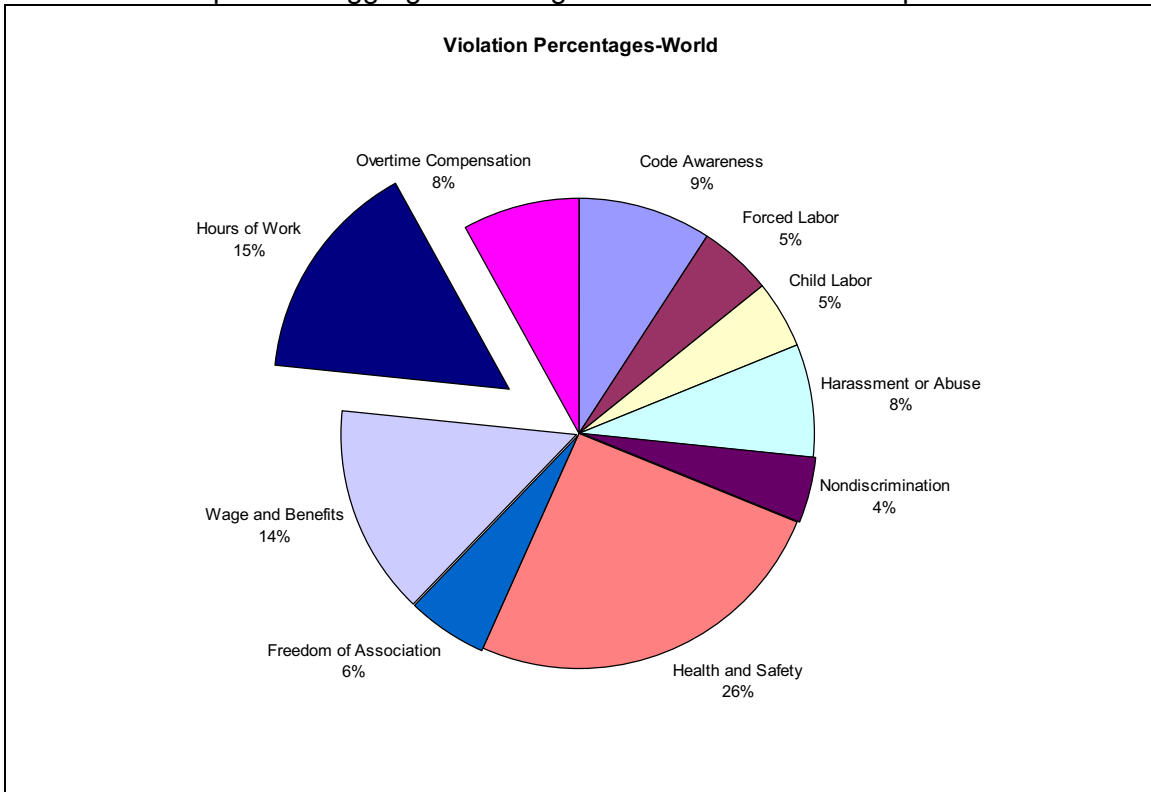
FLA monitors also identified cases in which workers were not provided a day off in every seven-day period. For example, at a factory in Sri Lanka, a monitor noted the following finding:

*Fourteen workers reported that they have worked 7 days a week during busy production periods. Two workers reported working 30 days per month and eleven workers reported working 28 days per month during busy production periods.*

Other findings related to cases of involuntary overtime, inadequate time-keeping systems and discrepancies between hour records and payroll. For example, at a factory in Turkey, a monitor reported that "there is no accurate time recording system, [and] consequently employee working days do not match with payroll records. Employee pay stubs do not reflect real overtime hours."

