



## **Monitoring International Labor Standards: Summary of Domestic Forums**

Roger McElrath, Editor, National Research Council  
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# MONITORING INTERNATIONAL LABOR STANDARDS

## ***SUMMARY OF DOMESTIC FORUMS***

Roger McElrath, Editor

Division of Behavioral and Social Sciences and Education

Policy and Global Affairs Division

NATIONAL RESEARCH COUNCIL  
*OF THE NATIONAL ACADEMIES*

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## Acknowledgments

This workshop summary has been reviewed in draft form by individuals chosen for their diverse perspectives and technical expertise, in accordance with procedures approved by the Report Review Committee of the National Research Council. The purpose of this independent review is to provide candid and critical comments that will assist the institution in making its published report as sound as possible and to ensure that the report meets institutional standards for objectivity, evidence, and responsiveness to the charge. The review comments and draft manuscript remain confidential to protect the integrity of the process.

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Although the reviewers listed above provided many constructive comments and suggestions, they were not asked to endorse the content of the report nor did they see the final draft of the report, nor did they see the draft of the final report before its release. The review of this report was overseen by Burt Barnow, Institute for Policy Studies, Johns Hopkins University. Appointed by the National Research Council, he was responsible for making certain that an independent examination of this report was carried out in accordance with institutional procedures and that all review comments were carefully considered. Responsibility for the final content of this report rests entirely with the authors and the institution.

The committee also would like to thank Roger McElrath as the commissioned editor of this report. McElrath has worked for the Wharton School of the University of Pennsylvania and George Mason University, consulted to the International Labour Organization, and is currently assisting Business for Social Responsibility.

## Forum Presenters

### New York

- JANICE BELLACE (Moderator)**, The Wharton School of Business,  
University of Pennsylvania
- BIPUL CHATTOPADHYAY**, Centre for International Trade, Economics  
& Environment; Consumer Unity & Trust Society, India
- MIKE GRACE**, Communications Workers of America
- NEIL KEARNEY**, International Textile, Garment and Leather Workers'  
Federation, Belgium
- MARCELA MANUBENS**, Phillips-Van Heusen Corporation
- GREGG NEBEL**, adidas-Salomon AG
- CAROL PIER**, Human Rights Watch
- MILA ROSENTHAL**, Lawyers Committee for Human Rights
- DAVID SCHILLING**, Interfaith Center on Corporate Responsibility
- ROLAND SCHNEIDER**, Trade Union Advisory Committee to the  
Organisation for Economic Co-operation and Development, France
- BARBARA SHAILOR**, American Federation of Labor and Congress of  
Industrial Organization
- ANNA WALKER**, United States Council for International Business
- ROBERT ZANE**, Liz Claiborne, Inc.



**Los Angeles**

**WILLIAM B. GOULD IV (Moderator)**, Stanford Law School, Stanford University, Emeritus, and Willamette University College of Law

**GARRETT D. BROWN**, Maquiladora Health and Safety Support Network

**PETER CHAPMAN**, Shareholder Association for Research and Education, Canada

**RICHARD CLAYTON**, Service Employees International Union

**STEPHEN COATS**, U.S./Labor Education in the Americas Project

**TOM DELUCA**, Toys “R” Us, Inc.

**PHARIS J. HARVEY**, International Labor Rights Fund, Retired

**TOM HAYDEN**, The Campaign for the Abolition of Sweatshops and Child Labor

**AEWHA KIM**, Asia Monitor Resource Center, Hong Kong

**ROGER P. McDIVITT**, Patagonia, Inc.

**DEBBIE O’BRIEN**, Business for Social Responsibility

**KATIE QUAN**, Center for Labor Research and Education, Institute of Industrial Relations, University of California at Berkeley

**DENNIS A. SMITH**, Commission for the Verification of Corporate Codes of Conduct, Guatemala

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## List of Acronyms

AFL-CIO:	American Federation of Labor and Congress of Industrial Organization
AMRC:	Asia Monitor Resource Center
AS:	adidas-Salomon AG
BSR:	Business for Social Responsibility
Cal/OSHA:	California Division of Occupational Safety and Health
CalPERS	California Public Employees' Retirement System
COVERCO:	Commission for the Verification of Corporate Codes of Conduct
CUTS:	Consumer Unity & Trust Society
CWA:	Communications Workers of America
DGB:	German federation of trade unions
DOL:	U.S. Department of Labor
FLA:	Fair Labor Association
GSP:	Generalized System of Preferences
HRW:	Human Rights Watch
ICCR:	Interfaith Center on Corporate Responsibility

ILO:	International Labour Organization
ICFTU:	International Confederation of Free Trade Unions
ILAB	Bureau of International Labor Affairs, U.S. Department of Labor
ILRF:	International Labor Rights Fund
ILS:	international labor standards (core)
ITGLWF:	International Textile, Garment and Leather Workers' Federation
LC:	Liz Claiborne, Inc.
LCHR:	Lawyers Committee for Human Rights
MNC:	multinational corporation
NAFTA:	North American Free Trade Agreement
NAS:	National Academy of Sciences
NGO:	nongovernmental organization
NRC:	National Research Council
NYCERS:	New York City Employees' Retirement System
OECD:	Organisation for Economic Co-operation and Development
OPIC:	Overseas Private Investment Corporation
PVH:	Phillips-Van Heusen Corporation
SAI:	Social Accountability International
SEIU:	Service Employees International Union
SHARE:	Shareholder Association for Research and Education
TRU:	Toys "R" Us, Inc.
TUAC:	Trade Union Advisory Committee
UN:	United Nations
UNICEF:	United Nations Children's Fund
UNITE:	Union of Needletrades, Industrial and Textile Employees
USCIB:	United States Council for International Business
US/LEAP:	U.S./Labor Education in the Americas Project
WTO:	World Trade Organization

# 1

## Introduction

Over the past half century, the international flow of goods, services, and capital has grown rapidly. Globalization creates new economic, cultural, and social opportunities, but also poses the challenge of ensuring that workers throughout the world share in these opportunities. Responding to this challenge, the U.S. government carries out a variety of policies and programs aimed at encouraging greater recognition of worker rights around the globe.<sup>1</sup> The U.S. Department of State monitors worker rights abroad and reports on the status of those rights as part of its annual report to Congress in the *Country Reports on Human Rights Practices*. Building on this history of monitoring and encouraging worker rights around the world, the Trade Act of 2002 includes on the list of overall trade negotiating objectives of the United States, “promote respect for worker rights.”<sup>2</sup>

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<sup>1</sup>For example, U.S. laws governing the Generalized System of Preferences (GSP) and the Overseas Private Investment Corporation (OPIC) include provisions promoting worker rights. The GSP program is designed to boost the economies of some of the least developed nations by providing preferential, duty-free entry for more than 4,650 products from approximately 140 designated countries and territories. OPIC, a government agency, issues political risk insurance and loans to help U.S. businesses invest and compete in emerging markets and developing nations. By law, countries or companies that fail to provide workers with internationally recognized worker rights may be ineligible for GSP and/or OPIC benefits. More information on the GSP and OPIC programs can be found at [www.ustr.gov/gsp/general.shtml](http://www.ustr.gov/gsp/general.shtml) and [www.opic.gov](http://www.opic.gov) [1/27/2003].

<sup>2</sup>H.R. 3009, the Trade Act of 2002, Subtitle B, Section 2102.

Carrying out this commitment to worker rights requires an understanding of labor conditions and country-level compliance with international labor standards. The U.S. Department of Labor (DOL) has contracted with the National Research Council (NRC) of the National Academies to enhance its understanding of these issues.

The NRC has convened the Committee on Monitoring International Labor Standards to provide expert, science-based advice on monitoring compliance with international labor standards. The committee has undertaken a two-year project with multiple intersecting activities that will

- identify relevant, valid, reliable, and useful sources of country-level data on labor standards and incorporate them into a database tailored to the current and anticipated needs of the U.S. Department of Labor's Bureau of International Labor Affairs (ILAB);
- assess the quality of existing and potential data and indicators that can be used to systematically monitor labor practices and the effectiveness of enforcement in order to determine compliance with national labor legislation and international standards;
- identify innovative measures to determine compliance with international labor standards on a country-by-country basis and to measure progress on improved labor legislation and enforcement;
- explore the relationship between labor standards compliance and national policies relating to human capital issues; and
- recommend sustainable reporting procedures to monitor countries' progress toward implementation of international labor standards.

The NRC will examine compliance with the international labor standards in the ILO's 1998 Declaration on Fundamental Principles and Rights at work (see Appendix D), and also *acceptable conditions of work*, as defined in U.S. trade law, including wages, hours, and occupational safety and health.

