



Clearing the Hurdles :

Steps to Improving Wages and Working Conditions in the Global Sportswear Industry.

Play Fair 2008



Written by the Maquila Solidarity Network
On behalf of the Play Fair 2008 Campaign

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executive summary

"I am exhausted to death now.... None of us have time to go to toilet or drink water. Even so, we are working without rest and are always afraid of not working fast enough to supply soles to the next production line. The supervisors are pressuring and nagging us all the time. We are tired and dirty. We work without stop and we are still reproached by the supervisors."

Worker making New Balance shoes, Dongguan, China.

The 2008 Beijing Olympics represents a golden opportunity for the brand-conscious sportswear industry to associate its products with the cherished Olympic brand. For a costly, but manageable sponsorship or licensing fee, a sportswear company can infuse its athletic shoes and clothes with the lofty Olympic ideals of fair play, perseverance and, most importantly, winning.

By linking their brands with the Olympic Games, as well as other sporting events like the Union of European Football Associations (UEFA) 2008 Euro Cup, sportswear companies hope to reach for the gold in sales, market share and brand recognition. And if the past is any guide, these major sporting events should prove extremely profitable for some of the major players in this global industry.

But there is another side to the story. Before the 2004 Summer Olympics in Athens, the Play Fair at the Olympics Campaign – the biggest international worker rights mobilization of its kind ever undertaken – brought the world's atten-

tion to the underside of the sportswear industry: the abysmal working conditions endured by the young women and men, and children, who make the shoes, jerseys, footballs and other items in contract factories and subcontract facilities around the world.

Flash forward four years, with the Beijing Olympics upon the horizon, and it's time to ask, "What, if anything, has improved?"

What Play Fair researchers found

Based on interviews with over 320 sportswear workers in China, India, Thailand and Indonesia, as well as reviews of company and industry profiles, published and unpublished reports, newspaper articles, web sites, and factory advertisements Play Fair researchers found that substantial violations of worker rights are still the norm for workers in the sportswear industry.

Despite more than 15 years of codes of conduct adopted by major sportswear brands, such as adidas, Nike, New Balance, Puma and Reebok, workers making their products still face extreme pressure to meet production quotas, excessive, undocumented and unpaid overtime, verbal abuse, threats to health and safety related to the high quotas and exposure to toxic chemicals, and a failure to provide legally required health and other insurance programs.

Play Fair researchers also found that wages for sportswear workers are still well below a local living wage. Even where governments raised the legal minimum wage or sportswear brand buyers attempt to impose limits on overtime, Play Fair researchers found evidence of employers finding new ways to evade their responsibilities.

For example, when the Chinese government raised the minimum wage in Dongguan province in order to account for a skyrocketing inflation rate on basic goods like food, employers at many of the athletic footwear factories studied by Play Fair found ways to nullify the increase. Some employers raised production targets, thereby reducing or eliminating production bonuses, a significant portion of worker incomes. Others introduced new charges for food, lodging or other services. Some of the workers interviewed now receive less income than before the minimum wage increase.

In some cases, Play Fair researchers discovered, workers are not even receiving the legal minimum wage, despite working 12-13 hours a day. As well, in a number of the factories studied, there was evidence of employers falsifying factory records to mask the fact that employees were being forced to work excessively long and illegal hours and were not receiving the legal overtime premium pay.

Home-based workers stitching soccer balls in Jalandhar, India told Play Fair researchers that piece rates have remained stagnant for the last five years, despite local inflation rates last year estimated at between 6.7% and 10%. Depending on the type of ball, a home-based hand stitcher makes between US\$0.35 and US\$0.88 per ball, completing two to four balls a day. Home-based workers also face a total lack of income security. During months when orders are low, households are often plunged into debt to money lenders.

“We have no savings so we have nothing left during emergencies,” said a 50-year-old soccer ball stitcher. There are few if any safety nets available for homeworkers: sickness or an accident can amount to a catastrophe. “I have lost my wife’s gold, which I gave as security to a moneylender and could not repay,” he said. “Once I even rented my cooking gas cylinder to arrange some money for a health emergency suffered by my wife. The situation is similar for all of us. One of my friends even sold his blood to get some extra money to meet an emergency.”

Three hurdles to overcome

Across the global sportswear industry, workers manufacturing sports apparel, footwear and soccer balls all report the same kinds of problems. These findings are not new. A particular business model, lack of incentives, competing interests, institutional inertia and other factors have often negated even the best efforts to fix the endemic problems that continue to plague this industry.

Rather than merely rehashing a litany of abuses, this report seeks to identify solutions to these persistent workplace problems, focusing on three central hurdles that, if not overcome, will inhibit the industry’s ability to make real progress on other issues in the future.

These include:

- Lack of respect for freedom of association and the right to bargain collectively;
- Insecurity of employment caused by industry restructuring; and
- Abuse of short-term labour contracting and other forms of precarious employment.

If the sportswear industry is serious about changing the way business is currently done, there is an urgent need to take immediate steps to address these three central issues.

Freedom of association and collective bargaining

The lack of respect for workers’ right to freedom of association and to bargain collectively impedes worker efforts to resolve workplace problems as they arise and to negotiate long-term improvements in wages and working conditions.

The dominant attitude and practice in this industry is so biased against the development of trade unions that we believe a more proactive approach is needed to create a positive (rather than just neutral) climate for unions. We believe that companies should adopt a positive approach towards the activities of trade unions and an open attitude towards the organizational activities of workers.

This report documents considerable obstacles workers face when they try to exercise their right to freedom of association and collective bargaining, including:

- Dismissal of union leaders and supporters;
- Refusal by factory management to recognize and negotiate with unions;
- Closures of or reduction in orders to unionized facilities;
- Movement of production to jurisdictions where freedom of association is legally restricted; and
- Management promotion and selection of unrepresentative “worker committees.”

Factory closures

The rash of factory closures that has accompanied industry restructuring over the past few years contributes to a climate of fear amongst workers and suppliers, feeding the myth that any efforts to improve conditions will only lead to more job losses. When workers face employment insecurity, they are less likely to take steps to challenge abusive practices.

While a few brand-sensitive sportswear companies are willing to discuss how to minimize the negative impacts of restructuring and consolidation, the vast majority refuse to even consider whether they have an obligation to justify their decisions to workers or communities that will be negatively affected.

Closures should only occur when a factory is no longer able to sustain itself economically, and all other options to rescue the business have been exhausted. But it's not always easy to disentangle the responsibility for economic decisions that affect the viability of a particular factory.

Suppliers and/or buying agents using multiple factories in one or more countries make choices about which factories receive which orders, affecting the viability of one or another facility. Buyers also, either by decision or simply by neglect, fail to support facilities that have been more compliant with labour standards – especially those with collective bargaining agreements – leading to closures. Because we are dealing with global supply chains, a narrow assessment of one isolated facility's economic viability is not sufficient to rationalize a closure. A true assessment of a facility's economic viability must also take into account the order patterns from buyers, whether prices paid by buyers are sufficient to support labour rights compliance at a facility, and the finances of the parent company.

Growth in precarious employment

Although comprehensive global data across the industry is not available, in recent years, unions and labour rights organizations have reported an increasing use by supplier factories of successive short-term employment contracts and third-party employment contract agencies. Play Fair documents some of these trends in this report.

The growing use of short-term contracting and other forms of precarious employment is denying workers their social security and other legal entitlements, discouraging worker organizing, and undermining the enforcement of labour regulations, which too often do not apply to non-permanent workers.

The problem is that the sportswear industry is addicted to flexibility. In the prevalent sportswear business model, retailers, brands, and transnational suppliers seek to maximize their ability to change not only the styles and products being produced, but the factories or countries in which the goods

are being made, all in pursuit of the quickest, most reliable, best quality and, of course, cheapest production.

It's no surprise, therefore, that sportswear factories would seek to flexibilize their workforces. As long as the global system of sportswear production remains unstable, there will be a drive to download the bulk of the risk involved in competing for business and orders. Those that can no longer download the risk – the workers at the bottom of the supply chain – end up bearing the brunt of the instability in the system.

The fourth hurdle: a living wage

Our research also indicates that despite increasing work pressure and excessive working hours, worker incomes remain, on the whole, well below a living wage. While industry leaders have been willing to take action in some cases to ensure that workers receive the legal minimum wage or prevailing industry wage, there has been very little action to date to ensure that workers' wages are sufficient to meet basic needs.

Just as workers at the bottom of the supply chain have been forced to bear the lion's share of risks associated with the industry's demand for flexibility, workers have also been forced to shoulder the costs associated with consumer demand for low prices.

Soccer ball stitchers in Pakistan, for example, report that they receive between US\$0.57 and US\$0.65 for each ball they produce, a rate that hasn't changed in six years even though the consumer price index rose by 40% over that period. Garment workers in Cambodia earn an average of US\$70 to US\$80 a month, including overtime and bonuses – not enough to provide a worker and family with a decent standard of living. In Bangladesh, where massive worker protests in 2006 led to a long-overdue increase in the minimum wage to 1,662.50Tk (US\$24.30) a month, the real value (after inflation) of their monthly wage is now worth even less than the 1995 minimum wage. In Turkey, the prevailing industry wage in the garment sector is estimated to be less than half the living wage.

Responsibility for achieving wage gains in global sportswear supply chains is more widely distributed than it might be in a national industry producing for domestic consumption, because global sportswear production takes place in a context of:

- Unstable buying relationships;
- Difficulties with national wage setting mechanisms due to footloose sourcing and investment;
- Lack of respect for freedom of association and collective bargaining; and
- Low price expectations by consumers, brands and retailers.

For these reasons, a coordinated effort to increasing wages in the sportswear industry must be developed. It should focus initially on major suppliers and relatively stable factories

where a critical mass of buyers have a long-term relationship with the supplier factory and all are willing to take steps to ensure that workers receive wages that fall within the range of living wage estimates for the region.

Concrete actions and measurable targets

In this report, Play Fair outlines four focus areas where we believe real changes can be made that will open up the industry to sustainable improvements on labour rights. To seriously address the lack of freedom of association and the right to bargain collectively, precarious employment, and the impacts of factory closures, and to raise incomes to a level that meets workers' basic needs, sportswear companies will need to take a series of concrete, measurable actions in close collaboration with multi-stakeholder initiatives, trade unions, non-governmental organizations, and governments.

A small sample of the actions and targets set out in this report include:

- Sportswear brands should require suppliers to adopt a policy on freedom of association and communicate this to the workers in the form of a written "Right to Organize Guarantee." This should be done at a minimum of 30% of a brand's suppliers by Vancouver 2010, and 100% by London 2012.
- By Vancouver 2010, sportswear brands and retailers should provide measurable incentives to factories that have a collective bargaining agreement with an independent trade union. Such incentives could include:
 - Preferential order placement;
 - Long-term, stable supply contracts; and
 - A measurable CBA premium in unit prices.

Sportswear suppliers must ensure that, by Vancouver 2010, at least 95% of workers engaged in the company's core business are employed under open-ended or undetermined duration contracts, and that:

- Any use of fixed duration contracts is in response to a clearly defined plan justifying their use;
- Any workers on fixed duration contracts are provided the same salary and benefits accorded to permanent workers performing the same work;
- Once a short-term employee has been hired on a fixed duration contract twice by the same employer, or for two years, the employee is automatically hired on an undetermined duration contract with the third contract.

By Vancouver 2010, buyers should report publicly on the company's policies for supplier/vendor selection, management, and/or termination, including new source approval process, linking of supplier CSR performance with sourcing decisions, and strategy for managing impact of exiting factories. Multi-stakeholder initiatives should require this of their members.

By Vancouver 2010, buyers should undertake an independent review of prices paid to suppliers. Such a review should determine whether the prices paid are sufficient to allow compliance with international labour standards and provide for an expected wage for workers that meets workers' basic needs.

By Vancouver 2010, buyers should provide information regarding the unit price paid by the buyer to the supplier on a confidential basis to trade union representatives engaged in collective bargaining with suppliers.

Buyers should commit to the attainment of a living wage in at least 25% of supply factories by London 2012, by:

- Collaborating with other buyers (possibly through a multi-stakeholder initiative) to identify suppliers where participating buyers collectively control more than 75% of production on a regular basis;
- Facilitating the establishment of negotiating structures to enable factory management and trade union(s) to consolidate the living wage element into the existing pay structure at those factories;
- Individually negotiating with factory management on measures needed to meet a living wage target proportional to each buyer's share in production.

The Challenge

Four years ago Play Fair asked the industry to take up the challenge of making real, substantial improvements in labour standards compliance by the Beijing Olympics. With the Beijing Games just months away, progress has been limited at best. If the sportswear industry – buyers, suppliers and the multi-stakeholder initiatives that include them as members – is truly serious about addressing the issues outlined in this report, it must demonstrate its willingness to undertake concrete action to meet measurable targets to ensure that when the next Olympic Games come around in two and four years' time, workers can expect real improvements in their conditions rather than two or four years' more talk about vague commitments.

introduction



The 2008 Beijing Olympics represents a golden opportunity for the brand-conscious sportswear industry to associate its products with the cherished Olympic brand. For a costly, but manageable sponsorship or licensing fee, a sportswear company can infuse its sports shoes and clothes with the lofty Olympic ideals of fair play, perseverance and, most importantly, winning.

By linking their brands with the Olympic Games, as well other sporting events like the Union of European Football Associations (UEFA) 2008 Euro Cup, sportswear companies hope to reach for the gold in sales, market share and brand recognition. And if the past is any guide, these major sporting events should prove extremely profitable for some of the major players in this highly competitive global industry.

The 2004 Olympic Games in Athens were credited with

boosting share prices for Nike, adidas and their Taiwanese sportswear supplier Yue Yuen by 14.7%, 11.9% and 8.8% respectively from their levels three months before the games to their levels three months after.¹

The 2006 World Cup boosted soccer ball sales for adidas, the Cup's Official Sponsor, by 30% over 2005 levels. The company's overall sales rose 20% to US\$2.33 billion in the second quarter of 2006.²

That's no surprise. The 2006 World Cup boasted a cumulative TV audience of 26.29 billion viewers worldwide over the course of the tournament, almost four billion of those in China alone.³ Over 150 million people around the world are expected to tune in to each of the 2008 Euro Cup games, matching or exceeding the Euro 2004 cumulative audience of 7.9 billion viewers, a massive audience for

1. In this report we use the term "soccer ball" to refer to the ball used in the game; many countries use the term "football" to refer to the same item. When referring to the game itself, we use the more internationally recognized term "football".

sportswear advertising.⁴ And the Beijing Olympic Organizing Committee (BOCOG) estimates the cumulative worldwide TV audience for the Beijing Olympics will hit 40 billion.⁵

Access to a worldwide TV audience and a short-term spike in sales are not the only reasons sportswear companies are so eager to attach their brands to the Beijing Games. The audience within China is of even more strategic importance, and sportswear brands are willing to pay top dollar to reach it.

Asian markets growing

China's sporting goods market is currently valued at between US\$4.2 and \$5.6 billion annually⁶, and analysts predict that annual growth in consumer spending on sportswear will stay in the double digits in the coming years.⁷ Unlike the North American and European sportswear markets, China's market has almost unlimited room for growth.

Nike's sales in the Asia-Pacific region during the first quarter of 2007, for example, were up 22% compared to the previous year.⁸ While the company's sales are still growing 2% a year in the US, its sales in Europe, Asia and Latin America are growing by double-digits.⁹

By the end of 2006, Nike controlled an estimated 15% share of the sportswear market in mainland China. Adidas was close behind with 12%, and Chinese manufacturer and brand Li Ning had 10%.¹⁰ Asian competitors, such as Mizuno (which planned to more than double its outlets in mainland China between 2006 and the end of 2010), China Honxing Sports, Anta Sports, and China Sports International, have also captured significant shares of the Chinese sportswear market.¹¹

Recognizing that China is now its second largest market, generating an estimated US\$1 billion in revenue in 2007,¹² Nike is already present in over 3,000 retail outlets in the world's most populous country,¹³ and is reportedly opening a new store in China every day.¹⁴

Adidas has over 2,500 outlets in 300 Chinese cities, which the company hopes to expand to over 5,000 by 2010.¹⁵ Adidas CEO Herbert Hainer told investors recently that he expects to achieve US\$1.56 billion in annual sales from China by that year.¹⁶

Li Ning has 4,300 retail outlets in China, many in smaller cities where Western brands have a lesser presence.¹⁷ Li Ning's products sell at prices 30% to 40% less than those of major brands like Nike and adidas.¹⁸ Anta Sports

Products Ltd. has 4,000 retail outlets in China.¹⁹ And Yue Yuen, the world's largest maker of sports shoes, boasts of a sevenfold increase in sales in China between 2005 and 2007, growing from 520 own-operated retail outlets in China to 3,000.²⁰

Demographics are behind this surge of interest in Asia. With a population of 1.3 billion people, more than half of whom are under 30 (and therefore the ideal target market for sportswear),²¹ China holds enormous potential for increased sportswear sales.

It's no wonder sportswear companies are sparing no expense to secure Olympic sponsorships.

Sponsorship deals are big money

It is estimated that winning the prize to become the Beijing Olympics Official Sponsor cost adidas between US\$80 million and \$100 million in cash, services, products and uniforms – and that's not including the company's individual team and athlete sponsorships.²² Adidas has also signed on to sponsor the 2012 London Olympics, paying over US\$201 million, with the right to outfit the British team for Olympic Games in Beijing, Vancouver (2010), and London (2012).²³

A worker making adidas shoes in China would have to work over four months to buy a ticket to the Opening Ceremonies of the Beijing Olympics.

Adidas spent \$200 million to sponsor the 2006 World Cup.²⁴ As well, the company is now the official sponsor for the UEFA [Union of European Football Associations] 2008 Euro Cup, North American Major League Soccer (with a 10 year contract worth US\$150 million),²⁵ and the 2010 World Cup in South Africa.²⁶

Not to be outdone by its main competitor, Nike has reportedly cornered over 80% of the contracts to supply shoes and clothes for professional Chinese basketball teams.²⁷ The company's annual budget for advertising and sponsorships was US\$1.9 billion in 2007.²⁸

That's a lot of money being spent on image making.

Some Olympic Team Sponsorships

Adidas	Australia Belgium China (2008 Beijing Games) France Germany UK (2008, 2010, 2012)
ASICS	Netherlands
Bosco Sport	Russia
China Hongxing Sports Ltd.	North Korea
Freddy	Italy
Hudson's Bay Company (HBC)	Canada
Intersport	Austria
Li Ning	Argentinean Men's Basketball team China (shooting, gymnastics, diving and table tennis teams) Spain Sweden Sudan Tanzanian track and field team
Nike	USA
Peak	Iraq
Polo Ralph Lauren	USA
Speedo	Australia
Switcher	Switzerland

Who's not benefiting?

Before the 2004 Summer Olympics in Athens, the Play Fair Alliance brought the world's attention to the underside of the sportswear industry: the abysmal working conditions endured by the young women and men, and children, who make the shoes, jerseys and other items in contract factories and subcontract facilities around the world.

WHO WAS THE PLAY FAIR ALLIANCE?

The Play Fair Alliance included Oxfam, the Clean Clothes Campaign, and Global Unions. It organized the 2004 Play Fair at the Olympics Campaign. For more information, see www.fairolympics.org. In 2007, some of the members of the Play Fair Alliance initiated the Play Fair 2008 campaign (see www.playfair2008.org).

The Play Fair Alliance documented horrendous working conditions in the industry, including poverty wages, excessively long hours of forced and underpaid overtime, exploitative terms of employment, bullying, sexual harassment, and physical and verbal abuse. Through interviews with workers in Bulgaria, Cambodia, China, Indonesia, and Turkey, the Alliance demonstrated that these conditions were not confined to a few bad factories or countries, but were "normal" conditions faced to varying degrees by sportswear workers the world over.¹¹

Reports of "sweatshop" abuses in the sportswear industry were not new, and, admittedly, some sportswear companies had taken initial steps to address some of these abuses prior to the Athens Games. But, as the Play Fair Alliance pointed out, those efforts were limited, either because real business practices have not matched lofty statements on corporate values, because labour standards commitments have not been effectively implemented, or because the best efforts of some brands have been undermined by poor practices of competitors using the same factories.



Joyful Long Sports (Dongguan) Manufactory in China:
Factory main entrance and recruitment banner. (March 2008)

11. For the full report, see "Play Fair at the Olympics," available at: www.fairolympics.org/background/olympicreporteng.pdf

Play Fair rushes the field

In response to the general lack of progress on eliminating worker rights abuses in the industry, in 2004 the Play Fair Alliance asked sportswear companies across the sector to adopt a **Programme of Work** that set out concrete steps the industry could take to improve conditions for the workers who manufacture their products. The Alliance invited companies to engage in sector-wide efforts to improve conditions rather than continuing to act alone.

Flash forward four years to 2008, and it's time to ask, "What, if anything, has improved?"

In this report, the Play Fair 2008 Campaign attempts to answer that question, and puts forward a series of demands and a timeline to achieve real, concrete improvements. Play Fair researchers interviewed over 320 workers from factories in China, India, Indonesia and Thailand about their wages, experiences, and working conditions. We also used secondary materials including company and industry profiles, published and unpublished reports, newspaper articles, web sites, and factory advertisements. Lastly, we conducted a workshop in Bangkok, Thailand in November 2007 involving labour rights activists from around the world to solicit their input. Through this research, we hope to present a rough overview of some of critical issues currently plaguing workers in the sportswear industry globally.



Joyful Long Sports (Dongguan) Manufactory in China: Workers taking rest and playing snooker game after lunch (outside factory building). (March 2008)

In Chapter I, we provide an overview of the sportswear industry, identify the key players, describe how they interact, and examine how those structural relationships can either help or hinder efforts to improve working conditions in the industry.

In Chapter II, we review the 2004 Play Fair Alliance **Programme of Work** and assess how leading sportswear companies have responded to date.



Joyful Long Sports (Dongguan) Manufactory in China: Recruitment notice and simple factory introduction outside the factory building. The paper on the top right corner states that factory wage range from 850 to 1,800 yuan. (March 2008)

In Chapter III, we focus in on four critical issues where progress has been limited and much more needs to be done: the right of workers to freely associate and to bargain collectively, the need for wages that meet basic needs, increasingly precarious employment relationships that undermine workers' rights, and the impact of the wave of factory closures on workers and communities. We explain why progress on these four issues is critical to improving working conditions as a whole, and present actual cases that demonstrate how much still remains to be done.