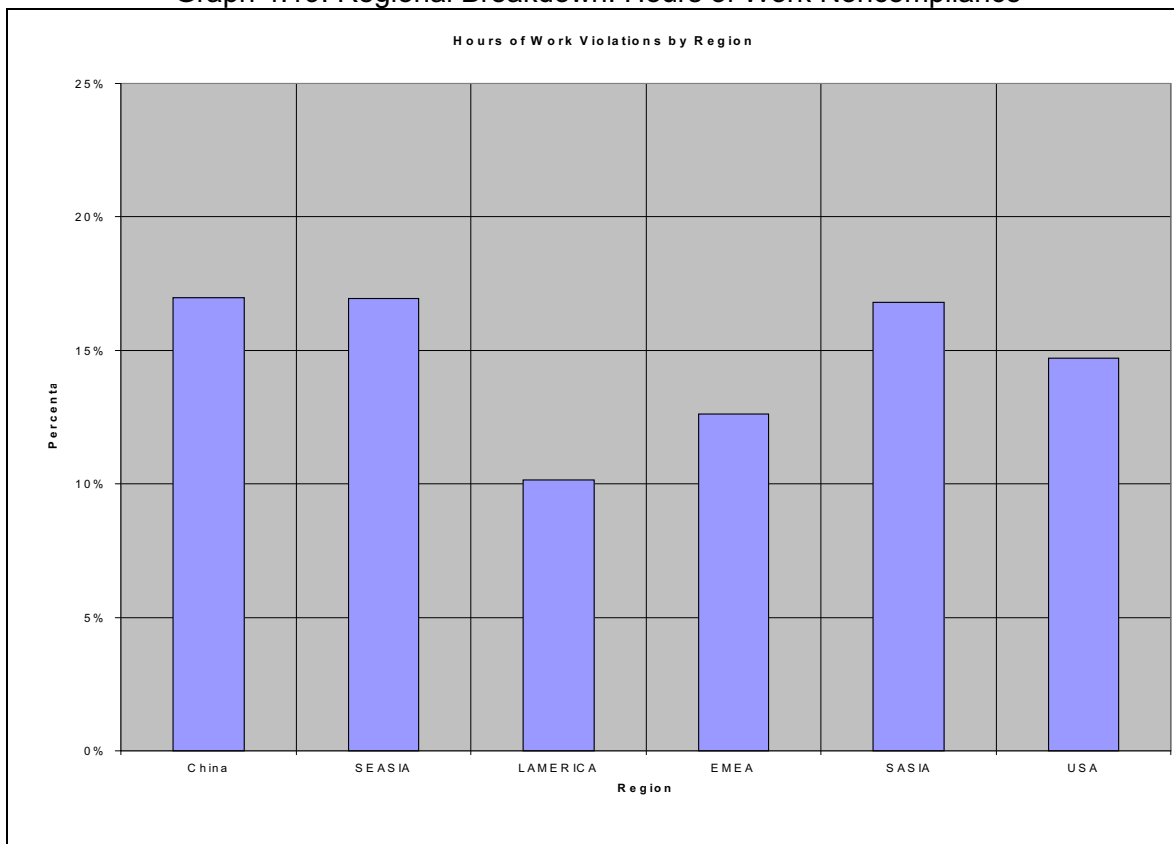
**Graphs:**

**Graph 4.18: Aggregate Findings: Hours of Work Noncompliance**



Source: Manual Compilation of Independent External Monitoring Reports for Year One.

Graph 4.19: Regional Breakdown: Hours of Work Noncompliance



Source: Manual Compilation of Independent External Monitoring Reports for Year One.<sup>37</sup>

Hours of work noncompliance represented 15% of all noncompliance internationally, and represented 17% of all Code noncompliance in China, 17% of all Code noncompliance in Southeast Asia, 10.2% of all Code noncompliance in Latin America, 12.6% of all Code noncompliance in the Europe/Middle East/Africa region (EMEA), 16.8% of all Code noncompliance in South Asia, and 14.7% of all Code noncompliance in the USA.

### Participating Company Remediation Efforts

Given the various challenges to compliance with hours of work detailed above, monitoring and promoting compliance with this Code provision is an ongoing task for participating companies. To counter the practice of forced overtime in factories, some participating companies have worked with their suppliers on measures such as: establishing an overtime policy where workers can refuse overtime requests without negative repercussions; implementing the use of overtime consent forms that require the

<sup>37</sup> The regional breakdown of Code noncompliance in each Code category section shows the percentage that each Code noncompliance category (i.e. Code Awareness, Forced Labor, Child Labor, etc.) represents out of the total number of noncompliance issues found within each region. Thus, the higher percentage of Code Awareness noncompliance issues in South Asia than in Latin America, for example, does not necessarily mean that the Code Awareness is more prevalent, in absolute terms, in that region. Rather, it means that as a percentage of the total noncompliance issues in each region, Code Awareness represents a higher percentage in South Asia than in Latin America. The number of noncompliance issues within each Code category was divided by the total number of noncompliance issues found within each region to calculate the percentage. The formula = (number of Code category noncompliance issues in region/ total noncompliance issues in region) x 100.



signed consent of workers; and formalizing a policy to provide workers with advance notice about anticipated periods of overtime.

A particular challenge has been for participating companies to identify and implement long-term, sustainable solutions to excessive hours of work. Below are two examples in which participating companies undertook initiatives to improve compliance with hours of work in their supply chains. In the first example, a factory producing for Phillips-Van Heusen experienced efficiency gains in reducing its overall hours of work. The second example describes a project undertaken by adidas to address the problems associated with seasonal ordering.

In China, Phillips-Van Heusen (PVH) worked with one of their contract facilities to discuss the problem of excessive overtime. After a review of their practices, the factory management determined that, as a result of the excessive working hours, there were significant quality problems and an excessive number of 're-works.' Additionally, there was a high percentage of absenteeism, low morale, and higher overhead cost.

In order to address these inefficiencies while addressing noncompliance with Overtime standards, PVH reported that the owner of the factory:

- Applied for "Comprehensive working hours permit" from the Labor Bureau
- Established a working hours schedule for the entire year within the Code of Conduct requirements and the local labor law
- Increased the workforce by 10% and improve workforce allocation
- Implemented a monitoring program tracking individual working hours
- Established a system that ensures voluntary overtime practice
- Increased wages by 5% to offset the impact on reduced overtime
- Created an incentive piece rate system
- Modified contract terms with the workers' consent
- Educated workers on the new system, and conducted cross-training of workers with on-going incentive increase upon completion.

Following the implementation of the corrective action plan, PVH reported that the factory has increased efficiency by 5% and that both worker and factory earnings have increased. PVH reported that other efficiency gains were registered, and that the factory saw improvement in the quality of the production, a reduction in the absenteeism, and an increased retention of the workforce.

adidas has an initiative on hours of work underway in Asia and is currently in the process of reviewing its progress. This project is a follow up to the "Work Hour Project 2" of 2000. In 2001, adidas had elected around 30 to 40 factories from 10 different Asian countries to study their working hour pattern. They found many factories working hours were much higher than 60 hours per week, and that one of the reasons was the seasonal order pattern of the garment industry (i.e. in low season, factories have very little or nothing for production, but in Peak season, factories have too many order to rush for the short delivery lead time).

The adidas apparel management team tried to smooth the seasonal pattern with a "Pull Forward" system, where some of the Peak Season orders are advanced to the Low

season period for production. The current project, "Work Hour Project 3," has tried to measure the effectiveness of the "Pull forward" system. The project was conducted between August 2001 and Dec 2001. At the time adidas sent its compliance report to the FLA, only the first 2 months of the project had been completed.

adidas reported that the amount of factory overtime was not affected by the implementation of the "Pull Forward" system at the mid-point of the project. A number of possible reasons were offered by adidas:

- The "Pull Forward" order volume is NOT very large when compared with the total factory capacity
- The true order volume and capacity in the factory is not known by adidas (e.g. Factory management may receive a lot of other customer's order which cause them to work long OT hour)
- adidas changed the Pull Forward order from time to time, further complicating the system. (i.e., some pull forward orders changed back in normal delivery in Peak season)
- Hours of Work noncompliance depends more on the other production reasons.

As of the mid-term review, adidas continued to employ the "Pull Forward" system in an attempt to improve Hours of Work compliance, but improvement had not yet been registered. Despite the initial inability of the "Pull Forward" system to improve Hours of Work compliance, adidas continued to observe the outcomes of this project aimed at remediating Overtime.