To assist the committee in its work, the Wharton School's Center for Human Resources of the University of Pennsylvania hosted two public forums designed to illuminate methods for monitoring compliance with the four core labor standards set forth in the Declaration on Fundamental Principles and Rights at Work of the International Labour Organization (ILO), as well as the "acceptable conditions of work" standard defined in U.S. trade law. The intent of these forums was to enable three groups—unions, employers, and nongovernmental organizations (NGOs)—to present their

views and their strategies for, and difficulties encountered in, implementing and monitoring compliance with these five international labor standards.

At the forums, which were held in New York and Los Angeles in September 2002, each of the panelists made 20-minute presentations. At the conclusion of each morning and afternoon session, there was a question-and-answer period during which the moderator, panelists, and public attendees could ask questions.

In order to provide the most accurate and detailed account of what was said at the two forums, this report contains a separate section for each of the 25 speakers. Although this organization benefits the reader by clearly delineating the thoughts of each speaker and by providing a complete picture of each presentation, it may make it more difficult to discern the emergent themes and to compare the differing viewpoints of the speakers across topic areas. In order to overcome this gap, the report begins with a summary discussion of five significant topics that emerged from the forums. These five topics—codes of conduct, compliance, monitoring, reporting, and the National Academies database—are of primary relevance to the committee's charge and have been singled out for special treatment at the beginning of the report.

Following a summary discussion of the five topics are the details of the individual presentations, organized into three chapters that reflect the three types of organizations that were involved in the forums—trade unions, employers, and NGOs. For each of the individual presentations, the report briefly describes the speaker's organization, outlines the key points he or she made, and then summarizes the presentation itself. Finally, the report includes summaries of the question-and-answer sessions for both forums. Five appendices present additional background material.

Although members of the Committee on Monitoring International Labor Standards identified speakers to attend the forums, they did not participate in writing this summary. This summary does not contain any deliberations, conclusions, or recommendations of the committee.



## 2

# Five Significant Topics

The two forums brought together representatives from three broad constituent groups. These groups—trade unions, multinational corporations (MNCs), and nongovernmental organizations (NGOs)—were asked to present their views and strategies for implementing and monitoring compliance with five international labor standards and to discuss barriers they have encountered along the way. The specific standards they were asked to examine were the four core standards of the International Labour Organization (ILO) (see Appendix D) and *acceptable conditions of work* from U.S. trade law. Five significant themes, or topics, emerged from the speakers' presentations at the two forums: codes of conduct, compliance, monitoring, reporting, and the National Academies database. This chapter summarizes speakers' comments on these five themes.

### CODES OF CONDUCT

There was general agreement among the panelists at both forums that corporate codes of conduct are not an adequate substitute for the binding laws and regulations laid down by national and local governments. The recent privatization of labor rights enforcement that these codes represent was acknowledged to be a serious matter of concern. Participants posed the idea that codes should be viewed as complementary instruments to national and international law, not as replacements. Roland Schneider (Trade Union Advisory Committee [TUAC]) argued that the standards set in codes

should exceed those in national law and local practice and not simply adhere to the lowest common denominator.

Business representatives, including Anna Walker (United States Council for International Business [USCIB]), Tom DeLuca (Toys “R” Us [TRU]), and Debbie O’Brien (Business for Social Responsibility [BSR]), noted that many multinational corporations have devoted more resources to implementing and monitoring codes and have integrated the ethos of labor rights compliance into all aspects of supply-chain management. Other participants argued that although codes have had a beneficial effect overall, there is considerable room for improvement. Indeed, the problems associated with the proliferation of codes and monitoring regimes led Marcela Manubens (Phillips-Van Heusen Corporation [PVH]) to state that codes have failed to achieve the necessary level of commitment on the part of companies and their supply chains, as evidenced by continuing widespread violations of labor rights, and have probably outlived their usefulness.

The most common complaint was that the number of corporate codes has grown unmanageable and needs to be reduced through merger and elimination. Roger McDivitt (Patagonia, Inc.) favored the development of a standardized industry or universal code because this would eliminate the excuse of factory managers that the plethora of codes with which they must comply is confusing. Echoing this argument, Neil Kearney (International Textile, Garment and Leather Workers’ Federation [ITGLWF]) said that company-specific codes should be abandoned in favor of multi-stakeholder instruments because the former focus on welfare issues rather than on meaningful aspects of workers’ rights, protect companies’ brand-name reputations but not workers, and rarely involve participation by unions and workers. Kearney attributed the fact that there are only 150 SA8000-certified<sup>1</sup> plants in the apparel industry to the requirement that companies (a) commit to the ILO’s fundamental labor rights and (b) change management systems to identify labor rights violations. David Schilling of the Interfaith Center on Corporate Responsibility (ICCR) said that a study in the late 1990s showed that only 10 percent of the codes had any provisions for dealing with violations of freedom of association.

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<sup>1</sup>Social Accountability 8000 (SA8000) is a workplace standard that covers all key labor rights. Compliance with the standard is certified through independent, accredited auditors who are overseen by Social Accountability International. More information can be found at <[www.sa-intl.org](http://www.sa-intl.org)> [12/8/2002].

## COMPLIANCE

Responsibility for enforcing compliance with core labor standards ultimately rests with the state. All panelists supported this proposition. However, there was almost as much agreement on the related observation that governments in developing countries, as well as some in industrialized countries, are neither willing nor able to undertake this task. Therefore, the international bodies currently responsible for monitoring compliance with international labor standards (e.g., the ILO) must be given some “teeth” if they are to be truly effective in enforcing, rather than simply monitoring, compliance with international labor standards (ILS).

In the absence of state or global enforcement, compliance rests with the multitude of codes, guidelines, declarations, and conventions dealing with the issue of labor rights. However, Neil Kearney pointed out that all of these initiatives suffer from inadequate or nonexistent enforcement mechanisms. In addition, Pharis Harvey of the International Labor Rights Fund (ILRF) and Marcela Manubens, among others, noted that the efforts of employers, unions, and NGOs to enforce labor standards represent the privatization of labor rights enforcement and are supplanting the role of government authorities. Although all the panelists considered this to be an unhealthy situation, they also believed it to be currently unavoidable because global economic structures are not being balanced by global rules and enforcement mechanisms.

Corporate codes of conduct, and the accompanying implicit or explicit threat to withdraw product orders from noncompliant factories, are another means to enforce labor rights. Company participants generally felt that compliance with labor standards had improved significantly since the first code was established in 1991. Companies have created extensive monitoring systems, incorporated compliance with ILS into their everyday operations, and taken steps to help governments improve enforcement of labor laws. However, Stephen Coats of U.S./Labor Education in the Americas Project (US/LEAP) said that for this method to be truly effective in increasing compliance with international labor standards, it would have to be done at the industry or cross-national level. Otherwise, firms or countries could gain an unfair competitive advantage through noncompliance. Moreover, Robert Zane (Liz Claiborne) was optimistic that with the ending of the apparel quota system in 2005, compliance with ILS will dramatically improve because the number of countries and plants from which any given

apparel company sources products will decrease. This, in turn, will increase a company's share of orders from any particular factory and give that MNC more leverage in enforcing compliance.

Peter Chapman of the Shareholder Association for Research and Education (SHARE) noted that, in the United States in 2001, there were 35 occasions in which such shareholder resolutions had been proposed; these shareholder resolutions typically ask the company to support the ILO's Declaration on Fundamental Principles and Rights at Work, to establish an external monitoring program, and to report annually on compliance.

Linking labor standards to trade agreements is a strategy that has generated an enormous amount of academic research, policy debate, and public commentary. Contrary to the common perception, the United States has been linking trade privileges with labor rights compliance for years. Pharis Harvey noted that, in the early 1980s, labor rights provisions were attached to both the Generalized System of Preferences (GSP) and OPIC (Overseas Private Investment Corporation), and that unions and NGOs used these trade and investment agreements to file numerous petitions arguing for the withdrawal of trade and investment privileges because of violations of labor rights.

Many union and NGO participants, including Neil Kearney, Roland Schneider, and Stephen Coats, argued that the trade/labor linkage is by far the most effective means to enforce compliance. One example of this is the Cambodia–U.S. trade agreement, highly commended by Debbie O'Brien, in which increased quotas for garment exports to the U.S. are conditioned on compliance with ILO labor standards. It addresses the concern of those like Bipul Chattopadhyay of India's Consumer Unity & Trust Society (CUTS), who contended that punitive systems that utilize trade sanctions inflict the greatest harm on those whose interests are supposedly being protected—the workers.