In Chapter IV, we take a closer look at the role of the world's biggest sports shoe manufacturer, Yue Yuen, a company that produces 17 percent of the world's footwear.

Chapter V delves into the world of soccer ball production, leaving aside the well-known efforts to curb child labour in Pakistan to focus instead on the lesser known production centres in India, China and Thailand, where working conditions and wages for adult workers have fallen short of the goal.

Chapter VI takes its motto straight from one of the world's most successful sportswear brands, adidas: "Impossible is Nothing!" Despite company claims that improving wages and working conditions is complex and progress difficult, we demonstrate that very real improvements can be made if companies have the political will to do so.

Lastly, Chapter VII puts forward a set of concrete actions with measurable targets that, if implemented, would raise the bar on worker rights in the industry worldwide by the next Olympic Games in Vancouver in 2010 and London in 2012.



A profitable industry

The global sportswear industry doesn't just make sporting goods, shoes and apparel. It makes money, and lots of it.

The value of the global athletic footwear and apparel market was pegged at US\$74 billion at the end of 2005. While the sports shoe market is smaller than the athletic apparel market, it is growing over twice as fast.²⁹ Almost 60% of the sports shoe market is dominated by two companies, Nike and adidas. These same companies also control around

overdue increase in the minimum wage to BDT1,662.50 a month(US\$24.30), the real value (after inflation) of their monthly wage is now worth even less than the 1995 minimum wage.^{III}

In many countries, workers have seen no increase in the minimum wage, and some workers struggle to obtain even the legal minimum in wages, overtime pay and other statutory benefits.

Table 1: Before Tax Sportswear Profits in US Dollars³¹

Company	2004	2005	2006	2007	% increase 2004-07
Nike	\$1,450,000,000	\$1,859,800,000	\$2,141,600,000	\$2,199,900,000	51.72%
Adidas	\$646,770,453	\$849,299,213	\$877,573,672	\$1,088,393,584	68.28%
Puma	\$448,435,711	\$523,972,232	\$453,959,272	\$510,944,031	13.94%
Yue Yuen	\$300,005,000	\$307,616,000	\$375,604,000	\$386,647,000	28.88%
ASICS	\$64,755,447	\$100,270,835	\$147,816,138	\$203,735,461	214.62%
Under Armour	\$16,300,000	\$19,700,000	\$39,000,000	\$52,600,000	222.7%
Li Ning	\$14,739,267	\$22,593,546	\$36,803,693	\$57,407,416	289.49%
BasicNet/Kappa	\$4,815,120	\$5,111,355	\$4,561,441	\$11,220,470	133.03%

18% of the sports apparel market. Puma controls around 7% of the athletic footwear market.³⁰

The brands that dominate the global sportswear industry are making handsome profits. Since the Athens Olympics in 2004, Nike, Puma, adidas, Kappa, ASICS, Yue Yuen, Under Armour and Li Ning have all increased their profits by a healthy margin – some by over 200% (see Table 1).

In contrast, the workers who manufacture the shoes, apparel, soccer balls and other sporting goods are, in many cases, making even less in real wages today than they were ten years ago. In Bangladesh, for example, where massive garment worker protests in 2006 led to a long-

Who calls the shots?

How is it possible that in an increasingly profitable industry, those at the bottom of the supply chain have seen so little improvement in wages and benefits?

Part of the answer lies in the structure of an industry that downloads the risks and costs of business to those that have the least power in the global supply chain – the predominantly young, women workers who devote 10-14 or more hours a day to making sportswear for the consumer market.

The path up the global supply chain from the workers who make sportswear products to the brands and retailers who

III. The 1995 minimum wage of BDT930 adjusted by an increase in the National Consumer Price Index of 90.7% between 1995 and September 2007.

market and sell them is made up of multiple layers. As a general rule, the higher up the chain you go, the stronger the bargaining power of the company occupying that tier, and the greater the profits earned.

Brands and retailers that occupy the top tier of the sportswear supply chain have the most direct relationship with consumers. Major brands may sell their products through retail stores like Footlocker, Wal-Mart, Intersport or Carrefour, or they may own their own retail outlets and flagship stores. Giant brands and retailers hold a great deal of power in the supply chain because of their ability to set delivery schedules and prices paid to suppliers further down the chain.

Brands typically concentrate on designing, promoting and marketing sportswear items, and subcontract the actual manufacture of the products to others. Subcontracting may be coordinated by a buying agent – a company that organizes production for the brand through a number of subcontracted relationships, but doesn't actually manufacture the product itself – or orders can be placed directly with a supplier.

Suppliers may be large, transnational companies with factories around the world, in which case they may have some power to bargain with buyers over work schedules and prices. But suppliers may also be smaller companies that own one or two factories and have little bargaining power and tight profit margins.

Some suppliers subcontract portions of production even further down the chain to small sewing workshops or home-based facilities. At the bottom end of the supply chain, subcontractors and homeworkers have little control over the price they are paid or the conditions under which they work.

Whether they work in supply factories, subcontract facilities or as homeworkers, garment workers receive little compensation for the wealth they produce, have little bargaining power and, as we shall see in Chapter III, face enormous obstacles when they try to organize trade unions in order to negotiate improvements in their wages and working conditions.

WHERE ARE SPORTING GOODS BEING MANUFACTURED?

Production of sports shoes is concentrated in four main countries: China, Vietnam, Indonesia, and Thailand. For Nike, 35%, 31%, 21% and 12% of its total footwear is produced

in these countries, respectively.³² Ninety per cent of all athletic footwear is produced in these four countries. China's share of total global athletic footwear production is 58%, its nearest competitor being Indonesia, at 12%.³³

Soccerball production is also highly concentrated, with an estimated 80% of soccer balls being manufactured in Sialkot, Pakistan,³⁴ with most of the remainder being produced in India, China and Thailand.

Sports apparel production is more dispersed geographically. Nike, for example, produces apparel in 36 countries, although a majority of its apparel is produced in Asia.³⁵ While adidas reports that its products are manufactured in 65 countries, production is concentrated in China, India, Indonesia, Thailand, Turkey and Vietnam.³⁶ ASICS contracts production to factories in 31 countries, though over half of those factories are located in China.³⁷ Puma reports using factories in 47 countries, with the majority located in China, Vietnam, India, South Korea, Thailand and Malaysia.³⁸

Sports shoe production underwent a dramatic restructuring and consolidation in the 1980s when quotas on those goods were eliminated. Since the phase-out of apparel quotas under the Multi-Fibre Arrangement at the end of 2004, a massive restructuring of apparel production has also been taking place. This

restructuring has not yet run its course, owing in part to import restricting safeguards placed on China by the USA and EU. These safeguard measures are set to expire at the end of 2008. One likely result of the quota phase-out will be consolidation of production with fewer large suppliers for major orders – although perhaps not to the same extent observed in the footwear sector.

Transnational manufacturers

Some sportswear suppliers are Asian-based transnational corporations that specialize in the organization of predominantly export-oriented, low-skill, low-wage, labour-intensive, and high-volume manufacturing across a range of industries. These companies, which employ many thousands of workers, have direct supply relations with major Western or Japanese brands and retailers. Unlike the branded corporations, which are highly visible in high-streets, mass media advertising and sporting events like the Olympics, these companies remain unknown to consumers. But they play an increasing role in deciding where, and under what conditions, apparel and footwear are manufactured.

These Asian transnationals have graduated from being suppliers at the bottom end of the supply chain to controlling their own global supply chains. Many have set up production sites in mainland China, other parts of Asia, Latin America and Africa. Some have moved up the supply chain by offering customers integrated value-added services, which include design and development, development of prototypes and models, etc.

This consolidated manufacturing model is already prevalent in the athletic footwear sector, and there are some prominent examples in the apparel sector as well. As the apparel industry restructures, we can also expect to see transnational manufacturers controlling significant shares of sports apparel production.

Consolidation in sportswear

Sports shoes: Sports shoe brands typically source their footwear from a handful of key suppliers in order to take

advantage of economies of scale and integrated services. Nike, for example, divides much of its shoe production among five main suppliers,^{IV} each responsible for about 15% of its production. Other brands follow similar sourcing strategies.

The world's largest branded sports shoe manufacturer, Hong Kong-based Yue Yuen, produced 17% of the world's sports shoes in 2006. You may not have heard of Yue Yuen, but if you're wearing sports shoes made by adidas, ASICS, New Balance, or Puma, amongst others, chances are Yue Yuen may have manufactured them. We will talk more about Yue Yuen in Chapter IV.

Sports apparel: The sports apparel sector is less consolidated. However, large transnational suppliers have made their presence felt in that sector as well. The first and second largest cap manufacturers in the world, for example, are the Korean transnationals Dada Corporations and Yupoong Inc.

Dada Corporations produces one out of every four (sports) caps in the world in factories located in Bangladesh, China, Vietnam and Indonesia. Most of its exports go to the USA, to be sold under a number of different brand names.³⁹ Yupoong Inc., the second largest cap manufacturer, is a Korean transnational that has offices and factories in Korea, Vietnam, Bangladesh, the USA, the UK, and until recently, the Dominican Republic.⁴⁰

You may not have heard of either of these firms, but if you're wearing a sports cap from Nike, adidas, Timberland or Reebok^V, it was likely made by one of these companies.

Sourcing agents

A more prevalent model in apparel production is the use of sourcing agents that do not own any production facilities, but orchestrate production for brand buyers and retailers through a network of suppliers and subcontractors situated in countries around the world. They function as a one-stop shop (or supply chain manager and logistics handler) for the brand or retailer. This business model allows the sourcing agent – and in turn, their clients – maximum flexibility and a quick response to changing markets. It also relies on the existence of a flexible, precarious and disposable labour force.

Li & Fung is the world's largest supply chain management company, sourcing US\$7.1 billion worth of goods in 2005.⁴¹ Headquartered in Hong Kong, Li & Fung co-ordinates the manufacture of goods through a network of offices in close

IV. In addition to Yue Yuen, Nike main suppliers include Tae Kwang, Chang Shin, Pan-Asia Group, and Feng Tay

V. Adidas bought Reebok, but continues to manufacture the Reebok brand.

to 40 countries. Most of the manufacturing takes place in Asia, but in recent years Li & Fung has also established operations in the Mediterranean, Eastern Europe, and Central America – sites that are closer to customers both in Europe and the USA.

You may not have heard of Li & Fung, but chances are if you wear sportswear bearing the Fila or Kappa brand, Li & Fung was the company that organized its manufacture.

What does all this mean for worker rights?

Traditionally, responsibility for respecting worker rights rested squarely with the primary employer, who had to deal with workers, unions and local governments concerning the company's responsibilities under local labour law and collective bargaining agreements.

However, in the globalized supply chains that characterize the sportswear industry, responsibility for ensuring that worker rights are respected doesn't end at the factory gates.

Buyer responsibility

After coming under fire from consumers and labour rights advocates in the 1990s, brands and retailers that do not directly manufacture their branded goods have for the most part accepted that they share responsibility for ensuring that the conditions under which those products are made comply with accepted international labour standards and local laws.

That responsibility results, in part, from the control brands and retailers exert over the terms and conditions under which their goods are produced. For example, buyers have exerted significant control over:

- Design and materials;
- Volumes, timing and frequency of orders;
- Production and delivery deadlines;
- Stability of orders;
- Prices paid to suppliers; and
- Quality.

All of these factors can influence working conditions at the factory level. When order volumes are too high and deadlines too short, factories often compensate by increasing overtime, setting unreasonable production targets for workers and/or subcontracting work to other facilities. When orders are unstable, factories sometimes compensate by hiring workers on successive temporary contracts. When prices are too low, workers are unable to achieve wage gains.

If we are to reapportion the risks and costs of sportswear production appropriately, brands and retailers at the top of the supply chain must accept a substantial share of responsibility for the conditions under which their products are made.

“Supplier ownership”

Suppliers, however, are not off the hook. Smaller suppliers have relatively little bargaining power with their brand customers. They tend to compete on price, rarely have the ability to pass on costs for labour rights compliance back to the buyers, and therefore experience constraints on their ability to increase wages or other monetary benefits.

However, many suppliers – especially in the athletic footwear sector – are multinational corporations in their own right. They must take greater ownership of labour standards compliance programs and make a serious effort to improve wages and other forms of compensation.

The emergence of large, consolidated transnational suppliers means that some sportswear manufacturers may have increased bargaining power with buyers and can arguably share as much responsibility for ensuring that worker rights are respected at their facilities.

As part of the process of industry consolidation, these transnational suppliers may achieve more stable, long-term relationships with major brands. As a result, they may also be able to pass some of their increased costs back to the buyers and demand more reasonable production deadlines. For example, some analysts suggest that footwear giant Yue Yuen, given its size and position in the supply chain, has been able to pass on some of its increased materials costs on to buyers.⁴²

On the plus side, industry consolidation could open up the possibility that a transnational supplier, particularly one that produces footwear, could make significant improvements in wages and working conditions, even where there are financial implications.

Brand buyers argue that when they develop longer term business relationships with a small number of large suppliers, their ability to work with those suppliers to ensure compliance with international labour standards and local laws increases.

However, there is no guarantee that when brands and retailers consolidate production with a few transnational suppliers, there will be greater stability for their wholly owned or subcontract facilities or improved conditions for workers. Unless and until buyers, sourcing agents and sup-

pliers are willing to collectively alter the terms under which they do business, there will continue to be constraints on what can be achieved at the factory level.

After consolidation, wages and working conditions will still depend on the ability and willingness of the supplier and factory management to negotiate decent wages and working conditions, the ability of workers to bargain collectively, and the ability and willingness of local governments to improve and enforce labour laws and regulations – all of which have been undermined by the current business model.

Unfortunately, Play Fair research has found instances where transnational suppliers and sourcing agents have made decisions that have negatively impacted on workers' rights, independent of the actions of the brand buyers. For example, in the wake of the phase-out of import quotas under the MFA, transnational suppliers have closed factories in certain countries despite the apparent willingness of brand buyers to continue sourcing goods from those factories. In other instances, suppliers have resisted the establishment of unions in their factories despite buyers, expressed willingness to source from a unionized factory, or have shifted orders from unionized factories to their other non-union factories.

We will look at some of these cases in Chapter III.

The sportswear industry's dominant business model has created a complex web of actors and middlemen with varying degrees of control and/or influence. Industry consolidation could create some new opportunities to address persistent labour rights abuses. However, there will not be significant improvements in wages and working conditions in this industry unless and until buyers, suppliers, sourcing agents, and factory management engage with trade unions, governments and NGOs in a comprehensive, collaborative, sector-wide effort to tackle the systemic problems in the industry that have hindered progress by individual actors.

We'll look at examples of what has been and could be done in Chapters VI and VII.

Companies slow off the mark

Launched in 2003, the Play Fair at the Olympics Campaign was the biggest international worker rights mobilization of its kind ever undertaken, with active participation of trade unions and labour rights organizations from all around the world. Hundreds of organizations and many top athletes participated in over 500 local events in 35 countries. More than half a million signatures were collected in support of the campaign.

The Campaign made it abundantly clear to the sportswear industry that consumers and workers share the same concerns about the abuse and exploitation that lie behind the public face of many sportswear brands.

But the objective of the Campaign wasn't to embarrass companies with stories of worker rights abuses. The Play Fair Alliance attempted to engage with major sportswear companies and industry associations in a serious effort to find real solutions to the problems sportswear workers face on a daily basis. Unfortunately, progress to date has been slow.

Industry's Response to the Programme of Work

In 2004, the Campaign developed a **Programme of Work** for the industry designed to substantially increase activities that promote freedom of association and collective bargaining, and to build industry-wide action and cooperation with relevant stakeholders to ensure labour standards compliance throughout the industry. The **Programme** asked companies, both individually and collectively, to improve and align their codes and compliance programs with best practice in the sector, and to take positive measures including:

- Facilitating training with workers and management on freedom of association;
- Building complaints and dispute resolution mechanisms and effective management systems;

- Developing clear guidance for suppliers on freedom of association and collective bargaining;
- Working with credible (local) organizations that have the confidence of workers and their trade unions to conduct, or assist in conducting, social audits or workplace inspections;
- Signing a framework agreement^{vi} between the International Textile, Garment and Leather Workers Federation (ITGLWF) and the World Federation of Sporting Goods Industries (WFSGI) and its member companies to facilitate freedom of association and collective bargaining;
- Developing more stable business relationships with suppliers, providing sufficient lead times so that production can be carried out using humane working hours, and offering suppliers prices that fully reflect the costs of observing labour standards; and
- Involving the ILO in an investigation of purchasing practices and in a more proactive role on code implementation and verification.

In May 2004, six sportswear companies (Puma, ASICS, Umbro, Mizuno, Nike and adidas), together with the WFSGI, the Fair Labor Association (FLA) and the International Olympic Committee met with the Play Fair Alliance in Geneva at a meeting convened by the International Labour Organization (ILO). Fila, Lotto and Kappa, the other targeted companies, did not participate.

The response of the WFSGI – the primary international industry association representing thousands of sportswear companies – was particularly disappointing, especially in light of the glaring need for a coordinated, industry-wide effort that exerts sufficient control over production to implement substantial changes in the industry.

The WFSGI deferred to the FLA to take the lead on the issues raised by the Alliance, even though only four WFSGI members are part of the FLA.^{vii} In a subsequent exchange of letters, the WFSGI indicated that it was not willing to enter into a frame-

VI. An International Framework Agreement is defined by the International Trade Union Confederation (ITUC) as “an agreement negotiated between a multinational company and a global union federation concerning the international activities of that company. The main purpose of a framework agreement is to establish a formal ongoing relationship between the multinational company and the global union federation which can solve problems and work in the interests of both parties.”

work agreement with the ITGLWF or to take a lead role in representing the industry on these initiatives.

The FLA, for its part, was more forthcoming. The FLA has prepared detailed guidance documents for its members on freedom of association, including Compliance Benchmarks that outline key issues member companies must evaluate to determine supplier compliance with this fundamental worker right. The FLA has also conducted labour rights training for factory management in a number of countries. However, the FLA's credibility in some quarters is limited by shortcomings in its code of conduct, monitoring practices and governance model.

WHAT IS THE FAIR LABOR ASSOCIATION?

The Fair Labor Association (FLA) is a multi-stakeholder initiative of companies, universities and NGOs. As of February 2008, there were 24 brand-name companies participating in the FLA, including adidas, ASICS, Nike, Puma, Patagonia and others, representing a majority of the major brands in the athletic footwear industry and a significant percentage of the athletic apparel market. The FLA has also admitted five Participating Suppliers, including Forward Sports Ltd, which makes soccer balls in Pakistan. These companies have committed to a program of labour standards implementation, monitoring and remediation in order to bring their manufacturing sites into compliance with FLA standards.

The FLA's code of conduct has been criticized by labour and human rights groups for failing to include provisions for a living wage, adequate protections on hours of work, and insuf-

ficient protections for freedom of association and collective bargaining in countries where those rights are legally denied. The FLA began a review of its code in February 2008.

For more information on the FLA, visit: www.fairlabor.org.

Responses from individual companies varied. Play Fair representatives met with four of the companies targeted in the initial campaign (Puma, ASICS, Mizuno and Umbro), and each agreed to undertake some of the actions called for in the *Programme of Work*.^{VII}

To varying degrees each of these companies committed to do the following:

- Address freedom of association issues via worker training, to be organized in cooperation with Play Fair organizations (Umbro & Puma);
- Pay greater attention to the impact of purchasing practices and share relevant information with the campaign (Puma);
- Evaluate and further develop their labour practice policies, including supply chain mapping and wage criteria (ASICS and Mizuno);
- Consider working with other active companies and non-governmental organizations via the FLA. Following the campaign, Umbro and ASICS joined the FLA.

Kappa, Lotto and Fila, which were highlighted in the 2004 campaign, were less forthcoming. Kappa, which is involved in a joint venture with Li & Fung, did meet with ITGLWF Italian affiliates to discuss the possibility of a global framework agreement in 2005, but there has been no progress to date. Lotto, while recognizing the importance of a sector-wide approach and entering into dialogue with trade unions on a national level, has done little to pro-actively address labour rights issues throughout its supply chain. Fila has failed to respond in any meaningful way to the *Programme*.

FLA member companies (including Nike, Reebok, adidas and Puma) jointly responded to the *Programme of Work*, confirming the central importance of promoting freedom of association and the need for additional guidance for monitors on this issue. They also acknowledged the need to develop remedial strategies that provide workers with the awareness and an environment conducive to forming or

VII. At the time, the four WFSGI member companies that also belonged to the FLA represented 63 percent of the athletic footwear market and 15.8 percent of the athletic apparel market.

VIII. For an evaluation of company responses shortly after the 2004 campaign, see: Merk, Jeroen. 2005. The Play Fair at the Olympics Campaign: An Evaluation of Company Responses. Clean Clothes Campaign, Oxfam, Global Unions. Available at: http://www.fairolympics.org/background/pfoc_evaluation.pdf

joining organizations of their own choice. FLA companies also pledged to develop more effective complaints mechanisms and new forms of dialogue and cooperation with local stakeholders.

Unfortunately, there was very little response to the Play Fair demand that companies address the impact of purchasing practices on labour rights in their supply chains.

In 2006, Oxfam International issued its *Offside!* report, which evaluated company progress on the **Programme of Work**, particularly on the issue of freedom of association and collective bargaining. While Oxfam found that some companies had made efforts in particular factories, progress has been limited. Further, the report concluded that there is “little progress to report in terms of sports brand owners addressing the impact of their buying practices – price, delivery time and stability of business relationship – on workers’ rights.”⁴³



Kuan Ho Sporting Goods (Dongguan) Company in China: A worker taking water from a hawker after buying food from the hawker in lunchtime. (November 2007)

So why are worker rights abuses still an issue?

Since 2004, corporate social responsibility (CSR) initiatives have grown exponentially. In recent years, leading sportswear brands have acknowledged that previous auditing and compliance initiatives have failed to build sustainable labour standards compliance in sportswear factories and have begun to try to identify and address root causes of labour rights abuses.⁴⁴ These are positive steps.

Nonetheless, labour rights advocates should take note of the kinds of the concerns being given the most attention by sportswear companies and multi-stakeholder initiatives (MSIs), and which are not. For example, while some process-based purchasing practices like short lead times and excessive design changes are now cited in recent corporate social responsibility reports, a frank discussion of how low prices paid by buyers to suppliers impact on wages is harder to find.