## OVERTIME COMPENSATION

### **FLA Code of Conduct**

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

### **ILO Conventions**

Hours of Work (Industry) Convention, 1919 (C. 1)

### **Other Relevant International Instruments**

Universal Declaration of Human Rights, 1948

### **Monitoring Scope and Methods**

To investigate compliance with overtime compensation, monitors are required to determine whether workers are being paid the proper premium for overtime hours worked, through a combination of worker and management interviews and a review of time-keeping and payroll records. As a part of this review, monitors are required to examine the factory's time-keeping system, including an investigation of the use of fraudulent records, such as double books or double time cards.

### **Compliance Issues**

Excessive overtime and non-payment of overtime wages were among the most difficult and pervasive problems encountered by monitors. As mentioned in previous sections, noncompliance with Overtime Compensation is closely related to Hours of Work and Wages and Benefits, and these Code categories must be addressed jointly for improvements to be registered. A related and growing problem has been the proliferation and improvement of fake books, and the falsification of wage and hour records to demonstrate compliance with standards that factories have difficulty meeting.

### **FLA Findings**

Noncompliance with this Code provision was reported by FLA independent external monitors as either a finding of incorrect payment of overtime wages, or a lack of accurate and reliable records for working hour verification. At some factories, piece-rate workers were particularly subject to underpayment of wages due to improper overtime calculations. For example, during an independent external monitoring visit of a factory in China, a monitor reported the following:

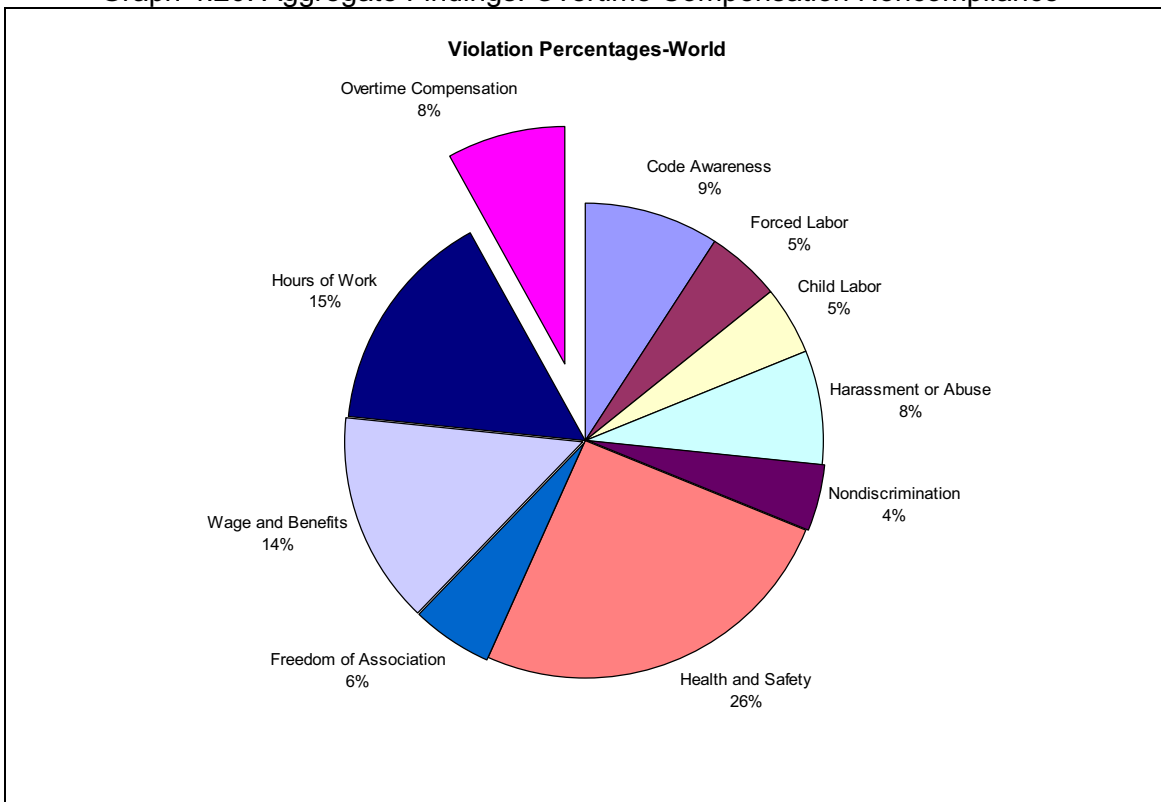
*[Workers interviewed] stated that they did not need to punch time card as the working hours were registered by leader. However, the factory did not provide the related attendance record for checking. According to the factory wage calculation system, the overtime wage was paid at 150%, 200% and 300% of normal wage rate. However, piece-rate workers stated that the overtime payment was RMB 0.5 plus piece rate per hour*

during overtime work at nights. [Some workers interviewed] stated that they affixed their seals in payroll instead of signing. However, the payroll records with all workers' signatures were provided by the factory management.

Monitors also uncovered fraudulent practices used to conceal actual hours worked at the factory. For example, at a different factory in China, a monitor reported that while some workers interviewed stated that they had worked overtime on a certain day, no record of overtime appeared on those workers' time cards for that day. Instead, all the time cards for that day appeared to be brand-new, and time in and out was recorded as the same for the workers.