Mila Rosenthal of the Lawyers Committee for Human Rights (LCHR) cautioned that basing assessment of compliance on the proposed National Academies database would be very difficult. Vietnam was used as an example; although Vietnam is nearly exemplary in its adherence to core ILO labor standards, it still does not allow freedom of association. In addition, even though there is no evidence of systematic usage of child labor in factories, child labor does exist in home work and piecework industries. How would these facts be incorporated into an overall assessment of the country?

Dennis Smith of the Commission for the Verification of Corporate

Codes of Conduct (COVERCO) in Guatemala said that cultural and political factors can complicate the interpretation of freedom of association. Measuring compliance with freedom of association, or the lack thereof, is fraught with difficulty, not the least of which is that implementation, and thus the definition, can vary depending on cultural context.<sup>2</sup> While the number of hours worked and whether or not bonuses were paid are issues that are not affected by country-specific factors, this is not the case with labor rights such as freedom of association. Katie Quan of the Center for Labor Research and Education, Institute of Industrial Relations, at the University of California, Berkeley, said that, in a recent workshop, the definition of forced labor was expanded to include lack of vacation time, low wages, and restricted access to restroom facilities. If the application of core labor standards can vary according to the cultural and political setting, then great caution is necessary in drawing conclusions about compliance.

## MONITORING

Forum participants discussed monitoring in the context of company codes of conduct. Participants felt that monitoring is necessary when government enforcement of labor laws is inadequate. And governments don't enforce labor laws when they lack the financial means, the political will, and the technical expertise. Numerous panelists stressed that governments should not view monitoring as a threat to their economies or as a mechanism for imposing western values, but as a method of increasing growth prospects through higher standards.

There was universal agreement that the most credible types of monitoring with consumers and advocacy groups are external independent and labor union monitoring. It is not unusual, however, for a single factory to be examined by monitors falling within two or three of these categories, and the blurring of distinctions between these different types of monitor-

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<sup>2</sup>It should be noted that the ILO has done a great deal of work toward developing a universal definition of freedom of association over the years. However, a definition applicable to all cases in all locations remains somewhat elusive, and the ILO's Fact-Finding and Conciliation Commission on Freedom of Association and the Freedom of Association Committee of the Governing Body of the ILO continue to examine compliance on a case-by-case basis. See, for example, ILO (1996), *Freedom of Association: Digest of Decisions and Principles of the Freedom of Association Committee of the Governing Body of the ILO, 4th ed.*, Geneva, Switzerland: Author.

ing in recent years has made it empirically difficult, if not impossible, to determine which type of monitoring is most effective in increasing compliance with ILS.

There was general agreement on the methods that a monitor must follow in order to be effective. The almost universal problem of a dearth of reliable and detailed written documentation means that monitors must rely on interviews with workers, company representatives, and unions and other civil society groups. In addition, as noted by May Wong of the Asia Monitor Resource Center (AMRC) and Dennis Smith, monitors must exercise complete control over their reporting; have unfettered access to the worksite and workers and to payroll and other employee records; and conduct the monitoring over a period of time, not just as a one-time “snapshot.” Without exception, the panelists felt that the monitoring process would be enhanced by the participation of local unions, NGOs, and religious groups. Such collaboration with local groups lends legitimacy to the results and improves the quality of and access to information. Local groups can also help overcome frequent problems with “compliance slippage,” a problem whereby factories fail to implement agreed-upon remediation efforts and relapse in their compliance with labor standards. Labor standards monitoring is a complex and time-consuming endeavor; many components of the process still face substantial technical difficulties.

## **REPORTING**

Panelists generally agreed that reporting with respect to codes of conduct should be as transparent as possible; it should be carried out at least annually (some panelists preferred six-month intervals); and it should allow for comments by external stakeholders. Possible items in monitoring reports include

- number and location of interviews and who conducted them;
- written documents consulted;
- local groups consulted;
- number of times plants were monitored;
- percentage of plants in compliance;
- problems found;
- remediation efforts undertaken; and
- results of the remediation efforts.

Union and NGO panelists argued that the reporting system is in dire need of improvement. Reporting should include meaningful quantitative goals, and it should focus much more on the ILO's core labor standards. Reporting on noncompliance is important only to the extent that remediation strategies are identified and enacted.

Gregg Nebel of adidas-Salomon AG said that reporting has had the effect of increasing expectations, and consequently more company resources are being allocated to remedial actions.

## DATABASE

There was little disagreement among panelists about the lack of reliable data at the national level and comparable data at the international level. Mike Grace of the Communications Workers of America (CWA) said that the complexity of creating and maintaining such a database should not lead to inaction and that, once the National Academies database is created, there will be no comparable database in terms of credibility and coverage. Most panelists supported the idea of a database, but Anna Walker and Robert Zane voiced concern about the cost of the database and the lack of specificity about potential uses for the information. In addition, Mila Rosenthal warned that the database should not have as an end result a ranking of countries based on aggregate data; she argued that such a ranking would be very difficult to do because of the breadth of indicators and the enormous variance in methodologies and accuracy among national data collection systems. One suggestion that would address the latter problem came from Stephen Coats who said that the project should include efforts to strengthen the ability of national governments to collect and analyze data.

Panelists made numerous general recommendations for sources of data, including the ILO, trade unions, and local and international NGOs. Several union and NGO participants, among them Richard Clayton of Service Employees International Union (SEIU), Mila Rosenthal, and Carol Pier of Human Rights Watch (HRW), argued that the database should include indicators measuring the informal economy<sup>3</sup> because it is here that many

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<sup>3</sup>The term "informal economy" generally refers to all economic activities by workers and economic units that are—in law or in practice—not covered or insufficiently covered by formal arrangements. The term encompasses a broad range of workers, enterprises, and entrepreneurs that spans many sectors of the economy in both rural and urban contexts.

labor rights violations occur. Omitting the informal economy would substantially distort a country's compliance record. Barbara Shailor of the AFL-CIO hoped that the National Academies project would result in the development of new indicators of compliance that would more accurately reflect workplace conditions. In a similar vein, Carol Pier suggested that indicators be devised to measure the general "climate" of labor relations.

Many participants forcefully recommended that the database be open and accessible to all interested organizations and individuals, transparent in terms of its methodology, upgraded regularly, and interactive in nature. Interactivity means that the database would be structured to allow comments from the public and, if need be, corrections based on these comments. An open dialogue and the ability to challenge the results will act as a peer review process and increase the legitimacy of the data.

Representatives from unions agreed that the database would be useful in their negotiations with companies, and it would increase the role of unions in the monitoring process. Mike Grace noted that CWA's previous efforts to highlight worker exploitation in developing countries were attacked on the grounds that CWA's information was biased, but this will not be the case with the National Academies database. It will provide a complete picture of the labor rights climate in many foreign countries, and this information could be used in bargaining with management to pressure companies to comply with ILS. Governments could also use the database to learn how other countries treat their workforces and what this has meant in terms of social development and standard of living.



## 3

# Trade Unions

Speakers from the trade union movement and groups closely aligned with trade unions represented both international and domestic organizations. Neil Kearney represented the International Textile, Garment and Leather Workers' Federation; Mike Grace, the Communications Workers of America; Roland Schneider, the Trade Union Advisory Committee to the OECD (Organisation for Economic Co-operation and Development); Barbara Shailor, the AFL-CIO; Richard Clayton, Service Employees International Union; Peter Chapman, Shareholder Association for Research and Education; and Katie Quan, the Center for Labor Research and Education, Institute of Industrial Relations, University of California, Berkeley.

### **INTERNATIONAL TEXTILE, GARMENT AND LEATHER WORKERS' FEDERATION**

#### **Neil Kearney, presenter**

The International Textile, Garment and Leather Workers' Federation (ITGLWF) is an International Trade Union Secretariat bringing together 217 affiliated organizations in 110 countries, with a combined membership of more than 10 million workers. The ITGLWF is funded by subscriptions from its affiliated organizations, and its education and development aid programs are funded by donor organizations.

### KEY POINTS

Codes of conduct have largely failed to improve compliance with international labor standards (ILS), in part because existing monitoring systems are not effective. The multiplicity of codes has hindered compliance. Social auditors are not governed by adequate standards, and they lack training in basic labor rights issues. Just as important, workers and unions need to be involved in the monitoring process. Widespread establishment of independent trade unions could solve the problem of noncompliance with ILS.