Kuan Ho Sporting Goods (Dongguan) Company in China: Recruitment notice and simple factory introduction. The notice includes the major clients of the factory and also states that the average wage is around 1,200 yuan. (November 2007)

Companies have also tended to pick the “low hanging fruit” – the most egregious and publicly damaging abuses such as child labour or the most visible, easiest to measure and fix violations, such as blocked fire exits – or have concentrated on issues that have little or no monetary or structural implications for the brand buyers at the top of the supply chain.

Companies (and many CSR consultants) have continued to focus their efforts on developing a “business case” for labour standards compliance, emphasizing the potential cost savings inherent in good human resources management.⁴⁵ This approach, however, runs the risk of sidelining necessary improvements on workers’ wages and other monetary issues that could impact on profits or prices.

While there has been strong brand buyer acknowledgement of freedom of association as a core labour right – something we will discuss more fully in the next chapter – there has also been a tendency to consolidate production in a number of jurisdictions where this right is legally restricted, prohibited or threatened.⁴⁶ This consolidation, along with other factors, has resulted in closures and mass dismissals, including at factories where improvements had been painstakingly achieved, undermining progress made.

Lastly, many of the “sustainable” solutions proposed by companies and the FLA have focused on training for factory management on labour rights and human resources processes, rather than on creating a positive climate for trade unions and worker organizing or altering sourcing practices and business models at the buyer level.

Management training on labour rights can produce some positive results; however, management is only part of the puzzle. Sustainable solutions also require that workers are aware of their rights and that they and their representatives are actively involved in any efforts to improve labour practices and working conditions.



Kuan Ho Sporting Goods (Dongguan) Company in China: Workers taking rest outside the factory building after having lunch. (November 2007)



Kuan Ho Sporting Goods (Dongguan) Company in China: Factory main entrance and recruitment banner. (November 2007)



Kuan Ho Sporting Goods (Dongguan) Company in China: Factory main entrance. (November 2007)



Kuan Ho Sporting Goods (Dongguan) Company in China: Workers taking rest outside the factory building after having lunch. (November 2007)

Need for Collaboration

One positive development since the initial Play Fair at the Olympics Campaign was launched is the increased number of instances of collaboration between companies, trade unions, governments and NGOs on labour rights issues, which is essential for significant advances to be made.

Although the sportswear industry, as we have seen, is highly competitive, there is ample room for collaboration on common ground rules and approaches to ensuring that a company's competitive edge is not built on the flexible labour and abject poverty of its workers.

Some companies – notably adidas, Puma and Nike – have publicly disclosed their factory lists, opening the door to collaboration with other buyers at common factories on auditing and remediation. More importantly, disclosure of factory locations represents an invitation to trade unions and labour rights NGOs to bring workplace problems to the attention of brands and to collaborate with them on remediation. In fact, in a series of national meetings in the Philippines, Thailand, Indonesia and Malaysia, the above brands and a number of their key in-country suppliers engaged with ITGLWF affiliates in a dialogue on the implementation of freedom of association and collective bargaining within their local supply chain.

While a larger number of companies have begun to share audit findings among themselves through databases, such as the Fair Factories Clearinghouse,⁴⁷ that information is not shared with other key stakeholders, such as trade unions and labour rights NGOs.

The FLA and its member companies have collaborated on training programs and capacity building in regions or factories where they source production. There have also been notable efforts at individual factories where brand buyers, local unions and Global Unions like the ITGLWF have collaborated to address specific problems.

We believe that increased collaboration across the sportswear industry – involving buyers, suppliers, sourcing agents, multi-stakeholder initiatives, workers and their representatives, governments and NGOs – is essential to tackle the more persistent labour rights abuses and poverty wages that still plague the industry. Until it tackles the root causes of those problems, the industry will continue to be plagued with labour rights violations.

Sportswear companies, the industry as a whole, as well as the multi-stakeholder organizations in which companies participate, need to make firm commitments to proactively dealing with the programs endemic to the industry.

Four hurdles to clear

Building on the experience and accomplishments of the 2004 Play Fair at the Olympics Campaign, in 2007, some members of the Play Fair Alliance launched the Play Fair 2008 campaign.

Based on the responses of the sportswear industry and Olympic movement to the *Programme of Work*,^{IX} Play Fair 2008 put forward a comprehensive set of demands addressed to the International Olympic Committee, National Olympic Committees, sportswear brands and suppliers, governments, and investors.

Play Fair 2008's Campaign Statement and full set of demands are available at:
www.playfair2008.org/templates/templateplayfair/docs/PF_2008_campaign_statement.pdf

If each of the important players in the global sportswear industry – buyers, suppliers, sourcing agents, multi-stakeholder initiatives – took concrete steps to meet these demands, we would be well on our way to improving working conditions throughout the sector.

To move the process forward, we have identified three central problems that, if left unaddressed, will inhibit the industry's ability to make real progress on other issues. These include:

- Lack of respect for freedom of association and the right to bargain collectively;
- Insecurity of employment caused by industry restructuring; and
- Abuse of short-term labour contracting and other forms of precarious employment.

The lack of respect for workers' right to freedom of association and to bargain collectively, for example, impedes worker efforts to resolve workplace problems as they arise

and to negotiate long-term improvements in wages and working conditions.

Similarly, the rash of factory closures that has accompanied industry restructuring over the past few years contributes to a climate of fear amongst workers and suppliers, feeding the myth that any efforts to improve conditions will only lead to more job losses. When workers face employment insecurity, they are less likely to take steps to challenge abusive practices.

The growing use of short-term contracting and other forms of precarious employment is denying workers their social security and other legal entitlements, discouraging worker organizing, and undermining the enforcement of labour regulations, which too often do not apply to non-permanent workers.

If the sportswear industry is serious about changing the way business is currently done, there is an urgent need to take immediate steps to address these three central issues.

In this chapter and throughout the report, we take a closer look at these issues – limits to freedom of association and collective bargaining, factory closures, and precarious employment.

A fourth and perhaps the most difficult hurdle to overcome concerns wages.

Sportswear brands tend to focus on issues that can be addressed without significantly altering profits or the cost of its products. So-called "cash standards," such as a living wage provision, may alter total labour costs and therefore affect profits and prices.

While industry leaders have been willing to take action in some cases to ensure that workers receive the legal minimum wage or prevailing industry wage, they have generally been unwilling to take steps to ensure that workers' wages are sufficient to meet basic needs.

IX. To see company responses, visit <http://www.fairolympics.org/background.html>.

Payment of a living wage is not just a question of more money in workers' pockets, it's also a part of improving general working conditions – for instance in reducing excessive working hours that workers sometimes accept because they can't make ends meet without working extraordinary and often illegal amounts of overtime.

For these reasons, our report both examines the issue of the living wage and puts forward concrete suggestions on how the industry can work to meet this standard.

Freedom of Association and Collective Bargaining

THE HURDLE

Although recognized in most major sportswear brand codes of conduct, these rights are continually threatened. Workers who organize face discrimination, dismissal, and even violence. Factories where workers have organized trade unions have been closed, and orders have been shifted to non-union factories. Sourcing from China, Vietnam and other jurisdictions where freedom of association is restricted by law has increased.

Freedom of association is a fundamental right, but it is also described as an “enabling right,” which means that where it is respected, it enables workers and their representatives to address and resolve immediate workplace issues with management, and to negotiate longer term improvements in wages and working conditions. It also opens up the possibility of achieving sustainable compliance with other critical labour standards.

In response to complaints from workers, trade unions and campaign groups, some sportswear buyers have taken steps in particular cases to put a stop to reprisals against workers for exercising their associational rights and to push suppliers to accept and negotiate with unions once they are established. Most major sportswear brands have publicly expressed support for freedom of association in their codes of conduct, and some leading brands, including Nike and adidas, have pledged to do more to ensure that this right is respected in their supply chains.⁴⁸

However, the dominant attitude and practice in the sportswear industry, as well as the garment and footwear industries as a whole, is so biased against the development of trade unions that a more proactive approach is needed to create a positive (rather than just neutral) climate for unions to exist and play their proper role. We believe that, as was set out in a recent collaborative project involving six of the major multi-stakeholder initiatives,^x companies should “adopt a positive approach towards the activities of trade unions and an open attitude towards the organizational activities of workers.”

What obstacles do workers face when they attempt to organize?

Dismissal of union leaders and supporters: When workers first attempt to organize unions, they often encounter substantial resistance from factory management.

- On November 8, 2007, workers making National Football League T-shirts at the Star factory in Honduras formally registered their new union. By November 12, 55 of the 58 founding members of the union had been fired.⁴⁹ [What was done to fix this? See page 47]
- At Russell Athletic's Jerzees Choloma factory in Honduras, workers established a union in March 2007. By June 14, about 90% of the 72 founding members had been dismissed. And, when 56 more workers tried to re-establish the union in September 2007, 22 more workers were fired.⁵⁰ [What was done to fix this? See page 47]
- At the Mikasa Industries soccer ball factory in Thailand, a nascent trade union was crushed in 2006 and 2007 when most of the union leaders and members were dismissed or pressured to resign from the union. Waraporn Rakthai, the union's president, was reassigned to work alone in a restricted area for two years.⁵¹ [What has happened since? See page 47]
- In December 2006, just one week after beginning a recruitment drive for their legally-registered union, six union leaders at the Thai Garment Export factory in Thailand (which produces for Nike and Cutter & Buck) were summarily dismissed. [What was done to fix this? See page 47]
- Just days after forming a union at the MSP Sportswear factory in Thailand in October 2004, factory management fired three union leaders, including the president and general secretary. MSP produces for Nike, amongst others. [What was done to fix this? See page 47]

Refusal to recognize and negotiate with unions: Even when workers succeed in forming unions and having them legally registered, management often delays or refuses to accept legal recognition and/or to negotiate with elected worker representatives.

X. The Joint Initiative on Corporate Accountability and Worker Rights (Jo-In) involved six multi-stakeholder initiatives in developing a common approach to monitoring worker rights in Turkey. The Jo-In code of conduct is available at: <http://www.jo-in.org/pub/docs/jo-In%20Draft%20Common%20Code%2005.05.pdf>

- In 2005, the Textile, Knitting and Clothing Industry Workers' Union of Turkey (TEKSİF) successfully organized workers at the PAXAR Corporation's factory, which produced labels, print logos and designs on garments for brands including Nike, adidas and Puma. However, when the union approached PAXAR management to begin collective bargaining, PAXAR refused to negotiate and instead fired 11 union members. It wasn't until international pressure from several multi-stakeholder initiatives, the ITGLWF, and campaign groups like the Clean Clothes Campaign that the company agreed to sit down and negotiate with the union, which resulted in a much-delayed agreement being achieved in February 2007 – two years after the union's formation. In the meantime, many union members had been dismissed, some as a result of anti-union discrimination by the employer.⁵²

Closures and reduction in orders to unionized facilities:

Although discrimination against unionized factories is clearly a violation of the spirit, if not the letter, of buyer and MSI codes of conduct,^{xi} it's often hard to prove that closures or reductions in orders to particular factories are linked to the presence of a union. However, the pattern of closures and order reductions following successful union organizing drives is too common to be dismissed as coincidental.

- When the Perbupas union won a wage increase at an Indonesian factory in January 2004, following a two-month strike, the factory responded by shifting all Nike orders to another facility, and refusing to relocate members of the Perbupas union to that facility. The original facility was closed in June 2006, and later re-opened – although none of the Perbupas members were given positions at the re-opened factory.⁵³

Buyers sometimes cut back on orders at factories where unions have been established, or shift orders out of the factory altogether.

- At the PT Panarub facility in Indonesia, where the Perbupas union is also present, 33 union members were fired after participating in a strike in October 2005. Although adidas did press management to reinstate the workers, the company also cut back on orders to the factory in mid-2006 while efforts to win reinstatement were still underway, citing quality and delivery time concerns. While it's unlikely that the reduction in orders was a response to the union's efforts, it did lessen adidas' ability to push for compliance in this instance. The US-based Worker Rights Consortium asked adidas to offer to resume full orders as an incentive for reinstating the workers, but adidas declined to do so.⁵⁴

In the absence of a clear buyer commitment to favour unionized suppliers, the mere threat of buyers shifting

orders can be used by factory managers to dissuade workers from organizing unions.

Shifting production to jurisdictions where freedom of association is restricted:

In 2006, Oxfam International raised concerns in their "Offside!" report⁵⁵ about the increasing shift of production to countries or export processing zones where workers' right to freedom of association and collective bargaining are restricted by law.

In China, for example, a union can only operate legally if it is affiliated with the All-China Federation of Trade Unions (ACFTU), which is controlled by the state. Strikes are neither specifically legal nor illegal but are vigorously and sometimes violently repressed and have been regarded as a threat to social order since 1982. In factories where unions are present, workers are frequently represented by unelected union officials – often themselves members of factory management – who are regularly criticized for doing little to improve working conditions or protect workers' rights.

Sometimes suppliers respond to successful union organizing efforts by relocating production from a newly unionized factory in one country to another factory in a jurisdiction where freedom of association is prohibited.

- In 2003, PT Daejoo Leports, an Indonesian supplier of sportswear to adidas and VF Corporation, agreed to negotiate with the SPN union at the urging of the buyers. This was significant progress – previously the union had faced threats and rejection when it attempted to bargain with the company. But by the summer of 2004, the company closed its doors and moved production to China – even though the buyers expressed their preference to continue production in Indonesia.⁵⁶

Buyers also choose to source goods from countries where their own codes of conduct cannot be fully implemented because of legal restrictions on freedom of association – as evidenced by the massive amount of orders placed in China, Vietnam and Bangladeshi export processing zones.

Promotion of "worker committees" as a substitute for unions:

When sportswear brands do source production from countries like China or Vietnam, where freedom of association and collective bargaining are legally restricted, brands sometimes promote "parallel means" of worker representation that solicit worker input and allow limited forms of elected worker representation. In order to avoid negative impacts on workers' associational rights, however, the use of worker committees as "parallel means" to free association and collective bargaining should be encouraged only in countries or areas where trade union rights are legally restricted – not where genuine freedom of

XI. Some buyers like Reebok, Puma, and adidas have explicitly stated that closing factories to eliminate a union is a violation of their code of conduct (see Connor, Tim and Kelly Dent. *Offside! Labour rights and sportswear production in Asia*. Oxfam International, 2006)

association and collective bargaining are available to workers.

In some countries, the law may provide for elected works councils or labour/management councils or committees. Provided that workers are also free to join trade unions and to engage in collective bargaining, and that ILO Convention 135 and Recommendation 143 (on Worker Representatives) are adhered to, these councils or committees can be consistent with freedom of association and collective bargaining.^{xii}

There are positive and negative examples of the use of worker committees to increase workers' voice in factories in jurisdictions where genuine worker organizations are restricted. At best these committees can provide a conduit for worker complaints and suggestions, and play an active role in worker training on health and safety and other issues. At worst, they can become management-controlled entities that disempower workers. Some of the problems encountered with worker committees include:

Management runs the committees or selects the members, and workers are not represented

At some Yue Yuen factories in China, management has set up so-called workers' livelihood centres where workers can complain about workplace, canteen, and dormitory problems. However, workers told Play Fair researchers that these centres are run by management and workers don't feel represented by them.⁵⁷

At a soccerball factory in Dongguan, China producing for Nike, Puma, Wilson, Fila, Lotto, adidas and others, workers told Play Fair researchers that there is a worker committee in the factory but all its members are appointed by management. Workers said the committee is only a formality to appease auditors but irrelevant to the welfare of workers.^{xiii}

An Indian factory cutting and stitching sports shoes for adidas established a workers' committee to deal with health and safety issues, but management hand-picked the workers who would sit on the committee. Auditors reported that workers were not aware of the existence of the committee.⁵⁸

Communication is one-way only

At a factory in India producing for Reebok and Nike, the Workers' Forum established by management to address worker grievances initially consisted of workers appointed by management. When Reebok intervened in 2003, management agreed to hold elections for worker representatives on the Forum and a Grievance Committee. By August, 2007, however, adidas (who had acquired Reebok) noted that the committees still "tend[ed] to be one of management's communication channels to the workers rather than active committees for representing workers to the management."⁵⁹

Workers are too intimidated to raise real issues

At an adidas supplier in Thailand, all members of the Workers' Welfare Committee are line supervisors. Workers reported that they do not understand the roles and duties of the Welfare Committee. Workers felt too intimidated to make suggestions or raise complaints with the Committee, as one worker was terminated when he asked a simple question, 'When will we get a raise?'⁶⁰

Precarious Employment

THE HURDLE

The use of short-term contract or casual labour has become widespread in the industry. Workers on short-term contracts are often ineligible for basic protections and benefits, and in most instances cannot form unions. Short-term or casual workers who try to improve conditions can be easily – and legally – dismissed at the end of their contract, making them especially vulnerable.

The sportswear industry is addicted to flexibility. In the current sportswear business model, retailers, brands, and transnational suppliers seek to maximize their ability to change not only the styles and products being produced, but the factories and/or countries in which the goods are being made, all in pursuit of the quickest, most reliable, best quality and, of course, cheapest production.

Factory owners and managers, in turn, have adopted similar business goals, seeking maximum flexibility in order to best compete for sportswear contracts. Because equipment and facility costs are relatively inflexible, the need for flexibility has been placed on workers shoulders in part through precarious employment relationships.

Short-term employment contracts: Although comprehensive global data across the industry is not available, in recent years, unions and labour rights organizations have reported an increasing use of successive short-term employment contracts – or in many cases, no written contracts whatsoever. The use of short-term contracts has been used to deny workers statutory benefits and bonuses, and to undermine worker organization:

XII. Further reading: http://www.cleanclothes.org/codes/docs/CCC_FoA_Primer.pdf

XIII. Play Fair researchers interviewed 15 workers from the factory between October and December 2007.

- At one Yue Yuen-owned facility and one Yue Yuen joint venture factory in Dongguan, China, producing for adidas and Nike, workers interviewed for this report had no employment contracts whatsoever.⁶¹ At three wholly-owned Yue Yuen factories and two Yue Yuen subcontract factories, workers were hired on successive one-year contracts.⁶²
- At PT Busana Prima Global^{xiv} facilities in Indonesia, new employees are hired only on a short-term contract basis. Contract workers don't have the same rights as permanent workers, such as annual leave and menstrual leave. At BPG I, workers estimate that 40% of workers are now on short-term contracts. At BPG III, which opened in 2001, workers reported that only one worker out of 1,097 is on permanent status.⁶³
- From 2003 to early 2006, the percentage of the workforce on short-term contracts at PCCS Garment in Cambodia grew to 25%. PCCS produced goods for adidas, Gap and Puma. Contracts usually lasted two or three months, with some workers being on successive contracts for more than two years. When their contract expired, workers were rehired under new short-term contracts, losing seniority and any benefits, such as maternity leave, annual leave, or wage increases that would accrue with seniority at the factory.⁶⁴
- The ILO has reported a general increase in the use of short-term contracts for workers in Cambodian garment factories, expressing concern that employers may be using short-term contracts "to undermine workers' employment security."⁶⁵ In their most recent report, the ILO's Better Factories Cambodia program noted that non-compliance on this issue has increased by 3% between April and October 2007 amongst factories monitored.⁶⁶ Findings of non-compliance had already increased by 5% in the six months between November 2006 and April 2007.⁶⁷

Contracting Agencies: Where the excessive use of short-term contracts has been legally restricted, some employers have responded by hiring workers through a third-party contracting agency that acts as the legal employer of the worker (known as "dispatched labour"), – even though the workers are still, for all intents and purposes, performing regular duties at the factory.

- In November 2007, Chinese media reported that sports cap manufacturer Global Cap Products Ltd.^{xv} in the Guangzhou Economic and Technological Development Zone was pressuring its employees to sign new employment contracts with a third-party agency. Workers who accepted the new arrangement before December 31, 2007, (the day before a new Chinese contract labour law took effect) were promised a raise in wages. Workers who refused were told their contracts would not be renewed.

Those who signed the new contracts with the third-party agency could be re-posted to workplaces anywhere in Guangzhou province if work at Global Cap Products slowed down.⁶⁸

- At the Molten Thailand factory (which produced the World Cup 2006 TeamGeist soccerball for adidas as well as their own brand), workers told the Thai Labour Campaign that the factory was increasingly hiring workers through a third-party agency. Dispatched workers receive lower wages and benefits and have to purchase their own uniforms.⁶⁹

The use of dispatched labour creates additional insecurity for workers who have few protections under the arrangement. While there are some kinds of labour that might be subcontracted through third parties because they are not part of the core work of the factory (such as canteen service), the workers engaged in the core services of the factory should be employed directly and on permanent contracts.

What's driving the increase in precarious employment?

In order to reduce standing inventories, the industry works on a just-in-time model that delivers goods when they are needed on store shelves. This increases the seasonality of production, so that there are high and low seasons for factory orders, with greater seasonal fluctuations in sports apparel than with sports shoes production (see figures 1 and 2 below).

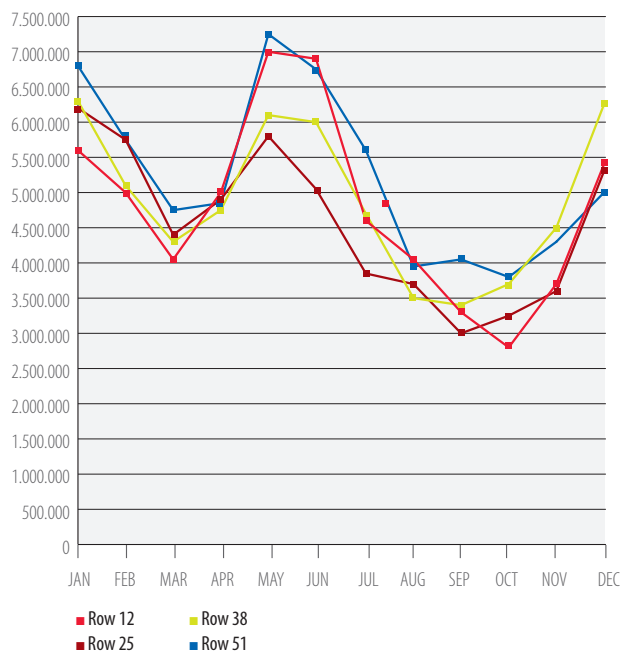
As long as the global system of sportswear production remains unstable, there will be a drive to download the bulk of the risk involved in competing for business and orders. Those that can no longer download the risk – the workers at the bottom of the supply chain – end up bearing the brunt of the instability in the system.