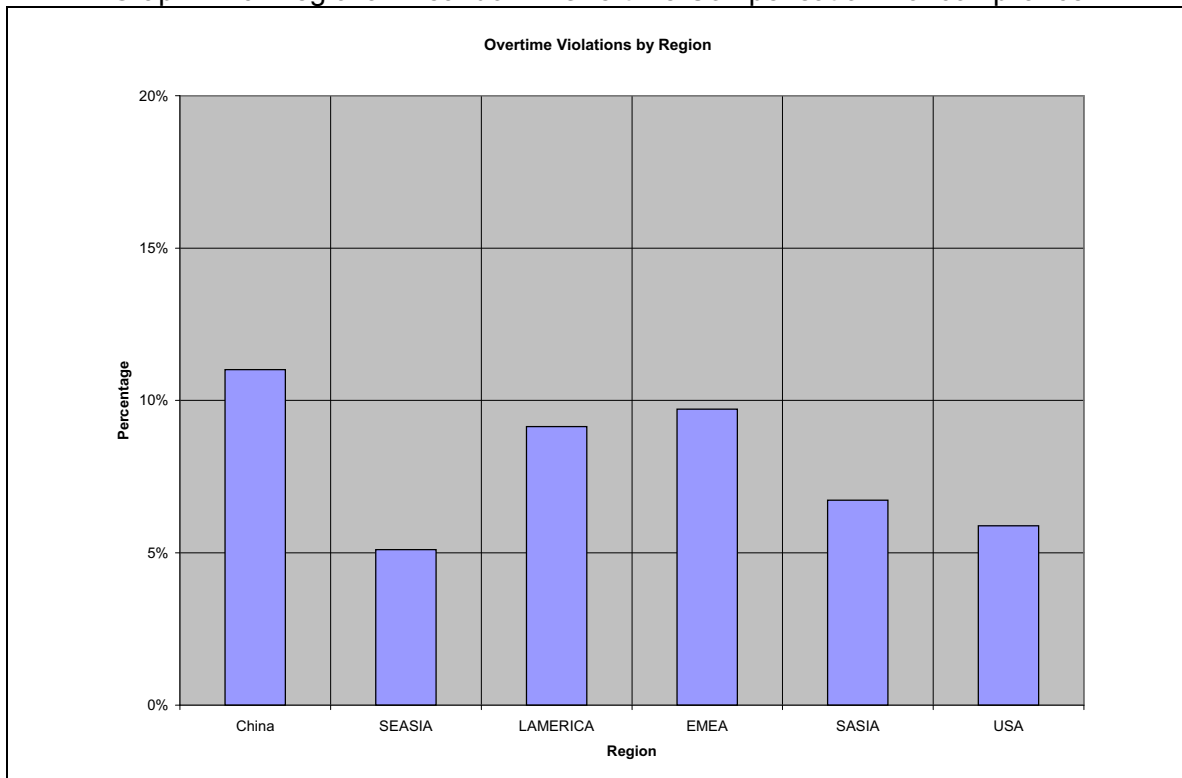
**Graphs:**

Graph 4.20: Aggregate Findings: Overtime Compensation Noncompliance



Source: Manual Compilation of Independent External Monitoring Reports for Year One.

Graph 4.20: Regional Breakdown: Overtime Compensation Noncompliance



Source: Manual Compilation of Independent External Monitoring Reports for Year One.<sup>38</sup>

Noncompliance with Overtime Compensation represented 8% of all noncompliance internationally, and represented 11% of all Code noncompliance in China, 5.1% of all Code noncompliance in Southeast Asia, 9.1% of all Code noncompliance in Latin America, 9.7% of all Code noncompliance in the Europe/Middle East/Africa region (EMEA), 6.7% of all Code noncompliance in S. Asia, and 5.9% of all Code noncompliance in the USA.

### Participating Company Remediation Efforts

In order to address noncompliance with Overtime Compensation, participating companies undertook similar remediation responses as described in previous sections on Wages and Benefits and Hours of Work. Participating company remediation plans in this area included improving time-recording systems and requiring factories to lower the number of units workers were expected to produce on a daily or weekly basis. Below are two examples of participating company remediation efforts to counter noncompliance with Overtime Compensation.

<sup>38</sup> The regional breakdown of Code noncompliance in each Code category section shows the percentage that each Code noncompliance category (i.e. Code Awareness, Forced Labor, Child Labor, etc.) represents out of the total number of noncompliance issues found within each region. Thus, the higher percentage of Code Awareness noncompliance issues in South Asia than in Latin America, for example, does not necessarily mean that the Code Awareness is more prevalent, in absolute terms, in that region. Rather, it means that as a percentage of the total noncompliance issues in each region, Code Awareness represents a higher percentage in South Asia than in Latin America. The number of noncompliance issues within each Code category was divided by the total number of noncompliance issues found within each region to calculate the percentage. The formula = (number of Code category noncompliance issues in region/ total noncompliance issues in region) x 100.

In China, Liz Claiborne has undertaken a multi-phased approach to improving compliance with Hours of Work and Overtime Compensation in factories with poor time record-keeping systems or practices. Liz Claiborne reported that findings from both internal and external audits revealed that many factories were making an effort to conceal overtime by not recording all the hours worked under one set of records. This practice has made it impossible for monitors to confirm actual working hours and the proper payment of minimum wage and overtime. Liz Claiborne noted that this phenomenon seems to have emerged in response to increased pressure from brand-name companies to reduce overtime in order to comply with either the company's Code of Conduct or local law.

This issue seemed to be most prevalent in China, where the local law limits overtime to 36 hours per month. When Liz Claiborne identified this practice in a factory with which they have an established business relationship, they have adopted a multi-phased approach in their remediation plan. Liz Claiborne reported that the focus of this approach is to ensure that overtime is voluntary, not excessive, and properly paid.

The first step of the remediation plan involved the factories' committing to recording all hours on a single time system, which correlates with the factory payroll. During step two, the auditors return to the factory after a period of a few months to confirm that the factory has kept its commitments and is paying the workers properly. At the time of this report, Liz Claiborne informed the FLA that several factories had been re-audited, and were found to be keeping to their commitments. These factories will continue to be monitored and their payroll records will be audited on a quarterly basis. However, Liz Claiborne reported that the issue has not yet been fully resolved, as follow-up visits to all the factories still need to be completed.

In the Dominican Republic, PVH worked to address overtime noncompliance issues that resulted from factories' imposing unreasonable quotas on workers in modular systems. PVH found that many manufacturing operations in the Dominican Republic had installed modular manufacturing systems in order to maintain competitiveness in the regional industry. While this system did in fact improve efficiency, it also eliminated the overtime wage paid to workers.