Mr. Kearney noted that horrendous abuses of workers occur every day in the supply chain of the apparel industry as workers are punished and abused for simply exercising, or trying to exercise, rights contained in ILS. These violations occur in Guatemala, Dominican Republic, Cambodia, China, Lesotho, India, and Pakistan, and the majority of those whose rights are violated are women. Exploitation of labor in the apparel industry is happening because of intense competitive forces emanating from retailers in the United States and Europe, the increasing number of factory owners who are multinational corporations (MNCs) and owe allegiance to no country, the failure of governments to enforce their own labor legislation for fear of driving away foreign investment, and the apathy of consumers in the West who simply don't care under what conditions a product is made.

Labor rights abuses are occurring in a context of more than 180 International Labour Organization (ILO) Conventions and Declarations, the ILO Tripartite Declaration concerning Multinational Enterprises and Social Policy, the OECD Guidelines for Multinational Enterprises, and more than 10,000 codes of conduct, whether these are company codes, multi-company codes, or multi-stakeholder codes. For the past decade the emphasis has been on voluntary measures by business instead of mandatory and enforceable laws, and this approach has failed miserably. Many codes are shams, focused on welfare issues rather than core labor rights and designed to protect brand-name integrity, not to affect the way factories are managed. For instance, there are only 150 SA8000-certified plants in the apparel industry because this program requires the recognition and implementation of the ILO's 1998 Declaration. In fact,

some codes make matters worse for workers, such as the American Apparel Manufacturers Association WRAP program, which does not recognize any of the basic labor standards, including child labor.

Unfortunately, even the more enlightened codes are facing implementation difficulties because of the lack of training of social auditors in the basic issues of ILS and national labor laws. For example, many auditors simply ask whether a plant is unionized and, if the response is negative, do not try to discover whether the workers have been denied freedom of association. The major concerns of workers in the apparel industry are low wages and excessive overtime, and it is in this area that social auditors have had to contend with massive falsification of records by management. They have not been up to the task. The entire social auditing industry needs to be upgraded in terms of training and standards; the ILO is the organization best equipped to do this. Companies' management systems are incapable of ensuring compliance with ILS, and no code other than SA8000 requires that proper management systems be established. Finally, workers are not consulted or informed about the existence of codes and how they can be used to improve working conditions.

It is clear, said Mr. Kearney, that individual company codes should be abandoned because the best way to ensure compliance is through multi-stakeholder codes; these in turn should be merged to reduce the number of codes and the excuse for inaction that this provides to factory management. But the best way to enforce compliance with ILS is to empower workers by building up independent trade unions and encouraging collective bargaining; ensuring that freedom of association is a reality and not just on paper would go a long way toward eliminating violations of ILS. Workers and unions should also be actively involved in the monitoring and auditing process because they are the ones closest to the problems. This can occur only if governments adopt and enforce labor legislation, and the ILO establishes global standards. A global economy requires global monitoring and regulation. Where national governments fail to enforce their own laws, for whatever reason, effective means to enforce those laws should be given to the ILO, which currently has neither the means nor the authority to undertake this task. To this end, the labor movement favors a linkage of trade and labor rights through a close working relationship between the ILO and the World Trade Organization (WTO). On the corporate side, retailers and merchandisers need to be made liable for the working conditions under which their goods are produced.

## COMMUNICATIONS WORKERS OF AMERICA

### Mike Grace, presenter

The Communications Workers of America (CWA) is a federation of unions representing more than 740,000 workers in both the private and public sectors. CWA members are employed in telecommunications, broadcasting, cable TV, journalism, publishing, electronics, and general manufacturing, as well as airline customer service, government service, health care, education, and other fields. The CWA is financed by dues payments from its member unions.

#### KEY POINTS

The complexity of developing a database should not prevent action. A database will be useful to unions because it will provide a more complete picture of a country's labor rights climate and thus allow unions to pressure employers to abide by ILS. It could also assist management to better judge the risk of foreign direct investment decisions and manage global human resources. Governments should not view ILS and the database as threats but rather as an opportunity to improve the condition of workers around the world and to identify best-practice policies.

Mr. Grace pointed out that violations of ILS occur on a regular basis even in the United States, leading one to imagine how many more must occur in developing countries with minimal administrative and enforcement capabilities. Although the international policy of the CWA still remains focused on assisting the development of free trade unions, it is now also concerned with the establishment and enforcement of ILS; the two missions are tightly linked and mutually supportive. The CWA is well aware that monitoring compliance with ILS is a very complex issue, but it strongly urges that this complexity not result in inaction or in watering down the goals of the National Academies project. CWA is pleased that the National Academies are soliciting the views of unions because the voice of workers and their interests have largely been excluded from the process of globalization.

There have been many instances where the information contained in

the proposed database would have benefited the CWA in its efforts to protect and promote workers' rights. Mr. Grace cited the case of an organizing drive at a call center in California operated by a major telephone company; when it became clear to the company that the workers were going to vote for union representation, it simply closed the facility and fired all of the workers. Although the company was able to successfully defend its actions in court, both the intense press coverage and the numerous lawsuits, including a filing by the Mexican telecommunications workers union under provisions of the labor side accord of NAFTA (North American Free Trade Agreement), showed the potential power of international pressure. But this pressure is effective only if the information and data upon which it is based are reliable and sound.

Although the existence of the database in and of itself will not prevent such violations of the right to freedom of association, it will at least provide unions and other interested parties with a more complete picture of a country's labor standards climate. This is all the more important for the CWA because the companies to which its members belong are increasingly global in scope as a result of the deregulation and privatization of communication monopolies around the world. Information on compliance with ILS will assist the CWA in its negotiations with companies and perhaps allow it to pressure employers to abide by ILS in the countries in which they operate. Thus, it might lead to a better enforcement of ILS in foreign factories.

Monitoring of compliance with ILS should not be viewed by developing countries as a protectionist plot or as a means to impose sanctions but rather as a mechanism that can be useful to them. For instance, because the database will make information on best practices in labor relations around the world readily available, it could help raise workers' living standards. Companies should take a positive approach as well; more and comparable data on labor standards will lead to better management of human resources and will assist in decision-making about foreign investments. The database could also lead to stronger ties between unions and management.

## **TRADE UNION ADVISORY COMMITTEE TO THE OECD**

### **Roland Schneider, presenter**

The Trade Union Advisory Committee (TUAC) was founded in 1948 and is an international trade union organization of 56 national trade unions

representing 70 million workers in 30 countries. It represents the views of trade unions to the OECD and is supported by the contributions of its member union centrals.

#### KEY POINTS

Monitoring and enforcement of labor standards should not be viewed as the imposition of western values, but as an opportunity to increase growth prospects. A reputable database would allow greater pressure to be brought on companies and countries. Labor standards have received considerable attention in Europe: A German Parliament study concluded that labor standards should be linked with trade, and the German government will now issue an annual report on compliance with ILS and create a blacklist of those countries not in compliance. The European Parliament has called on the European Commission to draft a proposal for including in trade agreements labor standards that establish strong monitoring and enforcement. Codes of conduct are useful, but the downside is the privatization of labor rights compliance; thus, codes of conduct should be viewed as a complement to national and international law, not as a substitute. The OECD Guidelines for Multinational Enterprises now include all core labor standards (previously it included only those related to trade unions), and a recent review added language that in practice might allow their extension down the supply chain.

Mr. Schneider believes that it is important for developing countries to understand that the enforcement of ILS is not a backdoor means to impose western values or to hinder the economic advance of poor countries. Neither is it a way to impose global wages and working conditions. The argument put forth by opponents of ILS—that they will hinder economic growth—is simply wrong; they will, in fact, enhance economic growth by facilitating democratic workplace procedures and by preventing developing countries from becoming victims of a race to the bottom brought on by the never-ending quest of MNCs for lower labor costs.

Mr. Schneider noted that the issue of ILS has received considerable attention in Europe, with the emphasis on taking the high road to development. A report commissioned by the German Parliament to study the risks and opportunities inherent in globalization was released in June 2002. It included chapters on trade and social standards, social justice, and sustainable development, and it called for a strengthening of the ILO and its capacity to enforce ILS, and for linking trade agreements and labor standards both at the bilateral and multilateral levels. In particular, it called on the WTO to explicitly link trade privileges to compliance with ILS and to allow the application of sanctions in the case of violations of ILS. Finally, the German government was asked to issue an annual report on compliance with core labor standards, highlighting countries in violation (that is, making a blacklist of noncompliant countries).

The European Parliament recently charged the European Commission with drafting a proposal for including core labor standards in trade agreements and establishing a strong monitoring mechanism with remedies for noncompliance. It also called on the European Commission to define more precisely corporate social responsibility in the context of company policy and European Union social policy. To improve compliance, the European Parliament has suggested that the European Union fund employee and management training in corporate social responsibility and provide financing to groups that monitor corporate activities and to countries that have adopted and are enforcing ILS. In addition, it called on private and public pension funds to state explicitly their ethical criteria in judging investment options. With respect to corporate codes of conduct, a recent European Union Green Paper noted that such codes are not adequate substitutes for binding national laws and regulations covering employment; because corporate codes gravitate to the lowest common denominator, they should be viewed as complements to the administration and enforcement capabilities of governments.