XIV. BPG produces for sportswear brands like Fila, Prostar, Converse, Elverys Sports, Erima, Surrridge, Le Coq Sportif, Sergio Tacchini and others.

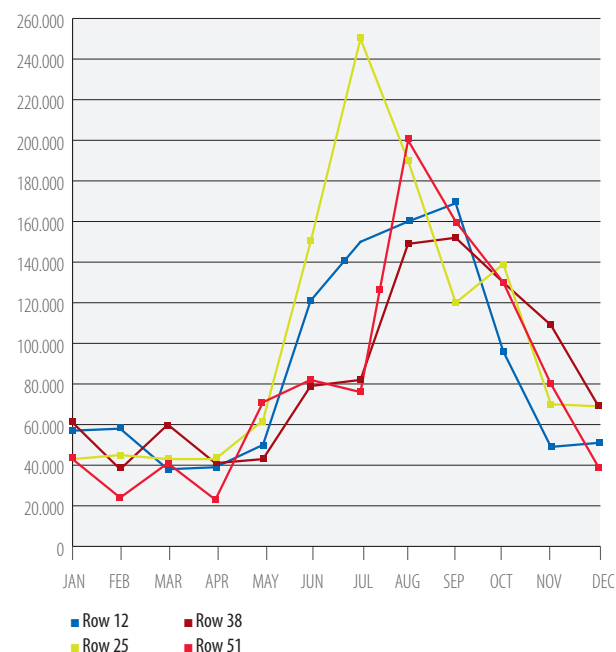
XV. There is no formal English name listed for the company. The company's name could also be translated as "Universal Hat Company Ltd."

FIGURES 1 AND 2: TWO EXAMPLES OF THE SEASONALITY OF IMPORTS TO THE USA, 2004-2007.

Seasonality of sports footwear imports into the US from China, Indonesia, Vietnam and Thailand, 2004-2007



Seasonality of tracksuit imports into the US, 2004-2007



During the high season, a factory needs increased capacity and a larger workforce to meet order deadlines. During the low season, there may not be enough work to sustain a large workforce. Factories cope with “seasonality” in a number of ways:

- Demanding excessive overtime of regular workers during the high season;
- Subcontracting excess production to other factories during the high season;
- Employing short-term contract labour that can be let go during the low season; and
- Using dispatched labour that can be dismissed during the low season.

Additionally, the use of short-term contracts, subcontracting and dispatched labour can be simply an employer’s attempt to reduce its costs and obligations to workers and/or eliminate trade unions in order to maximize profits or increase competitiveness irresponsibly.

There are legal restrictions in some countries against the over-use of short-term contracts and dispatched labour.

- Cambodian labour law stipulates that short-term contracts cannot be for a period of longer than two years, and while the contract can be renewed one or more times, after two years on one or more successive fixed-term contracts, workers are deemed to be on permanent contracts.⁷⁰
- In Korea, an amendment to employment laws, which came into effect on July 1, 2007, stipulates that workers cannot be employed on fixed-term contracts for more than two years. After the second year, a worker is considered to be on a permanent contract. Similarly, dispatched labour cannot be employed for longer than two years, after which the company must hire the worker directly or face a fine of up to US\$30,000.⁷¹
- In China, a new labour contract law came into effect in January of this year. The law builds on existing legislation requiring companies to sign an employment contract with all workers. It also requires companies to grant open-ended contracts to workers after no more than two short-term contracts, and provide severance pay to workers commensurate with the length of their employment.⁷² Workers who were already employed by one employer for longer than ten years are to be automatically granted permanent contracts. Workers hired through third-party agencies must be given contracts with a minimum of two years duration.

Unfortunately, some international business lobbies – notably the American Chamber of Commerce in Shanghai, the U.S. China Business Council – pressured the Chinese government to minimize the protections afforded to workers in China’s new contract law, and threatened that members may leave the country if “flexibility” was reduced.⁷³ The pressure worked, too: some worker protections were removed in later drafts of the law.⁷⁴ The European Chamber of Commerce in Beijing initially spoke out against the law but later reversed its stance after pressure from the European Trade Union Confederation and others. Some Hong-Kong based business groups like the Federation of

Hong Kong Industries are continuing to push for changes to or exemptions from the law.⁷⁵

To their credit, Nike publicly supported provisions on contracting in the new law, saying, “We support the requirement of long-term labor contracts in the supply chain to reduce the abuse of short-term contracts, e.g., to avoid insurance and benefit provisions.”⁷⁶

Even where the law is clear, however, it is often not adequately enforced. Therefore, sportswear brands and manufacturers should, at minimum, ensure that they and their suppliers and their subcontractors are complying with national laws on labour contracts and dispatched labour and that they are not using contract labour to avoid meeting legal obligations to workers. We’ll look at other things sportswear companies can do to provide more secure employment in Chapter VI.

Factory Closures

THE HURDLE

One of the stark realities of work in the apparel industry in recent years has been the dramatic increase in factory closures – a result of the restructuring of production and changing sourcing practices. Closures not only impact the thousands of workers and their families who lose their income. They also generate fear and insecurity for workers at other facilities, who may be more afraid of speaking up about working conditions for fear of also losing their jobs.

With the demise of the apparel and textiles import quota system, companies – retailers, brands and manufacturers – are restructuring their global supply chains and manufacturing networks with little regard for the negative impacts on workers, their families, communities or countries.

Compounding the pain of losing their jobs, workers are often left without even legal entitlements to severance pay or back wages because their employers either mismanage finances or make no provisions to financially comply with their legal obligations once the factory is closed. And while

the most obvious impacts of factory closures and retrenchment of workers are the direct job losses and economic multiplier effects in communities, workers who remain on the job at other factories are also impacted. The threat of factory closures has been effectively used against union organizing efforts or to convince workers to lie about working conditions to auditors who visit the factory on behalf of buyers.⁷⁷

While a few brand-sensitive sportswear companies are willing to discuss how to minimize the negative impacts of restructuring and consolidation, the vast majority refuse to even consider whether they have an obligation to justify their decisions to workers or communities that will be negatively affected.

Disastrous impacts

The classic case of a disastrous closure is Hermosa Manufacturing in El Salvador, which produced apparel at various times for Nike, Russell Athletic, adidas and Puma. The factory closed in 2005, leaving workers without jobs, without back wages, without severance pay, without housing, and – because the owner failed to remit payments to government social security funds despite deducting employee contributions from workers, wages – without health insurance or pensions. Three years later, the workers have still been unable to collect their legal entitlements.^{XVI}

Hermosa, unfortunately, is only one of a steadily growing list of apparel factories that have closed around the world (often with similar failures on the part of owners and governments to meet their legal responsibilities) in the wake of the phase-out of quotas on apparel and textiles.

While the most dramatic restructuring is happening in the apparel industry, the athletic footwear sector, which underwent a general process of consolidation in the 1980s, is still not immune to massive factory closures and the relocation of production.

- In November 2006, Indonesian shoe factories PT Spotec and PT Dong Joe closed leaving 10,500 workers without jobs. A third factory, PT Tong Yang, also closed, putting 9,000 workers out of work. All three factories produced for Reebok and subsequently for adidas after it acquired Reebok. By the time of this writing, well over a year after the factories were closed and nearly 20,000 workers left jobless; the majority of PT Spotec and PT Dong Joe workers still have not received their full severance pay and other legal entitlements. Continuing efforts by adidas to encourage the rehiring of PT Spotec workers at the facto-

XVI. For a full discussion of the Hermosa closure, including recommendations for avoiding “future Hermosas”, see Maquila Solidarity Network. Emergency Assistance, Redress and Prevention in the Hermosa Manufacturing Case. 2007. Available at: www.maquilasolidarity.org/en/currentcampaigns/Hermosa/MSNReport

ry, which is being re-opened by different owners, have not yet resulted in re-employment for the workers.

- Elegant Top Shoes Co. Ltd. in Dongguan, China, eliminated 4,000 jobs when it closed its doors on December 20, 2007, after nearly 20 years of producing for major brands like Reebok and adidas. While there are any number of possible reasons for the closure, sources cited increased costs associated with the new Chinese contract labour law, changes in the exchange rate (which lessen the value of prices paid by US buyers in relation to fixed local costs), and the availability of cheaper labour further inland.⁷⁸

While the lack of transparency in the industry makes it difficult to determine the exact reasons for specific closures of apparel and shoe factories, closures aren't an economic inevitability. They are a consequence of a specific, unstable, irresponsible, and unsustainable business model that we discussed in Chapter I.

Retailers and brands make decisions about where to source production based on a number of considerations including: price, delivery times, transport costs, quality and, for some, compliance with company codes of conduct. Trade agreements also play a key role in determining choice of production location by applying or eliminating cross-border tariffs and quotas on the finished product.

Although import quotas that dispersed apparel production to all corners of the globe are being eliminated, it's not at all clear that instability in the apparel industry will disappear with industry consolidation. Some large retailers and buyers will consolidate a higher percentage of their production in fewer first-tier factories in fewer countries. However, vertical subcontracting will continue to feature in the supply chains of these companies. The growth of the Asian trading and production transnational corporations, discussed in Chapter I, is creating an hourglass model where consolidation may appear to take place in the middle section – but at the bottom we continue to see a pattern of global shifts and unstable sourcing practices.

In order to develop a sustainable business model in which neither workers nor suppliers are subjected to unstable orders and precarious employment, brands and retailers must develop long-term, stable and direct relationships with supply factories.^{xvii} Brands and retailers will also need to develop purchasing practices that prioritize labour rights compliance over slight reductions in unit prices that might be obtained by continually shifting production to ever cheaper locales. We will return to this in Chapter VI.

Economic viability

Closures should only occur when a factory is no longer able to sustain itself economically and all other options to rescue the business have been exhausted. However, it's not always easy to disentangle the responsibility for economic decisions that affect the viability of a particular factory.

Suppliers and/or buying agents using multiple factories in one or more countries, for instance, can make choices about which factories receive which orders, affecting the viability of one or another facility. Buyers can also, either by decision or simply by neglect, fail to support facilities that have been more compliant with labour standards – especially those with collective bargaining agreements – leading to closures.

Both conditions appear to have been at play at the BJ&B cap factory in the Dominican Republic. Workers at the factory faced a crisis in early 2007 when BJ&B's Korean parent company, Yupoong, announced its upcoming closure. In 2001 and 2002, the BJ&B factory had been the site of a union organizing effort that, following efforts by international labour rights organizations and multi-stakeholder initiatives, including the Worker Rights Consortium and the Fair Labor Association, and buyers like Nike, adidas and Reebok, resulted in a groundbreaking collective bargaining agreement.⁷⁹

In subsequent years, however, Yupoong had been steadily disinvesting from the BJ&B factory – so much so that the factory, which stood at 2000 employees in 2001, had only 350 left at the time of announcement of closure. The owners cited its lack of competitiveness with other Yupoong factories in Bangladesh and Vietnam as the reason for the closure. As well, buyers like Reebok had been pulling out of the factory, leaving Nike as the sole remaining major buyer at the time of closure.

The economic starvation of this unionized facility – in favour of non-union Yupoong facilities in lower-wage countries – stands as a stark reminder of the failure by the industry to reward labour rights compliance with increased orders.

The BJ&B case is also a reminder that, because we are dealing with global supply chains, a narrow assessment of one isolated facility's economic viability is not sufficient to rationalize a closure. A true assessment of a facility's economic viability must also take into account the order patterns from buyers, whether prices paid by buyers are sufficient to allow for labour rights compliance at a facility, and the finances of the parent company.

And, once again, because of the multiplicity of buyers at any one factory, collaborative efforts by buyers and suppli-

XVII. Brands might also consider acquiring and controlling their own production facilities.

ers, along with trade unions, NGOs and governments, must be pursued to address the viability of a shared facility and work to avoid closures.

When a factory closes

When a factory closure cannot be prevented, both buyers and the factory owner have a responsibility to ensure that best practices in reducing the negative impacts on workers and their communities are followed.

The key international standard is the ILO Convention on Termination of Employment (No. 158), which stresses consultation with workers or their representatives on alternatives to closure, adequate notice to workers, payment of severance, and assurance that redundancies are non-discriminatory. ILO Convention on Protection of Workers' Claims in Case of Employer's Insolvency (No. 173) also states that workers' claims to severance pay or other legally-due compensation from their former employer must take precedence over the non-protected financial claims on the employer, such as those of the government.

But sportswear companies can and should do more than the bare minimum when addressing the disastrous impacts of factory closures. We will look at what can be done in Chapter VI.

Living Wages

THE HURDLE

Despite increasing attention to this issue – by multi-stakeholder initiatives, labour rights advocates and academics – there has been little or no progress on ensuring that workers who make sportswear products earn a wage that is sufficient to meet their basic needs.

Not only have workers at the bottom of the supply chain been forced to bear the lion's share of risks associated with the industry's demand for flexibility, they have also been forced to shoulder the costs associated with consumer demand for low prices.

"We have a very difficult life....," wrote a group of migrant workers in Shenzhen, China, in a March 2007 letter to government officials, as inflation in their region made their already paltry wages worth even less.⁸⁰

"Statistics show that the consumers' index has increased by 4.4 percent in June 2007, when compared with the same period last year," said the letter. "For food and rent, the increase is more than 10 percent. If our wages remain the same or are reduced, how can we support our families? How can we save money? If we can't support our families and save money, then what is the point of working here?"

The minimum wage in Shenzhen at the time was RMB700/month (US\$100).^{xviii} Raising a family on the base wage, even with both partners working, was next to impossible.⁸¹ What's worse, with inflation rates on basic items like food in Guangdong province skyrocketing in the past year, workers' real incomes – even after minimum wage increases – have plummeted in value.⁸²

To get by, workers typically rely on overtime hours and production and attendance bonuses, which can raise their salaries to anywhere from RMB900 to RMB1,400 (US\$128-200) per month. For comparison purposes, a pair of adidas running shoes in Shenzhen can cost anywhere between RMB600 and RMB1,200 (US\$86-171) – almost a month's income for the workers that made them.⁸³

Many workers lodge in company dormitories (often with twelve workers to a room) and eat in the company canteen. While young, female migrant workers, who form a large portion of the industry's workforce, do not generally have children to provide for, they do try to earn enough money to send home a portion to support their families.

Shenzhen workers are not alone in facing poverty wages in the industry. Their concern is shared by sportswear workers the world over:

- Workers at Yue Yuen factories in Dongguan, China, work on average 10-12 hours a day to produce sports shoes for major sportswear brands. They face intense pressure to meet high production quotas. And yet some of these workers receive only RMB900/month – around US\$0.53 an hour.^{xix} Workers at one Yue Yuen subcontractor in the area receive only RMB500-600/month (US\$71-86) – less than the legal minimum – despite working 12-13 hours a day.⁸⁴
- Home-based workers stitching soccer balls in Jalandhar, India, told Play Fair researchers that piece rates have remained stagnant for the last five years, despite local

XVIII. Partly in response to pressure from workers like the authors of the letter, the minimum wage in Shenzhen was raised to RMB750/month in October, 2007

XIX. Nike recently boasted to reporters of the RMB1,472 made by Yue Yuen workers at a Dongguan plant (see Mitchell, Tom. "As Inflation bites, China Inc looks beyond low costs", Financial Times China, 17 March 2008). Play Fair research, detailed in Chapter IV, shows that this is not a normal income in Yue Yuen factories.

XX. See Chapter V for more information, sources and methodology.

inflation rates last year estimated at between 6.7% and 10%. Depending on the type of ball being produced, a home-based hand stitcher makes between US\$0.35 and US\$0.88, completing two to four balls a day.^{xx}

- Soccer ball stitchers in Pakistan report that they receive between US\$0.57 and US\$0.65 for each ball they stitch, a rate that hasn't changed in six years even though the consumer price index rose by 40% over that period.⁸⁵
- Garment workers in Cambodia earn an average of US\$70 to US\$80 a month, including overtime and bonuses – not enough to provide a worker and family with a decent standard of living.⁸⁶
- Sri Lanka's living wage has been estimated at LKR12,504 (US\$116) per month for garment workers living in free trade zone areas and LKR10,183 (US\$94.46) for those living outside free trade zones.⁸⁷ However, most workers in the garment sector earn an average of LKR8,779 (US\$81) inside the zones and LKR7,364 (US\$68) outside,^{xxi} even with overtime, attendance and production bonuses included.⁸⁸ The minimum wage of garment workers was increased in 2006 to LKR6,000 (US\$56) per month⁸⁹ – still less than half the estimated living wage, especially given Sri Lanka's high level of inflation.
- In March and April, 2008, strikes broke out at sports shoe factories in Vietnam, where workers wages have not been able to keep pace with double-digit inflation on basic goods.⁹¹
- In Bangladesh, where mass protests by garment workers broke out in 2006, the minimum wage was raised from BDT900/month (US\$13) to BDT1,662.50/month (US\$24.30). Bangladeshi trade unions estimate the living wage at the time was closer to BDT4,800 (US\$70).⁹²
- In Turkey, the prevailing industry wage in the garment sector is estimated to be less than half the living wage.⁹³

In a globalized economy, inadequate wages are not solely the result of local economic factors. Governments and local manufacturers are well aware that if the minimum wage or prevailing industry wage improves in one country, there is a very real danger that international companies will move production to another country with cheaper labour. Recall the closure of the BJ&B factory in the Dominican Republic in favour of other Yupoong factories in Vietnam and Bangladesh. At the time, wages at the BJ&B factory were worth approximately US\$125.79/month. Wages in Bangladesh were as low as US\$49.88/month – 24 cents an hour.⁹⁴

Why don't sportswear companies pay a living wage?

When confronted with the question of why they don't pay a living wage, sportswear companies have responded with the following arguments:

- Wages should be set by local market forces and/or collective bargaining; and
- Determining a living wage is complicated and a reliable system does not exist.

Market forces and collective bargaining

According to the Fair Labor Association (FLA), to which many sportswear companies belong, "experience shows that it is difficult, if not impossible, to arrive at a region-specific living wage."⁹⁵ The FLA argues, "We should be creating incentives and undertaking capacity building to encourage worker representation and collective bargaining to allow workers and employers to arrive at a wage level that reflects the domestic situation."⁹⁶

While no one would disagree that enabling collective bargaining to reach a desired wage level is preferable to other methods of establishing appropriate wage levels, the impediments to freedom of association and collective bargaining we have described above limit this option in the immediate term – especially given the propensity of sportswear companies to locate production in jurisdictions where freedom of association and collective bargaining are legally restricted.

Further, the ability of local markets to set adequate wage levels is extremely limited when the industry is not constrained by national borders and its most powerful players can (and do) relocate production to other jurisdictions whenever wage levels or other production costs rise. To argue that it is the responsibility of local jurisdictions to set adequate wages levels without a firm commitment by foreign investors and buyers to retain production in-country is disingenuous at best.^{xxii}

Prices paid to suppliers

"Today price, quality and delivery are no longer variables. Today, the buyer has a fixed target price, a fixed quality standard, and a fixed garment delivery date. If the factory cannot meet the buyer's target price, the buyer will go elsewhere."⁹⁷ -- David Birnbaum, industry analyst, October 2006.

XXI. The difference in wages between the two groups of workers can be at least partially attributed to the higher levels of overtime demanded of workers inside the zones.

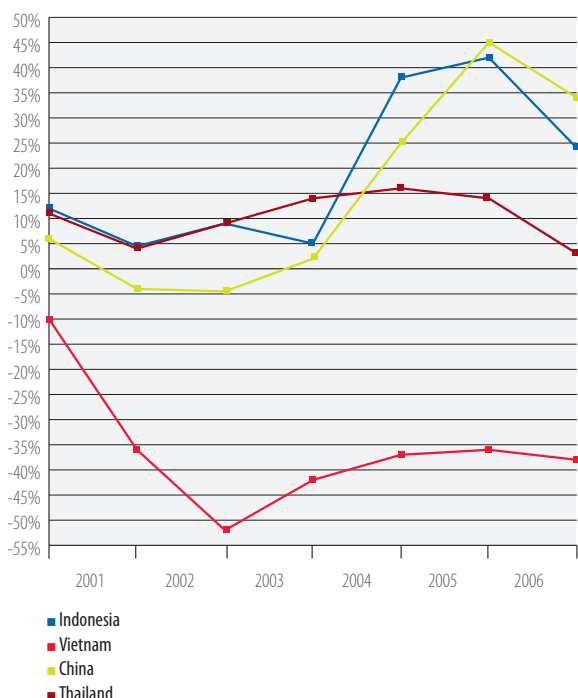
XXII. Nonetheless, governments do retain responsibility to set minimum wages, which should be done in a manner consistent with ILO Conventions 28 and 131.

Local market forces are still relevant, not only to the measurement of what constitutes a living wage in a specific context, but also to the ability to achieve improved wages. However, wage levels in factories producing sportswear, for export are not constrained solely by local markets, they are also dependent on the prices set by buyers in a global market. When prices paid to suppliers fall, workers ability to achieve a higher wage, in either a local market or collective bargaining context, is further constrained.

Because hard data on actual prices paid by buyers to suppliers is a closely guarded secret, it is difficult to confirm anecdotal information on trends in pricing. However reports of downward price pressure in the sportswear industry are widespread.

Figure 3 shows the change in local value of the US import price per pair of sports shoes, which despite fluctuations, fell in all four primary producing countries in 2007.⁹⁸ In Indonesia, where some sources estimate that production costs in footwear have increased by 3.5% per year,⁹⁹ the local value of average import prices paid by US buyers for sports footwear fell almost 19% last year.

FIGURE 3:
Percentage Change in local value of US sports shoe import prices



The International Labour Organization (ILO) estimates that prices paid to Cambodian apparel manufacturers fell by 4.47% in 2005 compared to 2004. The ILO reports that “a leading international buyer has confirmed this trend citing a 60% increase in pieces made in Cambodia with a 7% average price reduction per piece.”¹⁰⁰ The Garment Manufacturers’ Association in Cambodia recently estimated that “from 2006 to 2007, our prices have dropped by about 10% and continue to drop as we speak.”¹⁰¹

At the same time, prices paid to suppliers can vary by country and by supplier, and their real local value can vary depending on fluctuating exchange rates. In China, for example, there have been reports of rising prices,¹⁰² although prices are still low relative to the world average,¹⁰³ and their local value may have been offset by increases in the exchange rate of the Chinese yuan.