The modular system worked as follows: The module would be assigned a daily quota. Once the quota was completed, the workers could go home for the day, take off early, or if required, work into the night in order to complete the daily quota.

PVH found that in most cases, the goals were unrealistically high, and required module team members to work late hours to complete the daily quota. Most importantly, the workers were not being compensated for these overtime hours.

At that point, PVH conducted an investigation among other major US buyers to establish if they were sourcing from facilities with a modular system, and if they agreed with PVH's position that the module quotas were unrealistically high. They all agreed. Consequently, PVH conducted focus audits in all their suppliers' facilities in the Dominican Republic, and required factories to recognize any overtime hours and compensate workers in accordance with the legal overtime rate.

After the factories implemented this change, PVH reported that the workers continued to meet their daily goals while earning the additional overtime wage. Moreover, PVH reported that in some critical cases, the factories did revise the daily quota to more realistic levels, which in fact eliminated the need for overtime hours.

When assessing workplace conditions in factories in China, Reebok found a number of areas of noncompliance. Reebok reported that sub-minimum wage payments are common in China due to the pervasiveness of piece rate wage calculations. Reebok human rights monitors frequently found underpayment in factories that calculate wages exclusively based on piece rate as opposed to a flat hourly rate.

Much of the underpayment problem can be attributed to overtime hours not compensated at a premium as required by Chinese law. Even when factories acknowledge overtime by paying a flat rate in addition to piece rate, the flat rate is often lower than the rate required by law. In addition, Saturday work, which according to Chinese law should be paid as overtime, is commonly paid at the same rate as Monday through Friday work. Sundays and holidays are also often worked and not paid at the proper overtime rates. Excessive working hours generally correlate to the underpayment of wages.

To combat this issue, Reebok requires factories to maintain accurate and reliable records of all hours worked, including overtime, both in timecards and payroll records. Factories are also asked to provide each worker an individualized pay slip showing a breakdown of earned income, regular and overtime pay, and all legal deductions. This allows Reebok to determine what wages are owed to workers. For example, if a piece rate worker's earnings fall below the applicable minimum wage, Reebok asks factories to pay the difference to bring the earnings up to the minimum level.

## CONCLUDING REMARKS

The first year of monitoring has been a learning experience for all involved. Although no trends over time could be compiled for the monitoring activities in Year One, we believe that the data presented in this section provides a baseline which can be used for comparisons in Year Two, and helps to illustrate where our priorities must lie in the following years. Specifically, we hope that this information will help guide compliance and remediation efforts in Year Two, particularly in those areas where monitoring as currently practiced is not capturing the true extent of the problem.

It is important to recall that monitoring in itself does not bring about compliance. Monitoring is the process by which we check and measure the integrity of compliance programs. The results of the independent external monitoring visit provide a list of priority areas for the participating company compliance staff to work on, but it is that development and capacity building work that makes the real changes in the factory, not the monitoring *per se*.

The most challenging areas of compliance that emerge from an analysis of the data for Year One are freedom of association and hours of work. Issues related to hours of work were among the most commonly cited noncompliance issues in Year One independent external monitoring reports, and there is an interconnection between the issues of hours of work, wages and overtime compensation that requires an integrated, comprehensive response. Part of that response lies in installing the appropriate policies and management tools, and part of it requires structural change in the way suppliers organize their business. This will take time and expertise that suppliers do not always have.

Conversely, noncompliance with freedom of association was under-reported by monitors during Year One. However, evidence from the ILO Committees that review global compliance, U.S. State Department and ICFTU reports, NGOs, and our third party complaint procedure suggest that this issue is much more widespread than our monitors have been able to detect. In order to address the difficulty in identifying and documenting freedom of association, we are developing new indicators and monitoring techniques to improve our ability to investigate this issue. Freedom of association is essential to the resolution of many other compliance problems, in that the most sustainable approach to compliance lies in developing the capacity of workers and employers to regulate their own workplaces.

Monitoring, like labor inspection, cannot by itself guarantee compliance, since it cannot cover all factories often enough to be sure that labor standards are being observed. This is why we have to focus on the tools that allow workers and employers to address compliance issues in their own factories on an ongoing basis. Such self-help tools are needed for all Code elements, from wages and benefits to discrimination to occupational safety and health. The sustainability of the FLA program depends on the FLA acting as a catalyst for the policies and processes that provide for sound labor relations, and defending them from attack wherever necessary. Monitors, for example, can never visit a facility regularly enough to ensure that fire safety procedures are maintained. But if the FLA concentrates on establishing clear safety policies managed by safety committees with trained safety stewards, and monitors the operations of those, then the safety



committees and stewards can ensure compliance day in and day out. Additionally, as well as regulating their own workplaces, workers need support from government and the public sector, meaning strong labor laws and effective enforcement of them.

Finally, informed and aware workers with access to grievance procedures, consultative structures and unions are a primary safeguard for Code compliance and a cornerstone of compliance sustainability. The FLA monitoring process will increasingly focus on these structures and procedures to give participating companies the ability to target their remediation efforts more effectively in Year Two and beyond.

**V. Third-Party Complaint Procedure and BJ&B Case Study**

## **THIRD-PARTY COMPLAINT PROCEDURE**

The FLA process allows for any individual or organization to report serious incidents of noncompliance with the FLA Workplace Code of Conduct and to lodge a complaint with respect to any applicable facility of an FLA participating company through the Third Party Complaint Procedure, as defined by the FLA Charter. According to the Charter:

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

Upon receipt of a complaint through this procedure, the FLA Executive Director assesses the complaint and makes a determination as to the nature and extent of any prior monitoring and remediation relating to the complaint. If the Executive Director finds that the reported Code noncompliance has not been remediated, he/she then forwards the evidence of the Code violation to the appropriate participating company. The participating company then has 45 days to report to the Executive Director on the progress of its remediation plan to prevent and remediate the noncompliance. In Year One, the FLA responded to four third-party complaints.