Mr. Schneider concluded by discussing the OECD Guidelines for Multinational Enterprises. The Guidelines were first issued in 1976 in response to concerns that companies were becoming too powerful; they were revised in 2000. The Guidelines are not legally binding, but companies that flaunt them can be pressured through the National Contact Points. Each OECD country is required to establish a government-run National Contact Point that is responsible for conducting an annual review of the Guidelines and hearing and resolving complaints, from unions and other interested parties, that companies have violated the Guidelines. The Guide-

lines cover a wide range of business practice, including labor relations, and the latest review added new elements important to the discussion of monitoring compliance with ILS.<sup>1</sup>

First, the employment and industrial relations section of the Guidelines now includes all of the core ILS as set forth in the 1998 ILO Declaration; thus, it is reasonable to assume that the proposed National Academies database should also include all of the core labor standards. Second, the application of the Guidelines has expanded to include the operations of companies in countries that do not adhere to the Guidelines; how this will play out in practice is not clear, but the opportunity now exists to extend the application of the Guidelines throughout the supply chains of MNCs. Lastly, the review process at the National Contact Point has been strengthened; what is important here is that the enforcement of the Guidelines relies on the threat of public disclosure, and the accompanying bad publicity, to alter company behavior. A comprehensive and reputable database could be used by concerned parties to pressure companies with operations in countries where core labor rights are being violated.

## AMERICAN FEDERATION OF LABOR, CONGRESS OF INDUSTRIAL ORGANIZATION

**Barbara Shailor, presenter**

The American Federation of Labor, Congress of Industrial Organization (AFL-CIO) is an umbrella organization of private- and public-sector unions that seeks to promote the political and economic interests of union members. It has 66 member unions with more than 13 million members. It is financed by its member unions.

Ms. Shailor noted that many of the questions surrounding the adoption and enforcement of ILS are not new; in fact, they date to the founding of the ILO in 1919. In recent years, the issue has garnered increased public attention as a result of the financial crises in Asia, Russia, and Argentina; the protests associated with the WTO meeting in Seattle; and the ongoing academic and policy debate in industrialized countries about linking trade

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<sup>1</sup>More information concerning the OECD's Guideline for Multinational Enterprises can be found in OECD (2000), *The OECD Guidelines for Multinational Enterprises: Meeting of the OECD Council at the Ministerial Level*, Paris: Author.



### KEY POINTS

The intellectual debate about linking labor standards and trade has been won; now it must be resolved in the political arena. Enforcement of labor rights has never been easy at the national level, and it will be even more difficult at the international level. There is no system comparable to that proposed by the National Academies, and it is hoped that the project will result in the development of new indicators of compliance.

benefits and adherence to labor rights. Ms. Shailor argued that the intellectual debate has been won and, in the near future, the notion of tying respect for basic labor rights to trade agreements, and ensuring their enforcement, will be generally accepted.

The creation and enforcement of labor rights have always been difficult at the national level, to say nothing of the problems encountered in the international context. In the United States it took tragic events, including a horrendous fire in a textile plant in New York City, to spur the government to pass legislation establishing workplace standards. The primary obstacle to the enforcement of labor rights, particularly in the United States, has not been inadequate government efforts but rather the business community. Unlike its European counterparts, U.S. business has never accepted the legitimacy of unions and, as a consequence, has worked hard to thwart workers' legitimate rights to freedom of association and collective bargaining. If workers can still be denied the right to freedom of association in the United States, one can only wonder at the difficulties that exist in developing countries.

The AFL-CIO strongly supports the efforts of the National Academies to develop a database on compliance with ILS. Such information will assist the labor movement in its efforts to secure better working conditions around the world. There is no comparable database on compliance, and it is hoped that this project will lead to the creation of new indicators of compliance. At the very least, it will provide a useful service by bringing together data not previously found in one data set and by making it easily accessible to all interested organizations and individuals.

## SERVICE EMPLOYEES INTERNATIONAL UNION

### Richard Clayton, presenter

The Service Employees International Union (SEIU) has 1.5 million members and is the largest union in the AFL-CIO. It organizes workers in the building service, health care, industrial, and public sectors.

#### KEY POINTS

The potential exists to use pension fund assets to pressure companies, and also countries, to enforce ILS compliance, but the problems include a lack of reliable, extensive, and comparable data. In addition, many governments do not believe that enforcing ILS is in their economic interests. Any database should try to include the informal economy, and it should be interactive, allowing for comments of concerned parties.

Mr. Clayton stated that the SEIU has been very successful in the United States in pressuring companies, through its work with pension fund administrators, to adopt labor policies that protect fundamental workers' rights. Pension funds in which SEIU members participate are pressured to invest in companies that have labor policies consistent with the interests of workers. Pension fund assets of SEIU members total more than \$1 trillion; this represents an enormous source of leverage, one that has been used domestically and could also be used in the international arena as well. If pension fund administrators can be convinced that taking into account a country's labor standards will result in safer returns from international markets, this could radically shift the argument in favor of stricter compliance with ILS.

Mr. Clayton noted two obstacles to this effort, however; sound and detailed data that are comparable across countries are currently unavailable, and many governments in the developing world believe that adopting and enforcing ILS will deter foreign investors and thus not be in their economic interests. Reliable data on labor standards and on government enforcement efforts are generally not available, and even when they are, as in the case of child labor, there is some question as to whether they are comparable across

countries. The problems of data reliability and compatibility are even greater in the informal economy, which is very large in most developing countries and for which there are relatively few usable data.

A good argument can be made that using pension assets to financially pressure companies that operate in foreign countries that do not uphold core ILS will encourage governments to enforce ILO conventions and other workplace protections. This effort has already begun with the emerging markets index developed by the California Public Employees' Retirement System (CalPERS). CalPERS manages more than \$130 billion in assets for 1.3 million members. CalPERS rates countries according to numerous criteria; countries are placed in either the permissible or the impermissible investment category, and CalPERS investment managers are not able to invest in companies with operations in countries in the impermissible category. One of the criteria used for rating a country is "productive labor practices"; because of the way the index is derived for each country, a country cannot receive a "permissible" rating if it does not meet the labor standards test. Included in the productive labor practices category are criteria such as ratification of ILO core labor standards, the quality of labor legislation implementing those standards, the capacity of the government to enforce its labor legislation, wages and hours of work, the impact of foreign export processing zones, and health and safety conditions.

The analysis of labor conditions in the various countries is done by Verité, an independent, nonprofit social auditing and research organization. Verité uses worksite visits and interviews with government officials, companies, nongovernmental organizations (NGOs), and unions, as well as written documentation and statistics from a variety of sources. But it does not gather data on the informal economy. Mr. Clayton believes that the National Academies project should not duplicate this omission in the effort to develop a database. Because of the large number of workers involved in the informal economy, failing to measure the informal economy can give a distorted view of a country's record in abiding by international labor standards. Another point of interest is that the CalPERS system is dynamic: A country that improves its labor rights compliance sufficiently can move from the impermissible to the permissible category.

## SHAREHOLDER ASSOCIATION FOR RESEARCH AND EDUCATION

**Peter Chapman, presenter**

The Canadian Shareholder Association for Research and Education (SHARE) is a nonprofit organization founded and supported by trade unions. It helps pension funds build sound investment practices, protect the interest of plan beneficiaries, and contribute to a just and healthy society.

### KEY POINTS

Revelations of unfair labor practices can seriously affect a company's valuation. Shareholder groups want monitoring to be transparent and carried out by independent auditors and to involve local groups. Reporting should include discussion of how monitoring was conducted. Freedom of association and collective bargaining need to be more aggressively monitored, as compliance with these core labor standards will in and of itself take care of most labor rights violations.

Mr. Chapman alleged that recent corporate scandals have brutally exposed the fact that not all corporate liabilities are shown on a firm's balance sheet. Although financial fraud lay behind most recent corporate revelations, companies might also have hidden liabilities with respect to the labor standards under which foreign workers are producing their products. Investors should be just as concerned about the labor rights records of companies as they are about financial misdeeds; the reason is that a firm's reputation, and thus its stock price, can be severely damaged by consumer boycotts and worker lawsuits in response to working conditions that violate ILS. The reputational risk is real: In a recent survey of Canadians, 55 percent of the respondents said that they considered conditions of production when they bought products, and 44 percent said that ethical concerns had led them to boycott a company's product in the previous year. Even if the percentages are somewhat lower in the United States, the risk is still enormous.