Sporting goods manufacturers in Jalandhar, India told Play Fair researchers that the falling US dollar has impacted their bottom line. With rates quoted to brands in dollars, they reported significant erosion of profits.¹⁰⁴ Meanwhile, the cost of PVC, made in India from imported petroleum, has “more than doubled,” according to one manufacturer.¹⁰⁵ While these manufacturers claimed that they had not passed on the losses to workers through cuts in piece rates, at least two workers asserted that they had seen rates drop in recent months, with the drop in the dollar explicitly cited as the cause.¹⁰⁶

There is no blanket formula to determine whether a price is sufficient to allow a particular supplier to pay a living wage – with reference to their factory’s productivity, use of materials, work organization, profit levels, costs of compliance with local regulatory regimes and other factors. The important point, however, is that living wages cannot be achieved solely in the local market context if prevailing prices paid to suppliers limit their ability to pay such wages. For this reason buyers, and not just factory management, must play a role in working to improve the wages of the workers that make their products.

Defining a living wage

Achieving agreement on one definition of a living wage has been difficult. Perhaps the most common formulation has been that wages must be “sufficient to meet basic needs of workers and their families and provide some discretionary

XXIII. There are some international benchmarks that should be taken into account, however. Article 23.3 of the United Nations’ Universal Declaration on Human Rights stipulates: “Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity...”. Article 25 stipulates: In 1928, the ILO adopted Convention 26, which required signatory nations to establish a minimum wage fixing body. In 1970, the ILO adopted Convention 131, which delineated the factors that must be included in the calculation of a minimum wage, including “the need of workers and their families, their general level of wages in the country, the cost of living, social security benefits, relative living standards of other social groups, requirements of economic development, the country’s level of productivity and maintenance of high levels of employment.”

income.”¹⁰⁷ How that is measured in practice has been a subject of debate, and a multitude of mathematical formulas and approaches have proliferated over the years. Even the terms – such as what constitutes “basic needs” – are hotly contested.^{XXIII}

Rather than focusing on the abstract question of how to develop a universal formula for measuring a living wage, sportswear brands, manufacturers and the multi-stakeholder initiatives to which they belong should turn their attention to the practical question of how to increase workers’ wages to a point where they at least fall within a range of nationally-determined living wage estimates – rather than allowing wages to remain at poverty levels while academic discussion continues.

On the question of how to improve wages, sportswear brands and the multi-stakeholder initiative to which the largest brands are members, the FLA, respond as follows:

- Individual buyers do not have the leverage to demand increased wages at supplier factories; and
- Wages will rise as productivity and skills improve.

Meanwhile sportswear manufacturers argue that they cannot raise wages while prices paid by the buyers remain low.

Productivity is no cure-all

While some leading sportswear brand buyers acknowledge that wages need to increase, they tend to look to improvements in manufacturing efficiency and productivity to supply the necessary economic margins to increase wages at a factory level. To this end, sportswear brands like Nike and adidas have worked with core suppliers to improve efficiency and introduce “lean” manufacturing systems.

Lean manufacturing uses teams of workers who manufacture the entire product – start to finish – rather than performing only one repetitive task in a long production line.

Although lean systems tend to be more efficient, more flexible, and ultimately more productive, the evidence that they will automatically result in increases in workers’ wages or total incomes is far from established.

A study of a Chinese sports shoe factory that recently converted to lean manufacturing shows dramatic improvements in efficiency, flexibility, quality and profitability. However, the study concludes, “Positive impacts on workers’ wages and hours are not as clear.”¹⁰⁸

The study also noted that in individual surveys and focus-group meetings, workers described “increased production pressures and individual stress levels under lean production.”¹⁰⁹

Greater intensification of work and use of group [production] goal pay systems also increase the stress generated by work operations as workers take fewer breaks to maximize production and are also tied to the work pace and rhythm of their co-workers rather than their own schedules.¹¹⁰

“Some departments in this factory,” the study found, “worked employees up to 274 hours a month during the first half of 2006.”¹¹¹

While other studies have concluded that some factories with lean systems have increased workers’ incomes,¹¹² they do not tend to include hard data on increases in total compensation, nor do they detail how those increases were achieved. In another often cited study, production bonuses were used in a number of Chinese factories as a way to increase pay packages for normal working hours, but most of the recorded increases showed that the only change was that more workers at the factory were making the legal minimum wage.¹¹³

One interesting study of two Mexican factories producing for Nike, however, found higher wages at the factory using lean production systems, partly attributed to the method of calculating production targets collectively rather than individually.¹¹⁴ The study’s authors warned, however:

It is important not to conflate particular production systems with differences in workplace conditions. Although lean production lends itself to management practices such as increased training and autonomous work teams, there is no automatic link between this system of work organization and better working conditions.¹¹⁵

With that warning in mind, in the next chapter we will see how production targets have been raised to unattainable levels at a number of Chinese footwear factories that run on the lean system, generating high work stress while eliminating promised improvements in overall compensation.

Nike touts the benefits of lean production in their latest Corporate Social Responsibility report, noting that both Nike and its suppliers have seen savings from the transition to lean manufacturing, which, for Nike, is estimated at 15 cents for each pair of shoes produced under the lean model for more than twelve months. The company says it is reinvesting those savings in “growth strategies.” Contract

XXIV. Impacts on worker health and safety can include increased exposure to chemicals and noise that was previously segregated, as well as ergonomic and stress-related effects. See Brown, Garrett and O’Rourke, Dara. “Lean Manufacturing Comes to China.” *International Journal on Occupation and Environmental Health* 2007: 13

factories are apparently not divulging to Nike how they spend any savings.¹¹⁶

Increases in productivity, reductions in waste and better organization of the workplace are positive goals in and of themselves, as long as they do not negatively impact on workers' health.^{xxiv} If these changes can also deliver increases in wages, they would be very welcome. At the moment, however, the jury is still out on whether increased productivity is the cure-all for low wages that some companies believe it to be.

More to the point, even if gains in productivity can be made through re-organization of production, and even if this could be done without unduly increasing the already intense pressure on workers and the long overtime hours workers currently face, there is still no guarantee that any savings achieved through lean production would accrue to workers. In fact, without collective bargaining and/or proactive steps on the part of the industry to ensure that workers receive a share of increasing factory margins, there is little reason to believe that reductions in costs will result in anything other than higher profits for factory owners and/or lower prices for buyers.

Who holds the purse strings?

Responsibility for achieving wage gains in global sportswear supply chains is more widely distributed than it might be in a national industry producing for domestic consumption because global sportswear production takes place in a context of:

- unstable buying relationships;
- difficulties with national wage setting mechanisms due to footloose sourcing and investment;
- lack of respect for freedom of association and collective bargaining; and
- low price expectations by consumers, brands and retailers.

Although buyers do not own the factories where their goods are produced and therefore do not directly pay the workers who make their products, their purchasing practices, and particularly the prices they pay to their suppliers, can play a significant role in determining wage rates. Suppliers who own the factories do establish pay rates, either independently or through collective bargaining, but their ability to raise wages is limited by the prices paid by buyers and the threat that a higher price will result in buyers shifting production elsewhere.

While buyers could pay higher prices to suppliers and/or suppliers could improve productivity and reduce costs, these changes will not automatically translate into improved wages for workers. Without some mechanism of

ensuring that workers receive the premium from either of these initiatives in the form of higher wages, this could result in nothing more than higher profits for factory owners. Further, while one buyer may be willing to take a progressive approach to pricing and sourcing practices, that effort can be undermined by the practices of other buyers using the same factory.

For these reasons, a coordinated effort to increasing wages in the sportswear industry must be developed. Such an effort should focus initially on major suppliers and relatively stable factories where a critical mass of buyers with a long-term relationship to the supplier and the factory are willing to take steps to ensure that workers receive wages that fall within the range of living wage estimates for the region. We will look closer at how this might be achieved in Chapters VI and VII.

Behind the scenes at the world's largest sports shoe manufacturer

Some may remember the well-publicized story about 56 Vietnamese women making Nike shoes who, in 1996, were made to run 4km around the factory as punishment for wearing “non-regulation” shoes at work. Unlike Olympic runners, these women were not rewarded with medals. Twelve women fainted and were taken to hospital.¹¹⁷

The women were working at a factory owned by the Pou Chen Group, a Taiwanese sportswear giant founded by the Tsai family in 1969. Initially, the company produced basic rubber shoes such as PVC sandals and slippers. Over the next 40 years, Pou Chen and its wholly-owned subsidiary Yue Yuen grew to be the largest footwear manufacturer in the world, employing approximately 300,000 workers.¹¹⁸ And even though one in six sport shoes are now made in a Yue Yuen factory,¹¹⁹ most Western consumers have never heard of the company.

Yue Yuen produces footwear for over 30 brand-name corporations including Nike, adidas, Reebok, Puma, Fila, ASICS, New Balance, and Converse. It also produces for important “brown” [non sports] shoe brands like Timberland, Rockport, Clarks, and Dr Martens. Many of these brands have established long-term relationships with Yue Yuen.

Yue Yuen is an example of the kind of manufacturing transnational we spoke about in Chapter I. It's critical to better understand these important industry players.

Because Yue Yuen produces for so many major brands, and because it is a powerful player in the industry in its own right, the company's manufacturing network would be a good place for the sportswear industry to begin to collaborate on seeking solutions to workers' concerns over wages and working conditions.

Yue Yuen vaults into first place

Adidas started to order shoes from Pou Chen in 1979, a relationship that continues to this day.¹²⁰ In 1985, Reebok designated Pou Chen as its most important producer, and

Nike followed suit in the early 1990s.

Labour shortages, wage increases and currency appreciation pushed Pou Chen to disperse production sites to China (1988), Indonesia (1993) and Vietnam (1995). Yue Yuen even operates a few production lines in the US, where it produces shoes for New Balance.¹²¹

The main vehicle for this overseas expansion, Yue Yuen Industrial Holdings, was established by Tsai Chi Jen – the brother of Pou Chen's founder – in order to facilitate expansion in China in 1988.

China

By 2007, Yue Yuen operated 210 production lines in China.¹²² These factories employ about 70 per cent of its total workforce.¹²³

Several of Yue Yuen's largest factories are in GaoBu, Dongguan City in Guangdong province. By 2002, according to China Labour Watch, those factories employed 40,000 workers in the low season to 50,000 workers in the peak season.¹²⁴ Other Yue Yuen Guangdong production facilities are located in Huangjiang Town, Dongguan City; Sanxiang Zhongshan City; and Jida Industrial District, Zhuhai City.¹²⁵ Clustered nearby are factories that supply footwear materials like leather and glue.

China is expected to remain Yue Yuen's most important production site in the near future, although some production lines might move inland to cheaper wage areas, and expansion of production in Vietnam and Indonesia is currently underway.¹²⁶

Indonesia

Yue Yuen has been active in Indonesia since 1993 when it invested \$100 million in the Nikomas Gemilang factory complex, sometimes called Niketown.

Some 43,000 workers (85% women) produce shoes for Nike, adidas, Puma and Ecco in this complex of 50 build-

ings, located near Jakarta, while Nike Converse footwear is made in a second factory employing 4,000 workers in Sukabumi.¹²⁷ The Nikomas factories are segregated by company, with adidas, Puma and Nike production lines taking place in different buildings. Twenty buildings are dedicated to adidas production, eight are dedicated to Nike, and 11 are dedicated to Puma. One building produces goods for Ecco brand.

Vietnam

The footwear industry is one of Vietnam's fastest growing export sectors. In 1990, Vietnam exported 750,000 pairs of sports shoes. By 1998, that number had grown to 140 million pairs.¹²⁸

Yue Yuen started to produce sports shoes in Vietnam in 1995. By 2006, the company was operating 117 production lines, making Vietnam Yue Yuen's second largest production site after China.^{XXV}

One reason that Vietnam has become such an important production site for Yue Yuen is the normalization of trade relations between Vietnam and the United States and Vietnam's entry into the WTO, which has reduced or eliminated tariffs and broadened trade. A second (and increasingly relevant) reason is that Vietnam's labour costs are considerably lower than those in China.

and licensing.¹³² Another analyst put it this way: "Yue Yuen operates like an independent recording studio, opening its doors (for a fee) to any musician with a song to record."¹³³ Unlike smaller suppliers, Yue Yuen has used massive economies of scale to lower average production costs, further cementing its position as a major player in the industry. Yue Yuen's scale and capacity allow it to react swiftly to rush orders or to reduce the time needed to change production layouts and processes in order to manufacture and deliver a new product.

Despite its huge workforce, the company has been very successful in keeping labour costs down. Figure 4 below shows that direct labour costs in 2004 were running at only 12% of its total unit costs. More recently, Nike (one of Yue Yuen's biggest customers) estimates that average labour costs in footwear production account for only 10% of the unit price.¹³⁴ For comparison, direct labour costs at Anta Sports accounted for approximately 14.5% of unit prices in 2006.¹³⁵

In addition to manufacturing, Yue Yuen has also established a rapidly growing wholesale network of distributors and hundreds of branded athletic and casual footwear and apparel retail stores in cities such as Beijing, Guangzhou, Shanghai, Shenzhen and Dalian. The company plans to operate a total of 3,000 stores by 2009.

Other Asian Sports Shoe Manufacturers

Feng Tay

Headquarters: Taiwan

Customers: Nike strategic partner

Employees: 45,000 workers¹²⁹

Countries of Manufacture: China, Vietnam, India

New Investment: Four factories in India worth US\$73.8 million¹³⁰

Global market share: 5.5%¹³¹

Nike global sales by volume: 15%

Stella International

Headquarters: Taiwan

Customers: Reebok (adidas), Nike, Sears, Timberland, Clark

Sales: US\$779.3 million

Net profit: US\$91.4 million (2006)

Employees: 50,000 workers in 6 factories in Guangdong province, China

The Yue Yuen business model

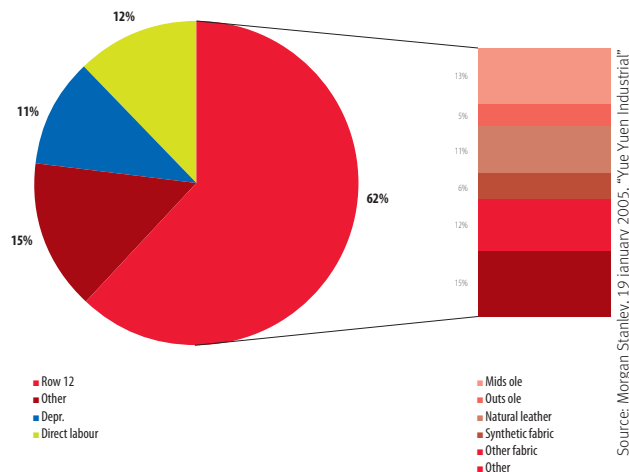
One analyst described Yue Yuen as "the dedicated factory" enabling brands to outsource their manufacturing capabilities so the brand can concentrate on designing, marketing

Yue Yuen has become one of the largest sportswear retailers in China, where its retail outlets sell branded products of Nike, Reebok, adidas, Puma and Li Ning. Yue Yuen reported a massive 48.8% growth in the company's retail sales in China between 2006 and 2007.¹³⁶

XXV. The company currently has 210 lines in mainland China, 117 in Vietnam and 71 in Indonesia. See Yue Yuen Industrial (Holdings) Ltd. Annual Report, 2007. p15

FIGURE 4

Exhibit... Yue Yuen - cost Breakdown 2004



Profits and prices

Yue Yuen grew from a company generating US\$197m in sales in 1992 into one generating sales of US\$4.1 billion in 2007.¹³⁷ In this same period, its profit went up from US\$95 million to US\$387 million. In fact, Yue Yuen's profits are now higher than many sportswear brands.

Yue Yuen's size and the complementary services it provides to buyers strengthen its bargaining power in the supply chain, so that even now when rising raw material costs could potentially squeeze Yue Yuen's footwear manufacturing margin, financial analysts have noted that Yue Yuen is able to pass on higher material costs to its customers, albeit with a 3- to 6-month time lag.¹³⁸ Similar production cost increases might have pushed smaller manufacturers out of the market.¹³⁹

If Yue Yuen is so powerful – and profitable – why are Yue Yuen workers still not receiving a living wage?

The Other Story: What Do Workers Say?

Despite more than 15 years of codes of conduct adopted by Yue Yuen's big brand customers – and Yue Yuen's own code of conduct and Corporate Social Responsibility program, adopted in 2005 – Yue Yuen workers are still not being paid a living wage. In many cases, Play Fair researchers discovered, workers are not even receiving the legal minimum wage.

XXVI. Play Fair researchers interviewed 15 workers at each factory, including at least one worker from each production department. The male/female ratio for interview subjects was approximately 3:7. All the interviews were done off site, in the community or in the rented places where workers live. We also used secondary materials including company profiles, reports, newspaper articles, internet postings, and factory advertisements.

XXVII. Play Fair researchers interviewed 11 workers (six women and five men), divided into 3 focus groups and 2 individual interviews. The workers were aged between 20 and 38, with a median age of 25. All had been working for Yue Yuen for more than one year, with the median length of service being six years, five months.

XXVIII. Note that specific factory names are not used in this section of the report in order to protect workers. Factories are identified by a number in the endnotes, for reference purposes.

"In the past, it was all about whether you could hit the workers or slap them. Now we talk about how we celebrate their birthdays." – Thomas Shih, a deputy Yue Yuen manager in a Chinese factory.¹⁴⁰

"People are always talking about human rights and welfare. In 1989, people never did that. That was my golden time. No one squeezed me." – Allen Lee, a manager in Pou Chen's Yue Yuen factory in Southern China.¹⁴¹

Over the years, numerous reports by NGOs and labour activists have revealed workers' rights violations at Yue Yuen factories. Most of the allegations concerned abusive treatment of workers (associated with a militaristic style of management), sexual harassment, forced and excessive overtime, low wages (in many cases, less than the national minimum wage), poor safety standards, unjust employment contracts, limited access to toilets, and repression of (independent) unions.¹⁴²

Between September 2006 and August 2007, Play Fair researchers in China carried out extensive research on working conditions in thirteen wholly-owned Yue Yuen factories, three Yue Yuen/Pou Chen part-owned facilities, and four Yue Yuen/Pou Chen subcontract facilities operating in China.^{xxvi} Other Play Fair researchers investigated conditions in two Indonesian Yue Yuen factories in January 2008.^{xxvii} We present some of these findings below.^{xxviii}

Long hours and the pressure to produce

Workers at Yue Yuen factories in China regularly complained about heavy work pressure and resulting stress.

"I am exhausted to death now," one worker at a Yue Yuen owned factory in Dongguan, China, told the Play Fair researchers. She assembles shoes for New Balance. "The two of us have to glue 120 pairs of shoes every hour.... We are working without rest and are always afraid of not working fast enough to supply soles to the next production line.

If we slow down, the next production line could be slowed down as well. The supervisors are pressuring and nagging us all the time. We are tired and dirty.”¹⁴³

High production targets force workers to cut their lunch hour short. Mid-shift breaks are often cancelled. Work that used to be done in ten hours is now expected to be finished in nine. While the factory can claim to have reduced overtime hours, as required in many brand codes of conduct, the workers are still expected to produce the same number of pieces, leading to exhaustion and burnout.

“Sometimes I don’t have time to go to the toilet or to get a drink of water,” said another thirty-year old woman worker. “Although we have less overtime now, it is as exhausting as before. Maybe more.”¹⁴⁴

In some Yue Yuen factories materials 12-hour work days were the norm.¹⁴⁵ The company has made efforts to control excessive overtime hours, but in these factories workers complained about much heavier work stress caused by tightened production schedules and new production systems introduced by management to offset the reduction in working hours.¹⁴⁶

In a Yue Yuen factory producing, for adidas, New Balance, Nike, Timberland and Reebok (now owned by adidas) shoes, overtime was officially capped at two hours, but at the same time the lunch hour was cut in half to ensure workers could complete their quotas – effectively adding an extra 30 minutes to their day that is not compensated as overtime.¹⁴⁷ Workers at other factories also reported shortened lunch breaks, sometimes taking as little as ten minutes to eat so they can return to their stations to meet heightened production quotas.¹⁴⁸

At six of the Yue Yuen factories that were studied in China, workers are expected to meet their production quotas before leaving work. Extra hours are not recorded as overtime so that, even while workers toil longer, on paper excess overtime appears to be controlled.¹⁴⁹ In three of those factories, workers were told not to punch the clock for extra hours so that no record of excessive overtime is kept.¹⁵⁰

At one factory, workers reported working 2-3 hours unpaid overtime on a regular basis – on top of the 2 hours officially scheduled overtime. Workers at that factory reported receiving no days off during the peak season, a complaint that was shared by workers at other Yue Yuen factories and subcontract factories.¹⁵¹ Workers at one subcontract facility don’t receive any of the statutory holidays to which they are legally entitled – they remain on the job, where they work 4-5 hours overtime per day on a regular basis.¹⁵²

Getting overtime under control seems to be a key demand of many buyers. In Indonesia, efforts to control excessive

overtime were also negotiated with the union at the Nikomas facility, and overtime problems have improved on some lines. However, workers still report similar problems.

“It is true that Nike and Adidas have tried to be strict [on excessive overtime],” one worker told us. According to this worker, who has been making Nike shoes for a number of years, production targets and expected overtime hours for each day are set out in a written Overtime Order at a morning briefing. “However, there seems to be a catch,” he said. “For example, when the Overtime Order states that overtime for the day is only 2 hours, then the overtime recorded is only 2 hours – even if, in reality, we worked 3 hours overtime.”

Workers on Puma lines reportedly work at least three – and sometimes up to six – hours overtime each day. Workers on adidas lines also report working up to four hours overtime a day (up to 70 hours a week). In addition there is what is known as “loyalty time” where workers are expected to turn up 15 minutes before their shift starts to do exercises and clean and prepare the machines, and to work an extra 15 minutes after their shift end. This half hour in total is unpaid overtime.¹⁵³

“Women with children are more vulnerable,” said one woman working on a Puma line. “The excessive overtime takes time away from their family.”