Of the third party complaints submitted, the reports of Code noncompliance at the BJ&B factory in the Dominican Republic were particularly problematic and were pursued aggressively by the FLA. Fourteen months after Nike, Reebok and adidas jointly laid an FLA third party complaint with respect to the BJ&B factory, a sports cap manufacturer in the Dominican Republic, negotiations between workers and management there resulted in an agreement increasing workers' wages and officially recognizing the employee union.

## **SUMMARY OF BJ&B CASE**

In October 2001, a group of workers at the BJ&B factory, located in the Dominican Republic, formed a union and filed a petition for recognition with the Ministry of Labor (SET).<sup>39</sup> Over the next two months, the twenty workers concerned were either dismissed by the factory or resigned from their jobs.

The Worker Rights Consortium (WRC) brought the initial labor rights violations at BJ&B to the attention of the FLA in December 2001. In view of the apparent violations of union leaders' rights and anti-union actions by the factory, Nike, Reebok and adidas initiated a complaint with the FLA in January 2002. The FLA was to investigate the situation, and make recommendations to ensure that freedom of association rights were respected at the BJ&B facility. On November 13, 2002, the management finally recognized that the union had the necessary majority to represent the interests of the workers in the plant and negotiate a collective agreement. On November 25th, management and the union sat down for the first time to start formal negotiations.

More than a year had passed between the union's first attempt to create the organization and its recognition, which permitted the beginning of negotiations between workers and employers' representatives on working conditions in the factory. This represented a real achievement for the workers and management involved, (whose compromise and collaboration were essential), but it would not have been possible without the mediation of FLA Ombudsperson Rafael Albuquerque, the brands sourcing from the facility, NGO's, and the labor authorities of the Dominican Republic, in guaranteeing the respect for workers' rights and the exercise of their rights to freedom of association.

### **WORKERS' FEAR OF UNIONIZATION**

The BJ&B case was complicated by the fact that there was a certain reticence towards unions on the part of workers and the community in general in Villa Altagracia, Dominican Republic (DR). This was motivated by a number of issues.

#### **1. Past events**

In 1987 the Korean company Yupoong Group set up the BJ&B plant in the Export Processing Zone of Villa Altagracia in the province of San Cristobal (Dominican Republic). BJ&B is a cap manufacturing plant that produces for several brands, such as Nike (with 20 to 50% of total production), Reebok, Quicksilver, Gear and The Gap. Although there had been efforts to organize workers since 1996, a union had never been set up in the factory.

A number of production facilities in Villa Altagracia had closed in recent years, robbing the community of its primary sources of revenue. Unions were blamed for the closings by many of Villa Altagracia's inhabitants and the media. Consequently, many members of the community considered union activity a threat. The situation was no different at BJ&B. The downsizing since the beginning of 2001— resulting in a reduction of the

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<sup>39</sup> The full name is Secretaria de Estado de Trabajo de la Republica Dominicana, or SET (<http://www.set.gov.do>).

workforce from 2,350 to 1,500 in January 2001– increased the fears of the workers and the community that the plant may close, particularly if the union drive intensified. Management claimed that the retrenchment policies were a result of the drastic reduction in orders, but the workers and the community were afraid that the company would relocate production to other plants and possibly even to other countries – robbing Villa Altagracia of its biggest employer and its biggest source of income.

## **2. Fear of possible retaliation**

- **Fear of being cancelled (*cancelado*)**

Article 75 of the Labor Code defines “*deshaucio*” as “the act by which any of the parties, with due notice, and with no cause, exercises the right to end the labor contract.” Both worker and employer may exercise this right. Generally, when the employer exercises this mode of dismissal, it is referred to as cancellation (*cancelación*) or settlement (*liquidación*).

This type of termination, which is different from dismissal (*despido*), allows the employer to fire workers without justification, and with the absence of internal disciplinary rules that set standards of conduct in the workplace, it is relatively easy for an employer to end the employment relationship arbitrarily.

Workers at BJ&B were afraid that sympathizing with the union would make them more vulnerable and that retaliation from supervisors could lead to termination.

- **Fear of not being hired**

There is a common practice in the DR called annual settlement (*liquidación anual*) under which a worker’s contract is terminated in mid-December (even if the contract is for an indefinite period). The worker is given a new contract on the 10<sup>th</sup> or 15<sup>th</sup> of January and comes back to work for the company. That time is considered as an interval between contracts. In other words, workers’ contracts end annually.

Despite questions about the legality of this practice, both workers and employers practice it despite efforts by the labor authorities to end it. For the worker it offers an extra sum of money including severance pay, holidays and a Christmas bonus. Therefore, workers not only accept this practice but demand it. Employers appreciate the additional flexibility that it gives them.

It does however mean less job security for workers who can never be sure if they are actually going to have a job to return to the following year. The system of *liquidacion anual* increases the workers’ fear of being associated with the union, since they believe it may have an impact on their employer’s decision to hire them again or not.

## **THE PROCESS**

On October 19, 2001 a group of 20 workers filed a petition to the SET to register a union at BJ&B. By the end of November the SET had rejected the petition for recognition of the union due to the fact that 10 of the workers that had signed the petition were no

longer workers of the facility<sup>40</sup>, and by December 2001 the founding members of the union had all been terminated or had resigned from the company. FLA participating companies became involved in the process early on and Reebok conducted announced and unannounced visits to the factory as early as November 2001.

The FLA received further information from the Worker Rights Consortium (WRC) in January 2002 and brought this to the attention of the FLA participating companies sourcing from BJ&B. Nike visited the factory and on January 16, 2002, filed a third party complaint with the FLA, which was joined by Reebok and adidas, alleging violations of the right to freedom of association and other Code noncompliance. After filing the complaint, different representatives of the FLA participating companies and of the WRC visited the factory. The participating companies also sent several letters to management at the head office in Korea and in the DR, in which they stated their concern over the situation at BJ&B and affirmed workers' right to freedom of association and collective bargaining. Following the initial receipt of the complaint, the FLA considered it and decided to investigate the issue. An adidas compliance officer agreed to conduct an initial assessment and left for the DR within 24 hours. After he confirmed the existence of severe issues, the FLA sent a delegation to the BJ&B facility in March and invited the Executive Director of the WRC to accompany them as an observer, which he agreed to do.