Mr. Chapman made the point that shareholders have raised the issue of labor standards in numerous ways, with perhaps the most well-known being resolutions at annual meetings; last year there were 35 such resolutions at the annual meetings of American companies. These resolutions typically ask companies to adopt policies supporting the ILO's Declaration on Fundamental Principles and Rights at Work, to establish external monitoring processes for their foreign suppliers, and to report annually on compliance. Both CalPERS and NYCERS (New York City Employees' Retirement System, which has 351,000 members and \$40 billion in assets) have, either directly or indirectly, adopted the ILO standards as the appropriate measure of labor rights.

Shareholder groups prefer that independent auditors be used for monitoring and that this involve local religious and human rights groups and trade unions, as well as international NGOs. The involvement of these groups lends legitimacy to the process and provides some assurance that the monitoring process is not only objective but also operating in a real-time framework that overcomes the problem of compliance slippage between audits.

Mr. Chapman argued that reporting should be as open and transparent as possible. Reporting has improved somewhat in recent years, with Wal-Mart and Nike issuing corporate responsibility reports, for example. But much more is needed in order to provide investors with data that will allow them to judge how companies are managing labor standards in their supply chains.

Important elements of any monitoring report should include the following information:

- how worker interviews were conducted;
- what written documentation was consulted;
- how many times monitoring took place;
- what percentage of plants were in compliance;
- what major problems existed;
- what remedies were adopted; and
- what the results were.

Mr. Chapman noted that the monitoring and reporting process in the apparel industry emphasizes child labor issues and pays little attention to the rights to freedom of association and collective bargaining. This should

be reversed, Mr. Chapman said; focusing on protecting the right of workers to join and form unions will in and of itself take care of the child labor issue.

**CENTER FOR LABOR RESEARCH AND EDUCATION,  
INSTITUTE OF INDUSTRIAL RELATIONS,  
UNIVERSITY OF CALIFORNIA, BERKELEY**

**Katie Quan, presenter**

The Center for Labor Research and Education at the University of California, Berkeley, uses its skills in labor education, labor research, and facilitation to bring together labor leaders, union members, students, and faculty for the purpose of examining issues such as organizing, public policy, and leadership development.

**KEY POINTS**

There are four distinct types of monitoring regimes, and it is not possible to determine which is most effective. Clearly, codes do make a difference, but unions may be just as important a factor in securing compliance with ILS. Forced labor and freedom of association may seem easy to define but, in fact, are subject to varying interpretations.

Ms. Quan argued that labor rights violations in the U.S. apparel industry have a long history, and to this day there are grave problems with late payments, failure to pay the minimum wage, and intentional miscalculations of overtime hours. As can well be imagined, the problem is even worse in foreign factories in Asia and Latin America where there is a shortage of independent and technically competent monitoring and adequate enforcement institutions and mechanisms.

Monitoring has taken many forms, which can be grouped into four categories:

1. internal dependent—salaried company employees do the monitoring;
2. external dependent—auditors contracted by the company do the monitoring;
3. external independent—NGOs with no financial dependence on the company do the monitoring; and
4. labor union—labor unions do the monitoring.

Ms. Quan recently convened a workshop on monitoring, which attempted to determine which type of monitoring regime is most effective. But because many factories are covered by a multiplicity of codes and monitoring techniques, it was next to impossible to devise a method for ranking the effectiveness of the types of monitoring. Complicating the issue is the fact that distinctions between the major types of monitoring are blurring (e.g., external independent NGOs have begun receiving fees for their services, while maintaining the right to make independent reports and assessments). Not surprisingly, case studies have revealed that it is not always codes and monitoring that led to better working conditions; the formation of independent trade unions and the pressure exerted by consumer groups have also been important elements in enforcing ILS.

Perhaps the most surprising aspect of Ms. Quan's workshop was the lengthy discussions on the seemingly simple definitions of forced labor and freedom of association. Although the definition of forced labor would seem to be straightforward, many of the workshop's participants argued that the traditional interpretation should be substantially widened to include the following situations: excessive coerced overtime, low wages, and lack of vacation and sick leave are the norm; access to bathrooms and restroom facilities is restricted; employers maintain possession of workers' passports and other critical documents; and employees are forced to pay recruitment fees to brokers.

Questions also arose about the definitions of freedom of association and collective bargaining and whether these are situation-specific. For example, what is to be made of the notion of "parallel means of representation"—workers join associations or workplace groups, but union activity in the strict sense is absent? Some countries have very few unions. Others do not permit truly independent unions free of control by management or by government or both, but bargaining takes place through different mechanisms. This is the situation in China today. Although this is not collective

bargaining in the traditional sense, workers' views *are* being presented to management.

On the other hand, is collective bargaining taking place when the bargaining between unions and management occurs in a context in which workers have historically been forced to join unions, such as in Indonesia during the Suharto era? How can we determine the presence or absence of freedom of association and collective bargaining in cases where the demarcation lines between management and so-called worker representation are not obvious? One way to judge is to look at the content of the agreements and determine whether the agreements are available and agreeable to workers.



## 4

# Employers

The business community perspective was provided by five company representatives (four from the apparel industry and one from the toy industry), an organization that promotes American business interests in various international bodies, and a nonprofit business membership organization. Gregg Nebel represented adidas-Salomon; Robert Zane represented Liz Claiborne, Inc.; Marcela Manubens, Phillips-Van Heusen; Anna Walker, United States Council for International Business; Roger McDivitt, Patagonia; Tom DeLuca, Toys “R” Us; and Debbie O’Brien, Business for Social Responsibility.

### **ADIDAS-SALOMON AG**

#### **Gregg Nebel, presenter**

In 2001, the adidas-Salomon company (AS) had more than 13,000 employees and total net sales of 6.1 billion euros. It is a global leader in the sporting goods industry and offers a broad portfolio of products that are available in virtually every country.

Mr. Nebel asserted that AS is committed to ensuring that the factories throughout its supply chain provide acceptable employment conditions for their workforces. AS has a global team of 30 people from a wide variety of technical backgrounds who report to the Board of Directors on issues of employment and health and safety within its supply chain. The basis of this

### KEY POINTS

A global team of 30 people, reporting directly to the company's board, conducts more than 1,000 plant visits annually and 400 training sessions for factory managers and workers. The company's goal is to integrate labor standards compliance into all functions of its supply-chain management. An audit process is used to identify problems and to discover trends that will allow it to assess the risk of compliance violations at the factory and country levels. Different cultural backdrops, legal regimes, and the complexity of supply chains make assessment difficult.

reporting is a monitoring system that involves more than 1,000 plant visits per year and 400 training sessions for factory workers and managers. AS has integrated into all the functional aspects of its supply-chain management the idea that labor standards are important; it supports the core labor standards of the International Labour Organization (ILO) and has employment guidelines to which its suppliers are required to conform.

To achieve this goal, AS investigates and evaluates potential suppliers; after choosing a supplier, it jointly develops a plan for ensuring compliance, including reference guidelines. In an ideal world, all suppliers would build compliance with international labor standards (ILS) into their overall business plans, but because the reality is different, AS monitors its suppliers through a review process conducted by both internal and external auditors. When problems are found, an action plan is developed to correct any violations and regular follow-up is undertaken. Through these audits, AS also hopes to discover trends that will allow it to assess the risk of compliance violations occurring among different suppliers and countries; it then identifies medium- and high-risk environments and initiates a program of education and training in order to minimize the potential for violations.

There are many challenges, not the least of which is the complexity of trying to assess compliance in many different countries with varying legal codes and cultural frameworks. A consistent approach is preferred, but at times this can encounter cultural and legal barriers, including the inadequacy of national labor law. For example, the assessment of freedom of association might vary depending on the country in which the factory is

located, but this is not the case with respect to issues such as whether overtime work is compensated or how hours of work are calculated. Because complexity can result in the loss of focus, the monitoring process must prioritize the issues to be addressed, and certainly among the most important are child labor, forced labor, and freedom of association.

Another difficult challenge concerns transparency, both with respect to guidelines for suppliers and the reporting of results of the monitoring process. For AS, a transparent reporting process, which includes an annual report on social and environmental affairs, and the higher level of expectations that it brings mean that it has no choice but to allocate scarce resources to remedial actions, and this opens the company to potential legal liabilities. Transparency can also highlight the fact that no large company can maintain 100 percent coverage of its supply chain, and this is an argument for shifting from an auditing framework to one that focuses on training people in the factories—workers and managers—to do the monitoring as part of their regular jobs.