Disciplinary Practices and Verbal abuse

Many workers complained about harsh disciplinary practices and verbal abuse. A number of the factories investigated used a system of fines for workers who did not meet quality standards, sometimes fining supervisors as well, which added to the pressure on workers.¹⁵⁴ At ten of the factories we investigated, workers reported that verbal abuse was a problem.¹⁵⁵

At one Chinese factory manufacturing for ASICS, workers that failed to meet the production quota had to write a ‘psychoanalysis’ report to management explaining why they could not meet the quota and to guarantee that they would do better the next day.¹⁵⁶ At another factory, pressure to meet quotas was reinforced through the holding of production meetings where workers that were considered not sufficiently productive were openly criticised by management in front of their co-workers.¹⁵⁷

Verbal and physical abuse was also reported on the adidas and Puma lines at the Nikomas factory. One worker related an incident where a stopwatch was thrown at a worker in the Puma unit. In the adidas unit assembly workers who refuse to work overtime have been either transferred to unpleasant work in the chemicals and rubber section or made to stand up in the middle of the line for hours on end.¹⁵⁸

Dangerous working conditions

Intense work pressure can also impact on workers' health. Aside from occupational illnesses related to stress – which were reported at some of the factories investigated¹⁵⁹ – workers also reported that even where safety equipment was provided, they tended not to use it because it slowed them down.¹⁶⁰

Workers at other Chinese factories complained of chemical exposure, skin allergies and upset stomachs.¹⁶¹ While some factories provided safety equipment, others did not. In the unionized Nikomas factories in Indonesia, workers reported that safety equipment is available and warnings are posted everywhere, including information on specific chemical hazards. However, one woman on the Puma lines told Play Fair researchers that they are expected to wash their paper-based mask until it is worn out. "It is not easy to ask for a new mask. We give back the used mask, and sometimes they grumble to us before giving us a new one."

Workers at a number of Chinese Yue Yuen factories said they were pressured not to report injuries to supervisors, who would in turn face repercussions from upper management.¹⁶² While workers in some factories were properly insured for injuries,¹⁶³ others were required to pay out of pocket for medical visits even at company-run clinics.¹⁶⁴ Some factories – mostly subcontractors, but including one wholly-owned facility – did not follow legal procedures for investigating, rating, and compensating workplace injuries.¹⁶⁵ A common problem in most of the workplaces investigated was the failure to provide all four legally required worker insurance programs: social security (pension), worker's illness and injury insurance, disability insurance, and maternity benefits.¹⁶⁶ In many factories, workers were not aware of whether they were covered by workplace injury insurance nor were they aware of their rights in case of accidents.¹⁶⁷

Media reports indicate that insurance, social welfare, safe working conditions and wages were key issues in a March 2006 walkout by 8,000 workers at a Pou Chen factory in Vietnam.¹⁶⁸

Low wages

Workers are usually paid some combination of a base wage and various bonuses based on the number of pieces completed, attendance, and other measures.

When the minimum wage in China was raised in September 2006, management in most Yue Yuen factories and subcontract facilities responded by raising the production quota and reducing production bonuses and other incentives. Some factories added new deductions from workers' compensation for housing, food, or other services.¹⁶⁹ In the end, despite an increase in the legal minimum wage, many workers were receiving the same or less compensation than before the increase.

When Dongguan's minimum wage was raised to RMB690/month (US\$97) in September 2006, a Yue Yuen factory producing for adidas raised the production quota to 75 pairs of shoes per hour, which workers had trouble meeting. As a result, production bonuses shrunk, and many workers complained that the income they received after deductions for food and lodging was even less than before. A one-day work stoppage in October 2006 failed to reverse the decision to raise quotas.¹⁷⁰

The pattern was repeated at most of the Chinese factories studied for this report. Skilled workers at one factory who could make RMB400-500/month (US\$57-\$71) in production bonuses previously are receiving only RMB100-200/month (US\$14-\$28) after their employer raised quotas.¹⁷¹ As a result, their total take home salary has not increased.^{XXIX}

At one Yue Yuen subcontract factory producing materials for Reebok, Timberland, New Balance and Columbia Sportswear shoe, workers are paid entirely by piece rate, which means their wage varies depending on the number of pieces completed. Workers at this factory receive on average RMB500-600/month (US\$71-\$86) – less than the legal minimum wage. From that, RMB155/month (US\$22) is deducted for lodging in the factory's dormitories, where 12 workers occupy each room, with shared showers and toilets on every second floor.¹⁷²

Another Yue Yuen subcontractor was paying new workers an exceptionally low basic wage of RMB290/month (US\$41), and RMB490/month (US\$70) for senior workers. Both rates are below the legal minimum. Some departments at this factory are paying only RMB1-2/hour (US\$0.14-\$0.28) in overtime compensation, again less than the legal minimum. As a result, a new worker clocking more than 100 hours of overtime and 30 days of work per month received only RMB700-800 (US\$100-\$114) in compensation. Workers at this factory report that, to their knowledge, Yue Yuen has never inspected the facility.¹⁷³

XXIX. This pattern is not unique to Yue Yuen factories. Research conducted by the Thai Centre for Labour Rights at two factories producing for adidas in Thailand in August 2006 found that production targets were regularly increased, eliminating potential bonuses. Workers told researchers they wanted a stable production target (Thai Centre for Labour Rights, August 2006).

Improving conditions at Yue Yuen

Since Yue Yuen manufactures for various high profile brands, the company has had to work with a number of buyers on implementation of their codes of conduct, including Nike, adidas, Puma and New Balance. Brand pressure seems to have softened Yue Yuen's disciplinary methods. It has reportedly resulted in some improvements in levels of overtime work and dormitory accommodations for migrant labor.¹⁷⁴ As reported above, some factories have taken significant steps on health and safety issues, and have followed legal requirements on social security, worker's compensation, disability insurance, and maternity benefits.

Yet there still appears to be little or no progress on the issue of wages.

Why not pay a living wage?

As we have seen, critics of the idea of requiring payment of a living wage often point to structural barriers that make it difficult for any one entity in the supply chain to ensure higher wages.

The athletic footwear sector, however, has some notable structural differences that differentiate it from the apparel sector:

- It is highly consolidated. Nike and adidas control almost 60% of the retail market. In the last few years, Nike has acquired smaller brands like Converse and Umbro, and adidas has acquired Reebok. Puma in turn was bought by French luxury retailer PPR.
- Athletic footwear production relies on large, capital intensive factories that are relatively difficult to establish and relocate.
- Yue Yuen performs a large portion of sports shoe production for all the major sportswear brands.^{xxx} And despite the division of labor and legal boundaries between brands and Yue Yuen, the manufacturing process is highly integrated, and relatively stable. The stability in this relationship opens the door for coordinated action on "cash standard" matters like wages.
- Both Yue Yuen and its customers are highly profitable companies.

In this highly consolidated and profitable sports shoe sector, joint action between companies like Yue Yuen and the giant brands that dominate the market to raise wage levels toward a living wage is not only desirable, but also achievable.

The fact that most of these sportswear brands are Participating Companies in the US-based Fair Labor Association (FLA) also means that joint action among buyers and their suppliers to raise wage levels toward a living wage is a practical possibility. The only things missing are a commitment to pay a living wage and the political will to achieve it.

We will return to the issue of achieving a living wage in Chapter VI and VII.

XXX. While exact figures are hard to come by, analysts estimate that 25-30% of Nike's shoes are manufactured by Yue Yuen, with adidas and Reebok each sourcing approximately 15-20% of their shoes from Yue Yuen. All three brands account for at least 40% of Yue Yuen's production. (Citigroup. Yue Yuen – Shoes to Choose. 16 November 2004). Yue Yuen itself estimates that 54% of its sales are accounted for by five main customers, with their largest single customer accounting for 22% of sales (Yue Yuen Industrial (Holdings) Ltd. Annual Report, 2007. p.27).

Soccer balls beyond Sialkot



Unlike the massive Yue Yuen footwear factories documented in the previous chapter, soccer ball production has traditionally been done by hand-stitchers, many of whom are homeworkers, who stitch panels together and then send them back to the factories for checking and packing.

Advocacy on labour rights in the production of soccer balls – and other inflatable balls – has focused primarily on the city of Sialkot, Pakistan, and with good reason: that city produces approximately 80% of the world's hand-stitched balls.¹⁷⁵

A flood of media attention to the issue of child labour in Sialkot in the 1990s led to increased scrutiny of conditions in Jalandhar, India¹⁷⁶ – a much smaller centre for hand-stitching of sports goods just across the border.¹⁷⁷

In recent years, soccer ball production centres have also emerged in China, Thailand, Vietnam and elsewhere. The ability of these new centres to produce low-end, machine-stitched balls at much lower cost than are available in South Asia,^{xxx} and/or high-end “thermo-moulded” balls for which South Asian manufacturers have not yet acquired the necessary technology, have brought still greater uncertainty to the future of the industry in India and Pakistan.¹⁷⁸

Rather than revisiting the well-documented issue of child labour in the soccer ball industry in Sialkot, this chapter focuses instead on recent research conducted for Play Fair 2008 on working conditions in Jalandhar, India, and emerging centres in China and Thailand.

Research findings indicate that, like apparel and footwear production, the structure of the industry has created an environment in which trade unions are sidelined or destroyed, wages and piece rates are often well below a

living wage, and workers are only able to survive by taking on excessively long overtime hours and, in some cases, by bringing work home to their families.

Soccer ball production in Jalandhar, India^{xxxii}

According to industry reports, Jalandhar and the nearby city of Meerut account for 75-80% of the balls produced in India.¹⁷⁹ In 2004, India's exports of sporting goods reached US\$100 million, Forty-three percent of these exports were in soccer balls.¹⁸⁰

Industry structure

According to manufacturers, unions and workers interviewed for this report, the current structure of the industry, with a heavy reliance on home-based work, is a relatively recent phenomenon. “The work was entirely factory and stitching centre based [until] 30 years ago” said an official with the Lal Janda Workers Union, himself a soccer ball stitcher for the last 45 years. “Workers used to stitch in factories in large numbers. Work was also done in stitching centres, each centre employing 10-30 workers.”¹⁸¹

As demand for leather balls dwindled, production shifted from hand-cut leather panels with hand-perforated holes to balls made of die-cut panels with perforations.¹⁸² The degree of skill required to stitch together pre-cut, pre-perforated synthetic panels was significantly lower, as were the stakes: synthetic balls commanded lower prices from brands, and could be manufactured in significantly less time.

This switch to synthetic balls set the stage for the move to a much more informal work force, which could be paid on a piece rate basis, rather than receiving salaries that would have to be paid even when there were no orders.¹⁸³ It also

XXXI. Both centres – China especially – also produce hand-stitched balls, but it is not clear that they have the ability to offer lower prices than the South Asian centres can.

XXXII. For the purposes of this study, the researchers at the Centre for Education and Communication (CEC) and other Play Fair researchers spoke to a range of stakeholders in Jalandhar: a total of seven manufacturers, sometimes with their managers, three contractors, two trade union leaders, and 11 workers in homes, stitching centres and factories. The majority of the seven manufacturers interviewed performed a mix of domestic and export production, and while most of the export production was for brands in Europe or Australia, several had their own brands, which they were exporting primarily to Eastern Europe as well as East and Southern Africa.

made economic sense for production to be done off-site in workers' homes rather than in factories with strict quality controls and higher operating costs. The involvement of children in soccer ball production was therefore part of a larger story of increasing informalization.

Factories

Most factories currently engaged in soccer ball production in Jalandhar have few permanent employees beyond those involved in production processes that must be performed on-site (die-cutting the panels, screen-printing panels, packing the balls, etc.).

Even here, some former factory workers described being employed by labour contractors who operated on the factory premises.¹⁸⁴ One factory worker, who had been employed in a permanent position in the lamination and panel-cutting department for the last 15 years, noted that, as far as he knew, no other permanent workers had been hired since he began his job.

According to the worker, all new employees were brought in on short-term contracts, or through sub-contracts with labour brokers.¹⁸⁵ Where factories employed stitchers directly, the employers acknowledged that, for the most part, these workers were hired on fixed-term contracts and paid on a piece rate basis.¹⁸⁶

Workers interviewed described a factory environment that is entirely male. Indeed, when Play Fair researchers visited three soccer ball factories in Jalandhar, they found an almost total absence of women workers.

Women occupy a subordinate role in Jalandhar's soccer ball industry, in terms of the type and quality of work they are assigned. And, changes in how the industry is structured could exacerbate this problem. For example, in the Sialkot experience, women's livelihoods became a casualty of the policy to move from home-based production to stitching centres. After the change, women's participation in the industry dropped from 50% in 1997 to about 20% just six years later.¹⁸⁷

Stitching centres

The General Secretary of the Punjab Sports Goods Workers Union told Play Fair researchers that "stitching centres are nothing but the extended wing of the factories." He charged that the centres are set up to avoid the application of labour laws that would promote access to benefits, dispute resolution mechanisms, and security of tenure.¹⁸⁸

In fact, a contractor who runs a stitching centre acknowledged that the rent, electricity bill and other expenses related to the space were paid by the company, while he dealt only with the labour. However, the centre was regis-

tered in his name, thereby permitting the company to disavow legal responsibility for the workers. The centre employs 18 workers (16 men, two women) who produce 100 balls per day. They are paid by the piece, from INR36 to 39 (US\$0.90-0.97) for a first quality ball and INR30 (US\$0.75) for the cheaper balls.¹⁸⁹

Contractors

Manufacturers also spoke about their relationship to contractors. While one manufacturer, who produces for Regent, Mitre and Dunlop encourages home-based stitchers to pick up work directly from their premises, the majority utilize between 18 and 30 contractors, who either send production to homes, or operate stitching centres themselves.

"Contractor" is a relatively flexible category. While some earn a significant living operating stitching centres, for example, there are those at the other end of the scale, who rely on the commissions they receive for getting balls produced by home-based workers, and whose daily earnings are roughly similar to those of stitchers.

Play Fair researchers spoke to two contractors who engage home-based stitchers. Both contractors were formerly stitchers in the soccer ball industry; one lost his job in a soccer ball factory after an industrial accident severed part of his finger. Each contractor picks up 100 balls per day and distributes them to a team of 20-30 home-based workers, the vast majority of them women. The contractors' income consists of the set commission that the factory pays them, between INR2 and 2.50 (US\$0.05-0.06) per ball, depending on the quality.¹⁹⁰

Trade unions

The combined impact of movement out of permanent, factory-based employment and of indirect production relationships was to cripple trade unions, and thereby eliminate the need to negotiate with workers about wages and working conditions. Workers – and even manufacturers – described direct union-busting strategies including firing or demoting union leaders and members; getting rid of highly-unionized departments and contracting out that work; and sidelining unions for the purpose of eliminating collective bargaining.¹⁹¹

Wages and piece rates in Jalandhar

When manufacturers began engaging with contractors about 20 years ago (rather than directly with home-based workers), workers lost control over the negotiation of the conditions of their employment, including earnings. As the CITU representative stated, "The management association started bypassing trade unions in rate negotiations. Contractors became the main actors."¹⁹² In a system in

which contractors received a fixed commission per ball, there was little incentive for them to bargain aggressively during annual negotiations, and stagnation of piece rates inevitably resulted.

Contractors described how different factories pay different rates for the same quality of ball. One contractor reported that the rate varied from INR28 to 39 (US\$0.70-0.97) for a “first quality” ball, and INR14 to 16 (US\$0.35-0.40) for a cheap rubber ball. There is often more than one level of sub-contracting, and in these cases, contractors further down the chain will extract a commission before passing the work along, thus eroding the piece rate further.¹⁹³

Wages in factories

One factory-based worker with whom the Play Fair researchers spoke was a stitcher on a fixed-term contract, paid by the piece. While piece rates in the factory are substantially higher than those available to home-based workers, especially given the elimination of the contractor's commission (INR40 (US\$1) for a first-quality soccer ball, INR30 (US\$0.75) for a low-end one), it is striking that stitchers in factories must still provide the thread used for stitching, at a cost of INR2 to 2.50 (US\$0.05-0.06) per ball. The worker said that he was able to complete a maximum of 10 balls a day, depending on the type of ball.¹⁹⁴ Another factory worker, whose earnings are substantially over minimum wage, told researchers that he still has to take stitching work home to his family in order to make ends meet.¹⁹⁵

Wages in stitching centres

Researchers interviewed two workers at stitching centres, both of which were operated by contractors. Earnings and job security were substantially lower than at factories. The piece rates for soccer balls appeared to be between INR3 and 10 (US\$0.07-0.10) lower, based on the quality of the ball.^{xxxiii} As one worker complained, “there is no guarantee of work tomorrow and everything depends on the mercy of the contractor.”

The workers interviewed described being unable to survive on their earnings from the stitching centre work alone. Both said they take stitching work home for their families to do in order to supplement their household income.¹⁹⁶

Wages for home-based workers

Six home-based workers were interviewed by the research team; in each case, all or most of the other members of their households were also involved in the stitching, with each person producing about two to four balls a day.^{xxxiv}

“There has not been any increase in the rate since last five years,” explained a stitcher who picks up work directly from a factory producing for Mitre, Gilbert and the soccer clubs Arsenal and Manchester United. “We have to agree to whatever the contractor pays to us, as we don’t have any other choice.”

As might be expected, the rates paid to home-based workers are even lower than those provided in stitching centres. Workers described receiving INR30 - 35 (US\$0.75-0.88) for a three-ply, 32-panel ball, and between INR14 and 22 (US\$0.35-0.55) for a ball made of two-ply rubber panels.¹⁹⁷

Home-based workers also face a total lack of earning security. During months when orders are low, households are often plunged into debt to money lenders.

Orders – and therefore earnings – fluctuate dramatically in this industry. Two manufacturers referred specifically to production increases of 30-50% when sporting events such as the World Cup or the Olympics take place.¹⁹⁸

“We have no savings so we have nothing left during emergencies,” said a 50-year-old soccer ball stitcher. There are also few if any safety nets available for homeworkers: sickness or an accident can amount to a catastrophe. “I have lost my wife’s gold, which I gave as security to a money-lender and could not repay,” he said. “Once I even rented my cooking gas cylinder to arrange some money for a health emergency suffered by my wife. The situation is similar for all of us. One of my friends even sold his blood to get some extra money to meet an emergency.”¹⁹⁹



Workers in Thailand.

xxxiii. There is no apparent standardization of what the terms “first quality” and “cheap quality” mean, and this is certainly one factor in the extreme range of piece rates.

xxxiv. The seven members of one household described being able to complete 15 rugby and seven soccer balls a day; another household, with eight members, completes about 30 balls a day.

SOME SPECIFIC RECOMMENDATIONS FOR JALANDHAR

Manufacturers should take steps to ensure that the rates and conditions offered to workers, through contractors, are fair and uniform. Rates for balls should be posted outside factories. Manufacturers should offer the option for workers to pick up soccer ball kits directly from their premises, rather than from contractors.

Brands must address violations of associational rights, especially the crushing of trade unions. Brands and suppliers must ensure prices keep pace with currency fluctuations and inflation, and ensure that losses are not passed on to workers through cuts in the piece-rate. Interventions must be attentive to the vulnerability of women workers.

Brands must promote equality of treatment for all workers engaged in substantially similar work whether employed in factories, stitching centers or home-based facilities, including in wages and benefits.

Soccer ball production in China

China's ability to make the technological adaptation to machine stitching faster, more efficient and on a larger scale than other ball-producing countries has resulted in its quick growth within the soccer ball producing market.²⁰⁰ Currently, China's soccer ball producers manufacture primarily promotional balls. While promotional balls represent a large portion of world soccer ball production, they do not have the industry cachet or high piece rates associated with match-quality balls. Many industry insiders speculate that it will not be long until match-quality balls are also machine-made, however, which puts China in a position to take over an even larger portion of world soccer-ball production.²⁰¹

Between October and December 2007, Play Fair researchers investigated conditions at two typical soccer ball factories in the Pearl River Delta region: Joyful Long Sports Manufactory and Kuan Ho Sporting Goods.^{xxxv}

Joyful Long manufactures a variety of sports balls and equipment for adidas,²⁰² Nike, Umbro, Fila, Miter, Lotto, Puma, Diadora, Franklin, Wilson, Everlast, and Domyos.²⁰³ The company has four buildings producing different lines, and there may be some distinction between lines producing for different companies. Kuan Ho, which claims to be the largest ball-manufacturing company in China, producing 2 millions balls a month,²⁰⁴ produces for adidas, Lotto, Spalding, Wilson, Mikasa, Mizuno, Rawlings, and Baden.²⁰⁵

Wages and working hours

At Joyful Long factory, most production workers work seven days per week. "It is ridiculous that there is not even one rest day in a whole month!" one worker said. "Physically we are so tired, but psychologically we are also exhausted. We want time to take rest and have fun."

"When we are so exhausted," the worker said, "we can only get some rest by choosing to be absent. However, according to the factory rules, if we're absent for three consecutive days we will be fined. So even if we are tired, we usually choose to endure."

While a "standard" workday is eight hours, overtime work is extremely common at Joyful Long. During the peak production season, workers put in 232 hours of overtime per month – six times the legal limit.²⁰⁶

Despite the massive number of hours worked at the Joyful Long factory – often in the range of 330 hours a month – workers were receiving on average RMB800-1,000 (US\$114-142) per month, an estimated 54% of the legal minimum wage. In addition, workers reported that wage payments are regularly delayed by forty days, also in violation of national law.

Workers at Kuan Ho fare somewhat better: workers work six days a week and put in an average of 80 overtime hours each month. While these hours are well above the legal limits, they are, by many workers' accounts, among the best in the industry in the Pearl River Delta.²⁰⁷

Wages at Kuan Ho are also better than at Joyful Long, averaging RMB1,000 - 1,500 (US\$142-213) per month for approximately 260 hours work. Wages are also paid on a regular basis.

However, at neither factory does overtime compensation comply with the law.

XXXV. Play Fair researchers interviewed seven women and five men at Kuan Ho, aged between 21 and 30. At Joyful Long, researchers interviewed ten men and five women, the majority under 30 years old.

“I find I could earn only 2-3 yuan an hour [at Joyful Long]” one worker told us. The minimum monthly wage in Dongguan translates into approximately RMB4.20 an hour (US\$0.60). “For me, the most annoying thing is that there is no overtime premium in this factory. Even if I work in the weekends, I can get only the normal wage rate.”



Workers in Thailand.