On January 28, 2002, after several meetings organized by the SET, the company signed an agreement by which it committed itself to reinstate 13 of the 20 workers who had been dismissed following the petition for recognition of the union. They also agreed to create a bipartite committee composed of representatives of the company and the union to settle any differences between them.

The union resubmitted the petition for recognition at the beginning of February. On February 12<sup>th</sup> it was approved by the SET.

During the months of February and March the FLA participating companies carried out a series of visits to the factory, interviewed the management and the workers, organized several training courses and reassured the workers of their commitment to compliance with the Code of Conduct, the labor legislation of the DR and ILO Conventions.

Only a few days before the FLA's visit to the facility in March, another four workers were terminated due to their support for the union, according to union leaders. The FLA delegation's discussions with management were therefore focused on this issue. The union members informed the FLA that the main problem in the factory was the restriction of freedom of association. There were also disputes over overtime. Additionally, some known union members could not move about the facility even though they were required to in the course of their work; workers were not allowed to talk to other workers about the union; and new hires were being advised not to speak to union members. The FLA recommended to management that they reinstate the four workers, which the company agreed to do.

During the course of the FLA's visit, other issues of possible noncompliance with the FLA Code arose, and the FLA made several recommendations and offered assistance in

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<sup>40</sup> The legislation of the DR obliges unions to be formed of at least 20 workers to constitute the union (article 324 of the Labour Code of 1992).

drafting procedures covering discipline, retrenchment, grievance handling and union activity in the workplace.

The FLA carried out a second visit to the factory in mid-May, where they observed positive progress by BJ&B management towards compliance with freedom of association principles. Specifically, the factory had rehired all fired workers, and was in the process of instituting written rules on dismissals and progressive disciplinary action. Despite this progress, and the fact that management and the union had held a series of informal communications, tensions were still high and conflicts broke out regularly. The FLA decided to appoint an Ombudsperson who would review any complaint presented by the workers and mediate disputes. Dr. Rafael Albuquerque, a labor lawyer and former Secretary of State for Labor, was given the position and played a crucial role in getting labor and management to resolve conflicts around code elements. The on-the-spot presence of a respected national labor relations figure helped to consolidate the workers' confidence in their exercise of their right to freedom of expression and association.

Several events occurred during the first two weeks of June that accelerated the need for the presence of the mediator in the case. The intoxication of more than 80 workers in the factory due to the inhalation of chemical agents that were being used to repair leaks in the roof during working hours caused the closure of the factory during three days. After the intervention of the SET, and with the mediation of Dr. Albuquerque, an agreement was signed on June 11<sup>th</sup> between the workers' representatives and management to create a Safety and Health Committee at the factory. The parties also agreed to reactivate the bipartite committee that they had created on January 29, 2002, whose task was to examine problems that arose in the relations between the union and management on a weekly basis.

Shortly after the incident, anonymous anti-union flyers were distributed throughout the factory that caused greater confusion. On July 12<sup>th</sup> management issued a communication to all the factory personnel announcing that a meeting had been held with all the supervisors to clarify that: management recognized the right to freely associate, that the administrative personnel of the factory could not carry out any anti-union practices or policies, and that they had to allow the union to carry out their activities without interference.

The FLA visited the factory for the third time in July 2002 to provide four days of training for workers, supervisors and management on freedom of association. The objective of the training was to make workers aware of their rights, to help them understand that neither supervisors nor management could retaliate against worker organization without violating the Code of Conduct, and to reassure them that management would assume its responsibilities and would respect their rights.

On September 19<sup>th</sup> the union submitted a draft collective agreement to the SET. Management however, did not recognize the union for the purpose of collective bargaining, claiming that they needed an absolute majority of the workers in the factory to negotiate collectively.<sup>41</sup> Additionally, management demanded that the union prove its

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<sup>41</sup> Article 109 of the Labor Code provides that the union is authorized to represent the professional interests of all the workers of a company as long as the absolute majority of the workers are members of the union. The workers that occupy directive posts or tasks of inspection will not be relevant in determining the required majority

representativeness. At the same time, management continued downsizing and more workers were dismissed. Dr. Albuquerque had to intervene and mediate. With the help of three associates, Dr. Albuquerque verified that 51% (fifty percent plus one) of the factory workers were members of the union

On November 13<sup>th</sup>, BJ&B recognized the union for the purpose of collective bargaining, and on November 25<sup>th</sup> representatives of the factory and the union initiated their first formal negotiations on the conditions of work in the factory.

The final Collective Bargaining Agreement was signed on Tuesday, March 26, 2003. Those present for the signing included Rafael Albuquerque; Alberto Yang, the manager of BJ&B; union representatives; Cristina Anastacia Ordoñez, a representative of UNITE; Vinicio Reyes, an AFL-CIO representative; Rafael Abreu, the Executive Director of the Consejo Nacional de la Unidad Sindical; and the U.S. Embassy Labor Relations Officer, Tyler Mason.

The BJ&B workers secured wage increases and had their union, the *Sindicato de Trabajadores de BJ&B*, officially recognized by the factory management. The management and union agreed upon a 10% pay increase for January 2004. This across-the-board pay increase is a major step towards improving the living conditions of BJ&B workers. The BJ&B management and union also devised a number of monetary incentives to reward productivity.

In addition to the productivity-based pay incentives, the BJ&B management has agreed to a number of pay and benefit improvements, including a special bonus for every employee on May 1<sup>st</sup> (International Labor Day), a Christmas gift basket with a value of RD \$500 with products appropriate for the season, and RD\$70,000 worth of scholarships to 75 university students: 67% to be distributed among factory workers or their children and 33% for the children of Villa Altigracia residents. Additionally, a workers committee was established to deal with health and safety improvements in the factory.