## **LIZ CLAIBORNE, INC.**

### **Robert Zane, presenter**

Liz Claiborne, Inc. (LC) was founded in 1976 as women were reentering the workforce. In 2000, the company had net sales of \$3.1 billion. LC products are sold in major department and specialty stores. The company's principal facilities are located in the New York area. LC employs more than 7,000 people worldwide.

### **KEY POINTS**

A great deal of progress has been made in combating violations of ILS, and this trend will be accelerated with the repeal of apparel tariffs in 2005. The company uses both internal and external monitors of its supply chain. One key to ensuring compliance is to educate factory owners so that they understand that violations of labor standards do not make economic sense: The small increase in profit margin is far outweighed by the risk of losing LC's business.

Mr. Zane conceded that horrific working conditions certainly exist in some plants producing apparel for export to western countries. However, this is not the case for clothing sold by LC because it refuses to sacrifice human decency in order to get a more competitive price. The company sources products from 275 factories in 35 countries; like other apparel companies, it does not have a financial stake in these facilities and thus is not able to exert pressure through a direct ownership position. Instead, it makes sure that all of its suppliers and their employees, as well as its own employees, understand the company's corporate values. LC does not accept violations of labor standards in the plants that produce its products, just as it does not accept poor quality or unrealistic prices in negotiating with suppliers. Suppliers must respect the company's values on how workers should be treated.

To ensure that its products are being produced under decent working conditions, LC uses a variety of internal and external monitoring mechanisms, including membership in the Fair Labor Association (FLA). Some factories have occasional problems, however, and when this occurs, it is important to educate factory owners so that they realize that violating labor rights does not make economic sense. Mr. Zane stressed the economic side of the issue: Because LC is such a large customer of practically any plant, the incremental increase of profit that might be derived from a labor rights violation (withholding a bonus payment, for example) is not worth the risk of losing a contract with the company.

Along this line of reasoning, Mr. Zane said that ending the textile tariff/quota system in 2005 will lead to an improvement in working conditions in foreign factories because it will reduce the number of countries from which products are sourced. Under the current tariff system, countries are allowed to export to the United States only a set amount of apparel goods, and thus the supply from production facilities in any one country is artificially limited. Because of the level of demand in the United States and the large number of apparel companies, any single company tends to represent only a small proportion of the output of any particular factory. This limits the pressure that a company can bring to bear on a factory's management. When the tariff system ends, companies like LC will consolidate the number of countries and factories from which they source products and thus increase their ability to influence not only management but also, presumably, governments and their labor legislation and enforcement mechanisms.

## PHILLIPS-VAN HEUSEN CORPORATION

### Marcela Manubens, presenter

Phillips-Van Heusen Corporation (PVH) was founded more than a century ago. Today, it is one of the most recognized apparel and footwear companies in the world. PVH's net sales in 2001 exceeded \$1.4 billion; it has more than 8,000 employees.

#### KEY POINTS

Much progress has been made since the early 1990s, and the positions of various stakeholders are much closer. Company codes of conduct have played a positive role, but their usefulness may be coming to an end. There are too many, and the auditing process has become almost counterproductive because of the lack of training and standards. Codes in effect privatize labor rights enforcement. But a global economy requires global standards that are monitored and enforced.

Ms. Manubens recalled that there has been great progress in improving the application of core labor standards in the apparel industry over the past decade. The process began with Levi Strauss's code in 1991, and it was given great impetus in 1996 by the apparel industry compact formed at the behest of the Clinton Administration. There is much greater awareness of the issue among unions, nongovernmental organizations (NGOs), and companies, and the interests and viewpoints of these stakeholders have converged dramatically since the mid-1990s. The transparency of the process has also made great strides, but this transparency continues to reveal that much still needs to be done.

Simply promulgating a code of conduct is not enough to change behavior; the key is to continually reinforce the message to factory owners that compliance is in their long-term economic interests. This approach is preferable to relying solely on monitoring compliance with codes of conduct; here, factory owners are the object of monitoring and seen as part of the problem, rather than as part of the solution. Company codes of conduct amount to the privatization of labor rights enforcement, but the proper

institutions to enforce labor rights are national governments. A global economy requires that global standards be monitored and enforced. The task of monitoring should be the job of the ILO because it is a tripartite institution representing workers, employers, and governments, and thus elicits the most respect from all the stakeholders. Companies cannot and should not be expected to take on the task of enforcement—that properly rests with government.

Furthermore, from a practical standpoint, it is evident that, despite the progress made, codes of conduct are failing to achieve the necessary level of compliance. There are too many codes being monitored by too many groups, and the lack of standards is reducing the effectiveness of both and leading to action-inhibiting confusion among factory managers. For example, at its inception, the FLA code was intended to be the only code for the apparel industry, but now the codes number in the thousands. Another problem is that the auditing process is in dire need of standardization in terms of methodologies, and the auditors themselves lack proper training. In addition, there are some very large retail companies that have not joined these efforts, and this also limits the pressure for change. As a result, monitoring is simply pointing out problems rather than working to effect change.

## UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS

### **Anna Walker, presenter**

The United States Council for International Business (USCIB) promotes an open system of global commerce and represents the interests of American companies in various intergovernmental organizations. The Council is financed by the dues of its approximately 300 member companies, law firms, and trade associations.

Ms. Walker maintains that it is very popular these days to blame multinational corporations (MNCs) for the problem of core labor rights violations in developing countries; this is not only factually incorrect but counterproductive. The vast majority of foreign direct investment takes place between industrialized countries. Investment going to developing countries, which is only 20 percent of the total (most of it going to China, Mexico, and Brazil), is typically not in industries associated with labor rights violations. Furthermore, where labor rights violations have been most egregious, there has not been much investment by MNCs.

### KEY POINTS

It is counterproductive and incorrect to blame MNCs for violations of ILS. Governments are the proper institutions to enforce labor rights, and in situations where they have failed to do so, MNCs have done a great deal to improve compliance with labor standards. The ILO should take the lead in monitoring ILS and providing technical assistance to countries and companies to improve compliance with labor rights.

Although governments are the proper institutions to take responsibility for improving compliance with core labor standards, Ms. Walker argued that MNCs have nonetheless done a great deal to improve working conditions in developing countries. Companies have made efforts to advance the legal environments in which they operate, including government enforcement mechanisms, and have sought to integrate social responsibility into their business plans at all levels. They have communicated to supplier firms the absolute necessity of complying with ILS and have worked with them to modernize their management systems. Extensive monitoring systems have been established, including the use of outside auditors, and where violations have occurred, MNCs have set up training programs and taken other steps to ensure compliance. These actions by MNCs are not inexpensive, however, and only the largest and most financially stable firms are able to accomplish the full range of tasks set forth above.

Achieving compliance with ILS also requires the education of supplier firms so that they understand that providing good working conditions is in their own economic interest. Most important, however, national governments must take responsibility for passing and enforcing laws that uphold core labor standards. Companies can exert only so much pressure along their supply chains, and the effectiveness of the pressure is inversely related to the size and complexity of the supply chain. In addition, the overwhelming majority of workplaces with abysmal labor rights compliance records will not be affected by the efforts of MNCs, no matter how conscientious and successful. Governments must take the lead, and foremost among their actions should be fostering economic development (historically positively related to adherence to labor rights) and ratifying ILO conventions.

The ILO Declaration on Fundamental Principles and Rights at Work is the basis upon which a strong international regime for monitoring and evaluating countries' compliance with the core labor conventions should be built. In addition, the ILO is charged with providing technical assistance to those countries needing to improve their compliance record. Ms. Walker argued that this is the ILO's most important work and that it should include not only help in the areas of administration and inspection, but also assistance in educating and training business in the details of labor laws and in the economic benefits that compliance offers.

### **PATAGONIA, INC.**

#### **Roger McDivitt, presenter**

Patagonia is a privately owned designer, marketer, and retail seller of apparel and climbing equipment. It sources its line of apparel from 50 factories located in 20 countries; it does not own any manufacturing facilities and thus outsources its entire production.

#### **KEY POINTS**

Patagonia's focus on quality and integrity in product manufacture extends to labor rights. Compliance with ILS is incorporated into all aspects of its business. There are too many codes of conduct, and frequently they are geared to the lowest common denominator, local law. Patagonia will not source products from transitional plants (plants with minor problems that they are correcting) because it poses too great a reputational risk.