Like the Yue Yuen factories studied in the last chapter, both of these factories use a mixture of time and piece rates to arrive at a worker's total compensation. However, by law piece rates must, at minimum, meet minimum wage and overtime compensation requirements for hours worked. At Kuan Ho, the factory ensures that piece rate workers receive, at minimum, the monthly minimum wage even if the piece rate falls below that amount. However, like Joyful Long, the factory does not pay the overtime premiums required by law.^{xxxvi}

Occupational Health and Safety

Similar to Play Fair's findings at Yue Yuen factories in the same region, workers reported health and safety hazards related to the emphasis on high work productivity.

At both Joyful Long and Kuan Ho, workers interviewed were seriously concerned about the possible short- and long-term health effects of working with various chemicals in departments like silk-screening, “laminating” (in which the outer layer of the ball is adhered to the inner layer), and in departments producing plastic balls. Most workers told Play Fair researchers they were not even aware of what substances they are in contact with on a daily basis. Workers reported skin allergies and breathing discomfort.

And while both factories provide some rudimentary protective equipment, the use of the equipment slows down production and thereby the quantity of production. Some workers at Joyful Long, particularly in silk-screening departments, report that they would be unable to meet the daily

production quota set by the factory if they were to wear their safety equipment at all times.²⁰⁸

Workers at Joyful Long are not covered by legally-required insurance programs including worker injury compensation, social insurance and maternity leave. While they can attend company medical clinics, the cost of the visit and any medications prescribed are deducted from their wages.

Freedom of association

Workers interviewed said there is no trade union activity at either factory. Most workers were not aware of their rights concerning trade union representation.

While workers can air grievances with supervisors, there is no formal grievance process. Both factories have a worker committee meant to identify and deal with issues that arise, but neither committee, at Joyful Long or at Kuan Ho, is particularly active or effective. At Joyful Long, committee members are appointed by management. Workers report that the committee exists primarily to appease auditors.

Misleading and lying to brand auditors

Workers interviewed described lying to brand auditors as “common practice.” Workers confirmed that representatives of major brands are sent to the factory every month to conduct on-site inspections.

At Joyful Long, workers described how management personnel produce a false wage sheet for the auditors, which inaccurately reflects higher compensation rates than are actually paid to its workers. They also reported being pressured to lie to auditors about working hours and wages.

“I signed two wage record sheets when I received my September wages on the 10th of November,” one worker told Play Fair researchers. “One wage record sheet stated that I received RMB400 [US\$57], which reflected the reality. The other wage record sheet stated that I received RMB900 [US\$128]. That was for the brand auditors.”²⁰⁹

Additionally, workers reported that they are coached into giving false answers to the queries of the auditors in order to ensure that the factory passes inspection. Workers who comply and lie to inspectors are given a RMB30 to 60 (US\$0.75-1.50) bonus; workers who tell the truth will be fined or fired.²¹⁰

XXXVI. Article 44 of the Chinese Labour Law requires employers to pay 150% of the regular compensation rate for overtime work on weekdays, 200% for Saturday and Sunday, and 300% for statutory holidays.

Soccer ball production in Thailand

Thailand's profile in soccer ball production was raised in 2006 when adidas sourced technologically advanced balls from Thailand for the official 2006 World Cup games.²¹¹ These balls were produced by Molten Thailand, a Japanese-owned sports ball company.²¹²

The Impact of Machine-Fusing Technology

The official 2006 World Cup game balls, which adidas named "Teamgeist," were produced using a new technology: thermal bonding of ball panels by machines, rather than by stitching.²¹³ Until recently, soccer balls were exclusively hand-stitched or machine-stitched.²¹⁴

The 2006 World Cup was the first important soccer tournament to use balls that were not hand-stitched.²¹⁵ To some industry insiders, this shift indicated that the industry would be moving away from the use of hand-stitched balls in professional tournaments. Nearly two years later, however, it seems it is not yet clear whether the industry will move exclusively to thermally-bonded balls. If this change does occur, it would provide Thailand with a large competitive advantage over Pakistan and India, both of which have remained focused on hand-stitching and lack operating machine-fusing technology, as well as over China, which produces lower-end machine-stitched and hand-stitched balls.^{xxxvii}

Wages, working conditions, and freedom of association

In 2006 the Thai Labour Campaign (TLC) released a report on labour conditions in two factories that produce soccer balls in the eastern seaboard industrial zone.²¹⁶ The Life of Football Factory Workers in Thailand details problems with wages and freedom of association in both Molten Thailand, which produced the adidas Teamgeist balls, and in Mikasa Industries, which produces soccer balls for its own brand.

The TLC report asserted that Molten provided substantially different wages and benefits for regular and sub-contracted workers. While senior workers employed directly by Molten were paid a salary that met their basic monthly needs (estimated at between THB7,310 and 8,680 a month by TLC), new workers received a basic wage of THB4,500 (US\$144). Sub-contracted workers were the worst off, receiving only the minimum wage, without access to monthly incentives and other bonuses. They were also required to pay out of pocket for their uniforms. Adidas reports that the practice was discontinued after it was exposed by TLC.²¹⁷

Responding to the 2006 report, adidas confirmed the wages cited by TLC, but argued that the factory is complying with the minimum wages set by the government. TLC responded that because the minimum wage does not meet workers' basic needs, workers are forced to rely on long overtime hours to get by.²¹⁸

At the time the report was written, there was a two-year old union at Mikasa, which TLC found had contributed to workers achieving higher wages, subsidies, and other benefits.^{iv} Since that time, however, workers report that the union has been eliminated as a result of continual harassment of union leadership and members, including legal action aimed at dismissing the union president (later withdrawn).²²⁰ When three members of the union committee protested against the harassment of union members, they were sued by the factory for defamation, as was TLC.^{xxviii}

Waraporn Rakthai, the union's president, was reassigned to work alone in a restricted area for two years.²²¹ "I am always alone," she said in April 2007. "Not a single worker or any of the union's members dares to talk with me either in the workplace or in the canteen. Everyone is afraid they will be in trouble if they talk to me."

Mikasa claimed that "she was merely assigned to research and development work that must be kept confidential, hence the screen and the sign 'No entry without permission.'"²²² Given its antagonistic attitude toward the union president, it strains credulity that the factory would decide to assign her to carry out confidential research and development work.

"I keep fighting, no matter how sorry I feel deep in my heart," Rakthai said. "I want to tell other workers that there is no shame to be fighting alone, and people will praise us for fighting on." Rakthai was finally dismissed in February 2008.²²³ By that point the Mikasa union had completely dissolved: most of the union leadership and membership eventually resigned due to the various pressures exerted on them, and the rest were dismissed.

"I feel so sad to have to leave Waraporn alone in the union," the former union Vice President told our researchers. "But I have no other choice. With economic pressures and no overtime money for over a year, I had to decide to leave Mikasa."

In January, 2007, the Thai National Human Rights Commission ruled that Mikasa Industries had intervened in and suppressed the union, acted to suppress the union president, violated Thai labour law and the UN Declaration of Human Rights.²²⁴ However, the Commission's findings are not legally binding on the company.

xxxvii. Note that the Pakistan Small and Medium Enterprise Development Authority has announced that it is supporting the creation of a new Sports Industries Development Centre (SIDC), which will introduce thermo-bonded ball technology in Sialkot. Pakistan is currently not in a position to produce thermo-moulded balls, however. See Associated Press of Pakistan, "Smeda plans to modernize sports goods industry," The Post, 25 February 2008.

xxxviii. The legal actions were finally withdrawn by management earlier this year.

Impossible is nothing!

The verdict is in. Labour rights advocates, leading sportswear brands and multi-stakeholder initiatives have all concluded that individual factory auditing may be identifying problems, but it's not fixing them.

Having investigated factory audit results from over 800 Nike supply factories in 31 countries over seven years, for example, academics Richard Locke, Fei Qin and Alberto Brause concluded that “despite substantial efforts and investments by Nike and its staff to improve working conditions among its suppliers, monitoring alone appears to have produced only limited results.”²²⁵

That's not news to the thousands of workers who continue to face sweatshop conditions in sportswear supply chains despite over a decade's worth of efforts to change the industry.

That's no reason to despair, however. Changes are possible. Or, as adidas likes to say, “Impossible is nothing!”

But real change will require a different approach that takes into account root causes – including structural factors – that make labour rights abuses more likely to occur and reoccur. It will also require increased, ongoing collaboration by all players in the industry to overcome these structural impediments to progress.

In 2004, Play Fair presented the industry with a Programme of Work designed to facilitate real changes in time for the 2008 Beijing Olympic Games. We remain disappointed that the industry, on the whole, did not live up to the challenge.

Now, on the eve of the Beijing Olympics, we return in detail to four focus areas related to the Programme of Work where we believe real changes can be made that will open up the industry to sustainable improvements on labour rights. To seriously address the lack of freedom of association and the right to bargain collectively; precarious employment; and the impacts of factory closures; and to raise wages and other compensation to a level that meets workers' basic needs, sportswear companies will need to take a series of concrete, measurable actions in close col-

laboration with multi-stakeholder initiatives, trade unions, non-governmental organizations, and governments.

Many of these steps have been tried to a limited extent by sportswear companies and others. By building on these precedents, we can make substantial improvements in working conditions in the industry by the next Olympic Games in Vancouver in 2010, and in London in 2012.

1. FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

If the industry is to achieve sustainable improvements in labour practices and working conditions in its manufacturing facilities, it is critical that brands in shared factories respond swiftly and effectively to reports of violations of freedom of association and collective bargaining such as those described in Chapter III.

In recent years there have been notable examples of collaborative action to win the reinstatement of workers fired for attempting to organize and/or bargain collectively:

- At the Star factory in Honduras, where 55 union members were dismissed shortly after registering their union in November 2007, a combination of worker protests, an international solidarity campaign, and the intervention of one of the brand buyers, Nike, was successful in redressing what could have been yet another denial of workers' rights. On December 10, an agreement to reinstate the workers and to engage in constructive dialogue to resolve outstanding issues was signed by representatives of the US-based owner, the workers, the Unitary Federation of Honduran Workers (FUTH), and the Unitary Confederation of Honduran Workers (CUTH).
- At Russell Athletic's Jerzees Choloma factory in Honduras, Russell Athletic agreed to reinstate workers fired in 2007 for union organizing, with back pay, after intervention by the US-based Worker Rights Consortium (WRC) and the Fair Labor Association (FLA), and cooperated with the union on an outreach program to dismissed workers.²²⁶
- After a WRC investigation of violations of workers' associ-

ational rights at the Thai Garment Export facility, management agreed to reinstate the six union members dismissed in December 2006.

- At the request of a Thai NGO, the Center for Labour Information Service and Training (CLIST), Nike, and the Fair Labor Association intervened in a dispute at the MSP Sportswear factory and played a positive role in facilitating re-instatement of fired union leaders. In addition, they negotiated “terms of engagement” that identified a neutral third party to mediate any future disputes.

These efforts by brand buyers and other stakeholders to hold factories accountable for violations of the right to organize are welcomed. There have also been efforts, such as the Fair Labor Association’s Central America Project, to tackle blacklisting of union members at a country or regional level through promotion of management training and less discriminatory hiring procedures.

However, the continued pattern of abuses at sportswear factories suggests that more proactive and positive measures are needed to ensure that these abuses do not happen in the first place and that chronic anti-union behaviour on the part of management is no longer permitted. The industry must take steps to create a positive attitude toward trade unions and their organizing activities and a positive climate in which workers are free to exercise their associational rights, rather than simply responding to crises after the fact.

Taking the initiative

As a first step, the industry should take note of the steps taken by Russell Athletic at the Jerzees Choloma factory as part of the resolution of the dispute, above. Russell agreed to issue a notice to workers at all of its facilities pledging to respect workers’ rights in the areas of freedom of association and collective bargaining.²²⁷

A RIGHT TO ORGANIZE GUARANTEE (MODELED AFTER RUSSELL ATHLETIC’S STATEMENT)

“Company name respects the right of workers to form or affiliate to organizations of their choice, including trade unions, and to negotiate a collective bargaining agreement. Company name respects the right of its workers to freely associate, to organize, and to negotiate collec-

tive agreements, and will not interfere in any way in these worker activities. Company name will not intervene in workers’ decisions to become members of an organization, or in their participation in any organization. Company employees will not be subject to any discrimination or disciplinary or punitive action for exercising their associational and collective bargaining rights. Any supervisor or manager who fails to adhere to this policy will be disciplined. Company name guarantees that the representatives of said organizations can have access to its employees. Further, company name will implement each agreement that it makes with workers’ organizations.

Other sportswear manufacturers should issue a similar “Right to Organize Guarantee” to workers in their manufacturing facilities globally (see box). Brands and retailers, for their part, should require their suppliers to issue a Guarantee, and multi-stakeholder initiatives active in the sector should verify that the statements have been adequately communicated to workers.

Further, in order to ensure that workers have access to opportunities to be represented by trade unions of their free choice where they choose to do so, buyers and suppliers should require the signing of union access agreements between factory management and local unions in the sector.^{XXXIX}

Worker training

As a second step, sportswear brands should, in collaboration with trade union organizations and credible labour rights NGOs, facilitate independent education and training for workers and management personnel concerning freedom of association and collective bargaining.

Again, the good news is that there have already been efforts in this area that we can learn from and build on. Worker trainings on their rights have been undertaken by major sportswear brands, suppliers and MSIs, alongside management training on their responsibilities.

XXXIX. An example of an access agreement signed between jeans giant Nien Hsing and the Lesotho Clothing and Allied Workers Union can be found in: Trade Union Research Project and the Centre for Research on Multinational Corporations (SOMO). A Call to Action: Organizing Garment Workers in Southern Africa. Clean Clothes Campaign, 2003. pp27-29, available at <http://www.cleanclothes.nl/ftp/GarmentWorkersSA.pdf>

More and more service provider companies, including those from the auditing profession, now claim to provide training programs. The feedback we receive from workers on these efforts, however, does not inspire confidence. While China's restrictions on civil society organizations may make it difficult to find independent credible labour rights groups to engage with when developing worker training, such groups do exist. They believe that worker training, if it has relevant content, practice, and goals, can make an important contribution to improving labour rights in Mainland China.

They point out, rightly, that training is a means to an end, rather than an end in and of itself. The objective should be to support genuine labour protection through improved worker participation and a mature system of industrial relations. Therefore, it is important to evaluate what kinds of trainings are most useful in promoting worker participation and mature industrial relations, and which are not.

Just as efforts to "impose" remediation on a factory are less successful than collaborative efforts (as sportswear buyers constantly remind us), worker training programs are much more successful when there is collaboration with local management and trade union organizations. Although many programs are not initiated by workers, they should respond to workers actual needs and seek to increase their active participation in the program as it progresses.

Before embarking on worker training programs, sportswear brands, multi-stakeholder initiatives and manufacturers should, in collaboration with knowledgeable unions, NGOs and training providers, develop the means to assess the impacts of training on workers and management, as well as the means to report to stakeholders on those results in a transparent way.

Sourcing and buying practices

As we saw in Chapter III, efforts by workers to organize trade unions are often frustrated by the very real fear that buyers will cut back on orders or relocate orders altogether once a trade union is established.

Although some brands have taken the step of introducing "balanced scorecards," which attempt to integrate labour standards performance alongside more traditional evaluations of current and potential suppliers, these measures tend to view the presence of unions in a factory as a neutral rather than a positive factor that facilitates worker input and participation and therefore should be rewarded with substantial preference when choosing or maintaining orders with a supplier.

Steps by buyers towards a more positive climate for freedom of association should include:

- Preferential placement of orders in unionized factories;
- Long-term, stable supply contracts with unionized factories; and
- A measurable premium in unit prices for factories with Collective Bargaining Agreements (CBAs).

In Chapter III we noted that some US businesses lobbied against worker protections in China's new labour contract law, while others publicly disassociated themselves from those efforts. Buyers and suppliers should take a positive, public position in support of the right of workers to freedom of association and to bargain collectively, and convey that position to governments that continue to restrict this fundamental worker right.

In line with Play Fair 2008's recommendations, Nike has recently called on governments to "recognize and respect the principles embodied in ILO Conventions 87 and 98 regarding freedom of association and collective bargaining."²²⁸ Other sportswear brands should take a similar position, including calling on all countries to formally ratify those Conventions.

Reporting

Lastly, in order to assess the effectiveness of the above efforts, the sportswear industry must measure and report on the presence of unions and collective bargaining agreements in their supply chains, and the (aggregated) percentage of their own production in those factories.^{XL} Buyers and suppliers should also measure and report to stakeholders the percentage of production in jurisdictions where freedom of association is legally restricted, with a view to preventing further expansion of production in areas where the industry's own codes of conduct cannot be effectively implemented.^{XLI}

2. PRECARIOUS EMPLOYMENT

Although there has been a growing tendency in the sportswear industry to use short-term employment contracts and dispatched or casual labour to deal with the instability in order timelines and volumes, there have also been notable efforts to reverse this untenable situation at both a factory level and at the public policy level.

At the PCCS Garment factory in Cambodia that we discussed on page 26, for example, the rise in use of short-term contract labour was reversed by factory management working with adidas and the Worker Rights Consortium. In 2007, a majority of short-term contract workers were moved to per-

XL. This measure is now a part of the Global Reporting Initiative's G3 reporting Guidelines (measure AF29).

XLI. Adidas provided such an analysis to Oxfam in 2005, showing that approximately 52% of its production occurs in Asia-Pacific countries that do not give legal force to workers freedom of association and collective bargaining, and that this amount had grown by 3% between 2002 and 2004 (see Connor, Tim and Kelly Dent. Offside! Labour rights and sportswear production in Asia. Oxfam International, 2006, p77)

manent contracts with the factory. Where shorter-term contracts are to be used, it will only be in accordance with a clearly defined plan justifying their use.²²⁹ Adidas also reports efforts to reduce the use of contract labour at Molten Thailand (see page 46).

The steps taken by PCCS Garment, in collaboration with adidas, should be emulated by other sportswear buyers and suppliers wherever the excessive use of precarious employment has become common in their supply chains.

As noted on page 27, legal restrictions on the abuse of short-term labour contracts have been enacted in some countries, and in China some sportswear companies supported, rather than opposed, these changes. Using the recent improvements to China's labour law as an example, sportswear companies should take a positive, public position in support of legal restrictions on the abuse of short-term contract labour and dispatched labour schemes. However, because of the frequent gap between regulation and effective enforcement, sportswear brands, retailers and manufacturers also need to ensure that the factories producing their goods abide by these legal restrictions where they exist, and discourage the abuse of short-term contracts where the law is still silent on the issue.

The abuse of short-term contracts and dispatched labour schemes as a means of avoiding social security and other obligations due to workers should be expressly prohibited in company and MSI codes of conduct.

Adidas, for example, has indicated that it will insist on permanent status for workers that are hired on short-term contracts "to avoid legal responsibilities,"²³⁰ which is a step in the right direction, and that as a matter of policy adidas "actively discourage[s] the use of temporary or contract labour in the supply chain."²³¹ Unfortunately, most sportswear companies and some MSI codes of conduct are silent on the issue, although the abuse of short-term contracts could be seen in many cases as a violation of other code components like freedom of association or discrimination.^{XLII}

More importantly, however, the industry must come to terms with the instability in orders that encourages factories to seek an increasingly flexible workforce. Buyers must make efforts to adjust their purchasing practices to:

- Develop long-term, stable supply contracts with supply factories;
- Ensure that payment schedules are set out in all supply contracts and that payments are made on time;
- Wherever possible, space out orders over the year to reduce seasonal fluctuations;
- Establish an optimum notice time for factories concerning any changes in existing orders or placement of orders

so that the factory is able to adjust production accordingly without violating hours of work standards or requiring the use of short-term contracts and/or subcontracting; and

- If necessary, adjust order deadlines.

3. FACTORY CLOSURES

It would be disingenuous to talk about factory closures as being "responsible" or "good" closures. In the end, even if all legal obligations have been met, workers still lose their jobs and their community as a whole suffers the consequences.

However, given the reality described earlier – that in most factory closures, workers are cheated out of severance pay, back wages, social security benefits and/or other legal entitlements – there are some immediate demands that must be made of sportswear companies to at least reduce the negative impacts of factory closures.

When Canadian T-shirt manufacturer Gildan Activewear announced the closure of two of its factories in the State of Coahuila in northern Mexico in March 2007, the company initiated a series of discussions with the local labour rights organization SEDEPAC and Canada's Maquila Solidarity Network on compensation and assistance for the 1,300 workers who would be left jobless. Positive outcomes of the company's willingness to engage in constructive dialogue included one-year health insurance coverage for unemployed former workers, severance pay beyond legal entitlements in lieu of notice, and a financial contribution to a government job retraining program for former Gildan workers.

When Yupoong announced the closure of the BJ&B factory in the Dominican Republic (see page 29), intervention by brand buyers, the WRC and the International Textile, Garment and Leather Workers Federation encouraged negotiation with the local union on an agreement providing for three months of severance over and above the legal entitlement and a sum of 200,000 pesos (US\$6,100) for the union and its federation for organizing and educational programs.

As a general rule, negotiation with an existing trade union to develop alternatives to closure or, at minimum, the terms of closure, should be considered an obligation.

However, it is even more critical that as brands, retailers and international manufacturers restructure their supply chains and manufacturing networks, they take steps to minimize the potential for disastrous factory closures.

XLII. A clause to this effect is included in the SA8000, Ethical Trading Initiative, and Fair Wear Foundation codes of conduct.

There have been positive efforts to develop a catalogue of best practices, outlining a series of concrete steps buyers, suppliers, governments and others should take to minimize the possibility of closures and reduce the negative impacts where they cannot be avoided. These guidance documents emphasize the need for collaborative efforts among buyers and with suppliers, trade union organizations and NGOs throughout the sourcing and manufacturing cycle.

- The MFA Forum^{XLIII} has published a Collaborative Framework that includes guidelines for buyers, manufacturers, governments, international institutions, and trade unions and NGOs on their responsibilities during the post-quota transition. The Collaborative Framework, which includes guidelines on responsibilities of buyers and manufacturers prior to and during factory closures and exits, is available at: <http://www.mfa-forum.net/docs/Collaborative.pdf>
- The Clean Clothes Campaign has issued an e-bulletin on Closures entitled Expectations in Relation to Factory Closures and Mass-Dismissals, available at: www.cleanclothes.org/ftp/07-09_CCC_E-bulletin_Closures_and_Mass-dismissals.pdf
- The Maquila Solidarity Network has published a set of demands related to factory closures entitled What Do Labour Rights Groups Expect from Retailers, Manufacturers and Government?, available at: www.maquilasolidarity.org/issues/ca/closures

The key theme in all three documents is that closures are not inevitable, nor is it acceptable that workers do not receive their legal due when closures do happen. By taking responsibility throughout the sourcing and manufacturing cycle, buyers and suppliers can lessen both the frequency and negative impacts of factory closures.