## **THE SIGNIFICANCE OF BJ&B**

The Collective Bargaining Agreement signed at BJ&B is the first collective agreement dealing with wage increases in the Export Processing Zones (EPZs) in the Dominican Republic, and represents a major step forward in improving the Dominican labor relations system and the living conditions of Dominican apparel workers. Although greater progress stands to be made in other factories in the Dominican Republic, the case of BJ&B demonstrates the potential of the FLA Code of Conduct and independent monitoring to improve workers' lives.



## **VI. Conclusion**

## **Conclusion: Looking Toward the Future**

As this report demonstrates, the FLA's first reporting year was a period of important lessons and growth. We gained greater insight into the different approaches to compliance adopted by FLA participating companies and sought to align those with the best practices identified. We made strides in standardizing the ways we identify, document and report on compliance issues. By working through the FLA, participating companies were able to cooperate on independent monitoring and remediation, thus combining their leverage and resources. Cooperation on internal audits and on projects is becoming more common as well. All this has allowed the FLA to lay a strong foundation for implementing its standards in the future.

Over the course of Year One, the FLA strove to make its system more effective. For example, we responded to concerns voiced by labor activists relating to the independence of external monitoring and the transparency of the results. We adopted a policy that all FLA independent external monitoring visits should be unannounced unless there were good reasons to announce them.

We put a lot of effort into improving the quality of independent external monitoring. In the short term this involved the checking of facts, verification of findings and standardization of reporting. In Year Two the FLA is endeavoring to provide more specific terms of reference to monitors in order to encourage deeper analysis and better results, but there is clearly a need for more training of monitors and the FLA will continue to scrutinize their findings very carefully.

In Year One we started to experiment with innovative approaches to ensuring compliance. In the BJ&B case in the Dominican Republic, for example, we decided to appoint an Ombudsperson, Dr. Rafael Alburquerque, to provide on-the-spot advice and mediation to the parties concerned. This proved to be critical in getting the parties to respect the Code provisions and finally produced the first ever collective agreement in a free zone in the DR dealing with wages. We are in the process of building on that experience and formulating creative approaches to conflict resolution, including the appointment of more ombudspeople. In Year One we also started to cooperate with relevant local government agencies, labor and student groups in order to find solutions to complex factory situations.

One of the most important developments during Year One was the activation of the third party complaint procedure. The third party complaint procedure was designed to strengthen the FLA system's ability to address serious non-compliance in the supply chain, supplementing other factory and brand-specific grievance systems. The procedure provides a vehicle by which any person or organization can confidentially report to the FLA any situation of serious noncompliance with the FLA Workplace Code of Conduct or Principles of Monitoring with respect to the production of FLA participating company products. An increasing number of issues have been referred to us in this way and then dealt with by the participating companies concerned.

## **Year Two**

Building on the lessons and accomplishments of Year One, the FLA started Year Two with some new policies that represented a considerable shift in its approach to promoting compliance.

### **Independence**

Year Two involves greater **independence** as the FLA now oversees the entire independent monitoring process. This means that the FLA staff reviews each participating company's factory list, and using a process of risk-weighted sampling, chooses the factories it will monitor. Then, without informing the factory, the participating company or other stakeholders, the FLA staff selects an accredited monitor to conduct a factory monitoring visit. In each case, the independent external monitor is paid by the FLA, rather than the participating company. The FLA and the participating company simultaneously receive reports from the monitor following the visit, initiating the remediation process.

### **Transparency**

In an effort to be more **transparent** about the results of factory monitoring, the FLA produces independent monitoring "tracking charts" which are published on the FLA's website. These charts present the monitor's findings from the factory visit; the FLA Code elements and monitoring benchmarks used by the monitor in reaching that finding; and track the remediation undertaken by the participating company and factory management. These charts are updated periodically.

### **Collaboration**

To support creative and **collaborative** approaches to compliance, the FLA is also working during Year Two to pool resources and know-how among participating companies, universities and NGOs in order to address challenging, and often endemic, noncompliance issues in specific regions. Collaborative projects include an FLA network of labor experts in China, a campaign against union blacklisting in Central America, and a footwear industry initiative directed toward building new processes of labor-management relations in footwear production facilities. Moreover, the FLA's first NGO Consultation, which was held in Bangkok in January 2003 and brought together approximately 50 NGOs and 25 representatives of accredited monitors and participating companies from around the world, served as a source of valuable feedback about ways the FLA can more effectively improve workplace conditions.

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The FLA is a work in progress in which we learn, innovate and improve daily.

This report will hopefully set a precedent in terms of detail and transparency among independent multi-stakeholder initiatives. At the same time we look forward to making continued improvements in our reporting on participating companies and noncompliance trends.

It is clear that the FLA system is a demanding one – it involves a huge commitment by the participating companies throughout their supply chains. It also demands continued cooperation from the factory owners and management of the facilities producing for FLA participating companies. Suppliers to FLA participating companies are often called upon to comply with national and international labor standards that are widely ignored in the local labor market. With the right technical assistance those suppliers will undoubtedly become better enterprises as a result of the FLA compliance program, but there can be no doubt about the challenge this presents in the short term. Transparency adds an additional discipline that will require even higher standards of follow-through by participating companies and factories to ensure that remediation has been completed and effective.

We hope that you will communicate your thoughts about this report, as well as the work that we are doing generally, by contacting us at [info@fairlabor.org](mailto:info@fairlabor.org). We believe that we have made considerable strides in Year One, and hope to build on our progress with the help of various stakeholders whose participation is integral to this mission.

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## **Appendix A: OBLIGATIONS OF COMPANIES**

### **A. Establish Clear Standards**

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

### **B. Create An Informed Workplace**

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

### **C. Develop An Information Database**

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

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

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

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

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

## **F. Provide Employees with Opportunity to Report Noncompliance**

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

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

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

## **H. Establish Means of Remediation**

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

## Appendix B: WORKPLACE CODE OF CONDUCT

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

**Child Labor** No person shall be employed at an age younger than 15 (or 14 where the law of the country of manufacture<sup>42</sup> allows) or younger than the age for completing compulsory education in the country of manufacture where such age is higher than 15.

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

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

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

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

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

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

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

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<sup>42</sup> All references to local law throughout this Code shall include regulations implemented in accordance with applicable local law.