Some of these measures include:

- Where feasible, maintain current country supply base and contain consolidation in-country;
- Consider all possible ways to avert retrenchment/closure, with the full involvement of, and negotiation with, worker representatives where they exist;
- Where restructuring takes place, adopt a planned approach and work with the supplier concerned and with other buyers to mitigate the negative impacts of a decision to withdraw from or close a factory;
- Monitor supplier adherence to regular and timely payment of wages and legally required benefits (e.g. social security/pension payments) to appropriate the party(ies); and
- Overseeing, on an on-going basis, that sufficient

resources are available to meet all employee liabilities in the event of downsizing or closure.

The sportswear industry and multi-stakeholder initiatives active in the sector should develop and adopt formal policies and procedures to give effect to the guidelines and proposals contained in the Collaborative Framework, as well as the CCC and MSN documents, and communicate these policies publicly.

The industry also needs to better measure and report on its sourcing practices. For example, buyers should report publicly on the average length of relationship with supply factories, as well as more detailed statistics on the number of factories with which the company has worked for various incremental numbers of years (e.g. 1, 3, 5, or more years) and where they are located.

Transparent reporting on company policies concerning transitions and closures would assist in developing collaborative efforts with other buyers and stakeholders, as well as encouraging better practice by other companies in the industry. Such reporting should include policies for supplier/vendor selection, and/or termination, including new source approval process, linking of supplier labour rights performance with sourcing decisions, and strategies for managing impact of exiting factories.^{XLIV}

4. LIVING WAGES

In Chapter III we detailed the structural impediments to achieving a living wage in any one country as long as the sportswear industry remains footloose. Any substantial improvements in wages or working conditions that might affect profits made by buyers or prices paid to suppliers (so-called “cash standards”) have remained out of bounds for most corporate social responsibility programs. Instead, brands, retailers and multi-stakeholder initiatives like the Fair Labor Association have focused on productivity improvements, which, they believe, open the door for wage increases without impacting on price.

Unfortunately, as we saw in Chapter IV, a focus on increased productivity at Yue Yuen factories resulted in higher work stress and lower pay for workers who were no longer able to earn production bonuses. The data from Yue Yuen factories also illustrated the danger of relying solely on local minimum wage-setting mechanisms, since factories can just as easily eliminate other parts of the overall compensation package to undermine the positive effects of a rise in the minimum wage.

XLIII. The MFA Forum brings together retailers and brands, trade unions, NGOs, and national and multilateral public institutions to identify and promote collaborative strategies to support vulnerable national garment industries and greater respect for workers' rights in the post-quota period. For more information, visit: <http://www.mfa-forum.net/>

XLIV. For further recommendations on transparent reporting, see the Maquila Solidarity Network's December 2007 Codes Memo “The Next generation of CSR reporting: will better reporting result in better working conditions?”, available at: www.maquilasolidarity.org/en/node/749

We also noted that efforts to increase wages that rely solely on one actor are unlikely to be effective. Brands and retailers cannot simply increase prices paid without some mechanism to ensure that increased margins go to worker wages. As well, factory owners will not raise wages without some assurance that buyers will not source production elsewhere when they must assume extra costs. And trade unions, where they exist, cannot negotiate higher wages if the factory is unduly constrained by competitive pressures.

All of these constraints on wages are a product of a particular business model favoured by the sportswear industry. A challenge for the industry in the years ahead is to alter this unsustainable model so that payment of a living wage becomes possible.

We know that won't happen overnight. However, there are a number of steps the industry can and should take now to work towards delivering worker wages and other compensation that falls within the range of general living wage estimates for the regions where sportswear is being manufactured.

Measuring the living wage

As noted above, debates over the exact measurement of a living wage have not produced definitive action towards achieving those levels. Instead, they have generated further debate over the exact methodologies used to deliver a living wage figure, which does nothing to improve actual practice in the industry.

A more promising approach to determining wage levels in a particular local context is the use of “wage ladders” pioneered in the Jo-In project^{XLV} in Turkey, which sets aside the question of how best to measure a living wage and focuses instead on how to improve wages by stages to achieve a living wage over time.

In its application in the Turkey project, the wage ladder approach began with an assessment of current wage levels in a particular local context. The project participants then identified a progressive series of steps from the legal minimum wage, to the prevailing industry wage, to negotiated wage, to the living wage standards of different MSIs, and up to a living wage as defined by local trade unions.²³²

Once a “wage ladder” has been developed for a particular country or region, the focus can turn to “effective strategies for improving wage levels (e.g. increasing the prices paid, improving productivity, improving management systems, or applying cost-sharing schemes).”²³³

As a first step towards improving wages for sportswear workers, buyers, suppliers, trade unions and NGOs should

collaborate to develop wage ladders – including living wage estimates – for countries or regions in which sportswear production is taking place. Wage ladders will need to be adjusted regularly to account for changes in the consumer price indices for the area so that it's also possible to determine whether workers wages are keeping pace with inflation.

Moving up the ladder

How sportswear companies ensure that wage increases are achieved in specific manufacturing facilities will depend on a number of factors. Buyers, for example, will have different relationships with different factories based on the quantity of orders and the length of relationship with the factory. Some factories have trade unions present, which increases the ability of workers to capture any higher margins achieved through productivity gains and/or increased prices. In short, one size does not fit all.

Where trade unions are present, buyers should assist their efforts to achieve wage increases through collective bargaining by sharing (on a confidential basis) data on unit prices paid to the supplier. General management training and support for collective bargaining with suppliers should also assist in the development of mature industrial relations at sportswear factories, including collective bargaining concerning wages.

On an individual basis, buyers can also commit to giving preference in sourcing to suppliers and factories that meet a higher standard on wages, along the wage ladder for each region, which should help develop incentives for suppliers to meet higher standards.

Studying prices and productivity

Improvements in productivity that do not also increase the pace of work, working hours, health and safety hazards, and physical exertion expected of workers are generally welcomed. However, the evidence that productivity gains, on their own, are sufficient to increase wages at the factory level is fairly slim.

Before the industry puts all its eggs into the productivity basket, companies should jointly – perhaps through multi-stakeholder initiatives, such as the FLA, Ethical Trading Initiative (ETI), Social Accountability International (SAI) and/or the FairWear Foundation (FWF) – commission one or more independent studies of lean production methods to determine whether they can reliably deliver increases in wages without negatively impacting workers.

XLV. The Joint Initiative on Corporate Accountability and Worker Rights (Jo-In) was a project carried out in Turkey between 2003 and 2007 by six multi-stakeholder initiatives and labour rights organizations to discern good practice and provide guidance that will inform the global effort of achieving improved working conditions, as well as producing real, positive outcomes in Turkey.

Similarly, the question of whether prices paid by buyers to suppliers are sufficient to allow suppliers to meet labour standards in company and MSI codes of conduct (including living wage standards) needs further study.

The price question is closely linked to the question of productivity. If suppliers are more productive, buyers argue, they can pay higher wages without increasing prices. Suppliers, on the other hand, argue that prices are too low to allow wage increases even with improvements in productivity.

Buyers and suppliers should collaborate in commissioning an independent study on prices paid to suppliers, to which they would provide (on a confidential basis) pricing data and other information that would assist in determining whether prices paid to suppliers are sufficient to allow factory management to comply with company and MSI codes of conduct and to provide for sufficient wages and other compensation that meet basic needs.

Collaborative efforts

One of the arguments used against a company's adopting living wage standards is that an individual buyer does not have the ability to ensure improvements in wages in a factory producing for a number of buyers. The influence of a single buyer is limited in such cases, companies argue, since their best efforts may not be matched by other buyers.

For this very reason, buyers must collaborate to improve wages.

Collaboration is now accepted by buyers that share audit information (to reduce the number of audits at any one factory), or by buyers that collaborate through the Fair Labor Association or other MSIs to implement management training, for example.^{XLVI} As well, Nike has publicly committed to "lead multi-brand collaboration on compliance issues in 30 percent of [its] supply chain" by 2011.²³⁴

Buyers could begin to implement a living wage standard by identifying supply factories in which they, individually and/or collectively, account for at least 75% of production.²³⁵ Although the 75% figure is arbitrary, buyers must at least account for a substantial majority of production. It's also important that the brands present in the factory have a long-standing business relationship with the supplier and the factory, which will allow for more sustainable improvements and cooperation from the supplier and factory management. Yue Yuen, for example, has a long-term commercial relationship with a number of major brand buyers.

Using the wage ladder as a guideline, buyers could commit to a target for wages that substantially increases workers' wages and other compensation over time. Then, as individual buyers, each company would negotiate with the supplier on measures needed to meet the targets, proportional to each buyer's share in production.

We are deliberately leaving open the question of how those targets might be met by the supplier. In some cases, there may be changes to the way production is organized, or the use of different material inputs, that might allow for wage increases without increasing prices. In other cases, buyers may need to increase prices to achieve the necessary margins. However, in each case a collaborative effort with the goal of increasing worker wages would be undertaken.

Where trade unions are present in a factory, they must be involved in the process of negotiating measures to increase wages and other compensation.

Buyers, and/or multi-stakeholder initiatives to which buyers belong, should monitor the process to ensure that increases in wages are not met with decreases in other monetary benefits or violations of other labour standards such as hours of work provisions.

XLVI. Collaboration to improve wages, however, may be limited by U.S. anti-trust provisions, so that work in this area must be done in a manner that does not subject buyers to legal risks.

Setting Targets for Workers Rights

Athletes set targets to better play their game. They set targets to meet and beat not only their competitors' records, but their own. Athletes aren't content just to do as well as their competitors, or to do as well as they did last month. They shave seconds off their time, add kilograms to their weights, contribute scores and assists to their team's records. When athletes fail to meet their targets, they can lose the game, miss the shot, or drop the ball.

Sportswear companies set targets as well. They set performance targets for their sales. They set targets for new store openings or new market penetration. They set targets for stock prices and other financial goals. By the time the Vancouver Olympic Games start up in 2010,

- Adidas hopes to double its retail outlets in mainland China, generating approximately 1 billion Euros in annual sales from China alone;
- Mizuno hopes to double its outlets in mainland China.

If those business targets are missed – sales stagnate, stores don't open, or stock prices don't appreciate – senior management can be held accountable. Some can even lose their jobs for their failure to deliver.

And, as we have seen, sportswear manufacturers also set targets for the number of pieces workers are expected to complete each day. Workers often face consequences as a result – in working hours, compensation, and stress.

If sportswear companies can set specific, measurable targets for performance on production, sales and other financial goals, why can't they set targets for worker rights? If sportswear companies are serious about improving conditions in the factories manufacturing their products, shouldn't we have some way of charting success in real terms?

Four years ago, the Play Fair campaign asked the industry to take up the challenge of making real, substantive improvements in labour standards compliance by the Beijing Olympics. With the Beijing Games just months away, progress has been limited at best.

If the sportswear industry – buyers, suppliers and the

multi-stakeholder initiatives that include them as members – are serious about addressing the issues outlined in this report, Play Fair 2008 challenges them to commit now to undertake a set of actions with specific targets to ensure that when the next Olympic Games come around in two and four years' time, workers can expect tangible improvements in their wages and working conditions rather than two or four years' more talk about vague commitments.

By focusing on increasing respect for freedom of association and the right to bargain collectively, reducing the precarious nature of employment in the industry, and by finally taking action on “cash standards” like wages, sportswear companies can begin to transform the unsustainable business model that has, despite years of corporate social responsibility efforts, continued to perpetuate worker rights abuses throughout the sportswear industry.

The table in Appendix A sets out some practical actions the industry can take to address the four main issues that have been discussed earlier in this report. For each action, we identify the primary actors, and some specific targets for implementation. Brands and MSIs should set their own targets in the light of their own business realities and other key performance indicators, but to begin a discussion we suggest some potential minimum targets which we consider to be very reasonable.

These actions are not the only things the industry needs to do to address the central issues in their supply chains. The Play Fair Alliance set out a comprehensive Programme of Work for the Sportswear Industry in 2004.²³⁶ Play Fair 2008 has put forward a set of demands to various stakeholders, including the IOC, governments and industry, that also highlight the importance of living wages, a recognized employment relationship, and concrete action regarding freedom of association and collective bargaining.²³⁷ Over 100 organizations have endorsed those demands.

The actions proposed in this report, therefore, represent detailed, practical steps that should be taken alongside and as part of that broader program of action.

PlayFair 2008 Demands		Action	Primary Responsibility			Targets	
			Buyer	Supplier	MSIs	Vancouver 2010	London 2012
A. Freedom of Association and Collective Bargaining							
Take immediate and positive steps to ensure specifically that the right of workers to form and join trade unions and to bargain collectively is respected throughout their respective supply-chains. Maintain production in unionized facilities, and when expanding production, give preference to locations where trade union rights are respected in law and practice. Put in place a functioning industrial relations framework to ensure working conditions that comply with international labour standards and national labour legislation, whichever provides greater protection for the workers concerned.	A1. In order to develop a positive climate of non-interference with freedom of association and collective bargaining within sportswear supply chains, require all suppliers to proactively adopt a “Freedom of Association Policy” and communicate this policy to workers in their own languages in the form of a ‘Right to Organize Guarantee’. Audit to ensure the policy has been adopted and communicated to workers.	● ²	■	□	Policy adopted at a minimum of 30% of suppliers, verified in every audit conducted by the company or MSI.	Policy adopted at a minimum of 30% of suppliers, verified in every audit conducted by the company or MSI.	
	A2. In collaboration with trade union organizations and credible labour rights NGOs, facilitate independent education and training for workers and management personnel concerning freedom of association and collective bargaining.	●		●	●	in at least 50% of supply factories.	in all supply factories.
	A3. Develop means of measuring impacts of management and worker training programs, and require quantitative and transparent reporting on those results by member companies.			●	●	●	Adjust training programs based on results of impact assessments.
	A4. Provide accessible and safe means by which workers can file complaints about violations of freedom of association and collective bargaining rights to buyers, with a transparent process for resolving credible complaints.	●			●	in all supply factories.	Ongoing
	A5. Provide measurable incentives for factories that have a Collective Bargaining Agreement with an independent trade union, including: • Preferential order placement; • long-term, stable supply contracts; and • a measurable CBA premium in unit prices.	●				Communicated to all supply factories	Review progress and, if necessary, increase incentives.
	A6. Require quantitative member company reporting on the presence of unions and collective bargaining agreements within their supply chain, including both the number of factories with unions and collective bargaining agreements and the percentage of total production in such factories.				●	●	Ongoing

1. See page

2. ● denotes primary responsibility, either alone or in collaboration with other parties. ■ denotes responsibility for implementation □ denotes responsibility for verification.

PlayFair 2008 Demands	Action	Primary Responsibility				Targets	
		Buyer	Supplier	MSIs	Vancouver 2010	London 2012	
A. Freedom of Association and Collective Bargaining							
	A7. Report publicly on the percentage of production in countries and/or zones where freedom of association and collective bargaining are legally restricted.	●		●	●	Ongoing	
	A8. Provide access and opportunities for unions to disseminate information to workers regarding freedom of association and unions		●		In all supply factories	Ongoing	
	A9. Require the signing of access agreements between factory management and local unions at supply factories	●	●		In at least 25 % of suppliers	In at least 50% of suppliers	
	A10. Where trade unions are present or newly established at supply factories, facilitate the negotiation by the union and the employer of grievance procedures, as well as rules and procedures for hiring, firing, promotion, discipline, union facilities at the workplace, and dispute handling.	●	●	□	at applicable supply factories	at applicable supply factories	
	A11. Where trade unions are not restricted by law but non-union forms of worker representation are permissible, ensure that such forms of workplace representation conform with the principles of worker representation as laid down in ILO Convention 135.	●	●	□	●	Ongoing	
	A12. Where freedom of association and collective bargaining are restricted by law, take identifiable measures promoting genuine freedom of association within the country concerned, including engaging the workers collectively to facilitate their self-organization in ways that are consistent with the principles of freedom of association and respect for human rights.	●	●	□	●	Ongoing	
	A13. Where freedom of association and collective bargaining are restricted by law, express public support for positive legal reforms of labour laws to remove these legal restrictions.	●		●	●	Ongoing	

PlayFair 2008 Demands		Action	Primary Responsibility				Targets	
			Buyer	Supplier	MSIs	Vancouver 2010	London 2012	
B. Precarious Employment								
In every instance ensure that work performed in their respective supply chain is performed under the protections provided by a recognised employment relationship and internationally recognised labour standards	B1. Enter into formal employment contracts with workers and ensure workers receive a formal appointment letter setting out the terms of their contract.			●	□	100% of workers	Ongoing	
	B2. Eliminate third-party employment schemes for any workers engaged in the company's core business ¹			●		100% of workers	Ongoing	
	B3. Ensure that workers engaged in the company's core business are employed under open-ended or undetermined duration contracts, and that: - Any use of fixed duration contracts is in response to a clearly defined plan justifying their use; - Any workers on fixed duration contracts are provided the same salary and benefits accorded to permanent workers performing the same work; - Once a short-term employee has been hired on a fixed duration contract twice by the same employer, or for two years, the employee is automatically hired on an undetermined duration contract with the third contract. - Where requirements are stronger under local law, the higher standard should prevail.		□	●	□	at least 95% of workers Kevin, why is this 95 and not also 100? ³	Ongoing	
	B4. Incorporate a clause in the Code of Conduct prohibiting labour-only contracting arrangements or false apprenticeship schemes intended to avoid fulfilling obligations to workers.		●	●	●	●		
	B5. Produce guidelines for member companies on precarious employment, and incorporate key requirements into Compliance Benchmarks.				●	Produce guidelines and incorporate in benchmarks		
	B6. Establish long-term, stable supply contracts with supply factories.		●			With at least 40 % of supply factories	With at least 60% of supply factories	
	B7. Ensure that payment schedules are set out in all supply contracts and that payments are made on time.		●		□	For all supply factories		
	B8. Establish an optimum notice time for factories about changes in existing orders or placement of orders so that the factory is able to adjust production accordingly without violating hours of work standards or requiring the use of short-term contracts and subcontracting. Apply optimum notice time for placement of orders and changes in existing orders.		●			for placement of at least 60% of overall orders and all changes in existing orders	for placement of all orders and all changes in existing orders	
	B9. Express public support for positive legal reforms of labour laws in each country of supply to legally restrict the use of short-term contracts.		●	●	●	In each country		

3. The “core business” of the company should be interpreted as the main services for which the company is contracted, e.g. cutting, sewing, etc. Non-core business may include subcontracted services not integral to the business of the company such as canteen service.

PlayFair 2008 Demands		Action	Primary Responsibility			Targets	
			Buyer	Supplier	MSIs	Vancouver 2010	London 2012
C. Factory Closures							
		C1. Develop and adopt formal policies and procedures to give effect to the MFA Forum's Collaborative Framework, including all of the steps outlined by the Clean Clothes Campaign and Maquila Solidarity Network (see page 51), and communicate these policies publicly.	●	●	●	Adopt formal policies and procedures	
		C2. Report publicly on the percentage of production in each country of operation.	●		●	●	Ongoing
		C3. Report publicly on the average length of relationship with supply factories, as well as more detailed statistics on the number of factories with which the company has worked for various incremental number of years (e.g. 1, 3, 5, or more years) and where they are located.	●		●	●	Ongoing
		C4. Report publicly on the company's policies for supplier/vendor selection, management, and/or termination, including new source approval process, linking of supplier CSR performance with sourcing decisions, and strategy for managing impact of exiting factories.	●		●	●	Ongoing
D. Living Wages			Buyer	Supplier	MSIs	Vancouver 2010	London 2012
Undertake concrete steps to address the living wage issue (ensuring suppliers do not hold worker deposits, and pay wages on time)		D1. Incorporate a living wage standard in the Code of Conduct.	●	●	●	●	Ongoing
		D2. Ensure that payment schedules are set out in supply contracts and that payments are made on time.	●		□	100% of supply contracts	
		D3. Undertake an independent review of prices paid to suppliers in supplier factories to determine whether prices paid to suppliers are sufficient to allow compliance with international labour standards and provide for an expected wage for workers that meets workers' basic needs.	●			in a representative sample of supplier factories across supplier countries and product types.	
		D4. On a confidential basis, provide information regarding the unit price the buyer is paying for goods to workers' representatives engaged in collective bargaining with suppliers	●			Where applicable	Where applicable
		D5. Work with trade unions, suppliers and NGOs to develop a wage ladder, including a living wage figure for workers in each country or region.	●	●	●	Develop wage ladders in 40% of supply countries.	Develop wage ladders in remaining supply countries.

PlayFair 2008 Demands	Action	Primary Responsibility				Targets	
		Buyer	Supplier	MSIs	Vancouver 2010	London 2012	
D. Living Wages	D6. Commit to achieving a living wage over time by: • collaborating with other buyers (possibly through an MSI) to identify suppliers in which participating buyers collectively control more than 75% of production on a regular basis; • facilitate the establishment of negotiating structures to enable factory management and trade union(s) to consolidate the living wage element into the existing pay structure at those factories; • individually negotiate with factory management on measures needed to meet a living wage target proportional to each buyer's share in production.	●		●	Identify suppliers and establish negotiations	Achieve a living wage standard in at least 25% of supply factories	
	D7. Across the supply chain, favour suppliers that consistently meet a higher standard on the wage ladder for the region.	●		□	Document measurable increases in worker wages in each country of supply	Document further measurable increases in worker wages in each country of supply	
	D8. Commission one or more independent studies of lean production methods and whether they reliably deliver increases in wages to workers by increasing the efficiency of production lines without increasing the pace, hours or physical exertion expected of workers.			●	●		
	D9. Monitor the use of production targets within supply factories to ensure that increases in production targets for workers are only adopted after significant upgrades to equipment, processes, or worker skills. Ensure that increases in wages are not answered with decreases in other monetary benefits.	□	●	□	●	Ongoing	
	D10. Advocate/and or support advocacy with national governments for increases in the minimum wage consistent with ILO Convention 131.	●	●	●	●	Ongoing	



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