Mr. McDivitt noted that Patagonia always has been very concerned with product quality. Patagonia started out by making climbing equipment, a product where the slightest error in the manufacturing process can result in a climber's injury or death. This concern with product quality and standards continues today even though Patagonia is now predominantly an apparel marketing company. The corporate ethos is that Patagonia wants to sell high-quality products and it wants them to be produced under accept-



able working conditions. Patagonia's owner is adamant that the company's products not be made in sweatshops or under substandard working conditions. Unlike most other apparel companies, Patagonia does not have a separate department or individual responsible for assessing its subcontractors' compliance with ILS; rather, adherence to ILS is incorporated into its corporate philosophy and all aspects of its business, including production, distribution, and purchasing. The addition of this subjective determination of acceptable working conditions to considerations of pricing, quality, and delivery has not always been easy.

In the past, most reporting/monitoring systems in the apparel industry were structured to allow "plausible denial," but this has now changed. Patagonia's long-term relationships with its suppliers resulted in an informal and casual monitoring process, but this approach was found wanting, and the company now relies on internal and external monitoring. However, Mr. McDivitt would prefer an industry-wide or universal standard for two reasons: (1) the vast number of codes of conduct and their often slight differences present real problems for factory managers; and (2) Patagonia finds it difficult to impose its standards on factories because of the small production runs that it normally requires. Patagonia's code of conduct is based on the FLA's standards, but these are not sufficient in many instances because they are geared to the lowest denominator, that is, factories must comply with a country's labor laws. On the positive side, the FLA's standards are specific and easy to measure.

In its sourcing decisions, Patagonia has tended to avoid "transitional" plants—those that have had problems (perhaps minor) in the past and are taking steps to address violations—and usually will source only from a factory that is currently being monitored. This is partly a function of size—Patagonia's small production runs do not give it the same degree of leverage with factories as that of larger apparel and retail companies. With this limited leverage, the company cannot force a factory's management to address ILS violations because the cost of losing Patagonia's business is insignificant for any large manufacturing facility. Also included in the analysis is a calculation of the reputational risk involved in sourcing from a plant that may be outstanding in all but one area.

For monitoring, Patagonia's preference is to have an outside or third-party audit every other year, although if a potential problem exists, audits may be scheduled on an annual basis. Unlike most NGOs, Patagonia does not favor unannounced visits because it feels that this inserts a level of distrust into the relationship with factory management.

## TOYS “R” US, INC.

**Tom DeLuca, presenter**

Toys “R” Us (TRU) is a publicly traded company that designs and markets toys and operates a chain of 1,600 retail stores, 500 of which are outside the United States. TRU does not operate or own factories but outsources all of its manufacturing; it imports more than \$1 billion of toy products each year. Sales for 2001 topped \$11 billion. TRU has nearly 60,000 employees.

### KEY POINTS

Complex supply chains make close monitoring almost impossible. Other difficulties include the multiplicity of codes, the cost of monitoring, and the pressure sometimes applied by local governments on factory managers to ignore labor law. TRU is trying to ensure that most product orders have 60-day or more lead times; this will help reduce pressure for excessive overtime at factories.

Mr. DeLuca pointed out that the company’s buying and sourcing strategies, mirroring those in the retail industry in general, have shifted during the past 30 years. In the 1970s the most important factor was price; in the 1980s it was price plus quality; and in the 1990s social accountability was added to price and quality. This commitment to responsible management and the urge to be proactive in addressing issues of labor rights problems is made difficult by the fact that TRU’s supply chain is very large and complex; 30,000 different products are produced by 3,000 suppliers in 30 countries. And this includes only the first tier of the supply chain. As an example, Mr. DeLuca cited a single product that sourced inputs from 17 countries. Even though the majority of TRU’s primary suppliers are in China, the supply-chain system is still extremely difficult, if not impossible, to monitor effectively.

Mr. DeLuca said that TRU has a corporate code of conduct for suppliers. When a new supplier is being considered or if there is a suspicion that a problem exists in a current supplier factory, an audit, based on TRU’s code

of conduct, is performed to get a quick picture of the factory's labor standards. TRU uses an external monitoring group for this type of audit. If TRU intends to establish a long-term and more financially significant relationship, the company requires that the supplier become SA8000 certified.

From TRU's perspective, the main problems with codes are the following:

- the logistical issues involved with monitoring the entire supply chain;
- the cost of monitoring, which can quickly spiral out of control when there is a lengthy supply chain;
- the need to make sure that factory owners understand and accept the standards in the codes;
- the multitude of codes—60 percent of Fortune 500 companies have codes—which confuses factory owners and results in inaction; and
- the fact that local and/or national labor law at times is different from the requirements set forth in the codes of conduct.

Other challenges faced by TRU include the lack of proper enforcement of labor laws by local and national governments and the pressure from governments on factory managers to ignore or bend certain labor regulations (those on overtime, for example) in order to avoid negatively influencing the country as a destination for foreign direct investment.

Finally, those within TRU who are responsible for placing orders from manufacturers are being asked to make sure their orders have a 60-day lead time or more (90 days is preferable). One of the major labor rights problems in toy and apparel factories is the excessive amount of overtime demanded by management. This is often the result of poor planning by factory management, but it is also caused by the ordering cycles of major retailers in the industrialized countries.

## **BUSINESS FOR SOCIAL RESPONSIBILITY**

### **Debbie O'Brien, presenter**

Business for Social Responsibility (BSR) began in 1992 as an association of approximately 50 companies dedicated to helping businesses be both commercially successful and socially responsible. Over nearly a de-

cade, BSR has acquired extensive experience working with businesses and facilitating interaction with representatives of public- and nonprofit-sector organizations. BSR is a nonprofit organization funded by its member companies, which total more than 900 across all industries and sizes. BSR member companies have nearly \$2 trillion in combined annual revenues and employ more than six million workers around the world.

#### KEY POINTS

Codes have become increasingly effective as companies have devoted more resources to them and have taken steps to integrate them into sourcing decisions. Numerous problems remain, including the fact that there are too many codes and they lack transparency and sanctions. The most serious violations that companies face in supply chains relate to freedom of association and wages and overtime. Companies' efforts should be focused in part on improving the ability of governments to enforce labor laws and regulations and on encouraging the passage of trade agreements that include "positive" sanctions for compliance, as in the Cambodia–U.S. trade agreement.

Ms. O'Brien noted that it has been 10 years since Levi Strauss drafted the first code of conduct covering labor standards, and now there are more than 250 such codes adopted by major brand companies in the footwear, toy, and apparel industries. Over time, the implementation of these codes, in all their detail, has intensified, and the financial resources allocated to monitoring compliance with them have also risen. Of significance is the fact that some companies are now taking steps to integrate compliance with ILS into all aspects of their sourcing decisions. The improved implementation of codes was in part driven by companies' recognition—brought to the fore by press reports and NGOs—of the extent of violations of ILS in their supply chains. This in turn led to a greater willingness to engage external stakeholders and to collaborate in order to pressure suppliers.

Since the early 1990s, the achievements in addressing the issue of labor rights violations have created both more challenges and, not surprisingly,

more criticisms of the way companies are managing their monitoring and compliance efforts. An enormous number of codes, which tend to vary only slightly in most areas, are being monitored in many different ways. For some factory managers, the variance in monitoring programs is causing as much trouble as the proliferation of codes. The codes themselves have been criticized for what they *don't* do:

- They are not transparent or democratic.
- They do not include sanctions.
- They do not extend far enough down the supply chain (that is, they ignore the commodity or raw material end).
- They do not improve the management systems of suppliers; the factories spend so much time focusing on passing the innumerable audits that they have no time to address systemic issues.
- They do not include workers and local governments in the process (including local governments would bolster the codes' enforcement capabilities).

Ms. O'Brien noted that among the most common and serious problems in supply chains are violations related to wages and freedom of association. To overcome these problems, companies should take part in improving the capacity of local and national governments to enforce labor laws and the ability of NGOs to monitor them. If companies would also collaborate, this could help surmount the problem for smaller companies, which are not large enough to exert any real influence on supplier factories. Finally, companies should pressure their home country governments to get involved, especially through trade agreements; one excellent example is the trade agreement between Cambodia and the United States, in which the United States has offered the incentive of increased trade if Cambodia respects internationally recognized workers' rights.

## 5

# Nongovernmental Organizations

Ten participants provided the perspective of nongovernmental organizations (NGOs) that focus on human/labor rights, monitoring corporate adherence to codes of conduct, and investor efforts to alter corporate behavior. Mila Rosenthal represented the Lawyers Committee for Human Rights; Carol Pier, Human Rights Watch; Bipul Chattopadhyay, Consumer Unity & Trust Society; David Schilling, Interfaith Center on Corporate Responsibility; Tom Hayden, the Campaign for the Abolition of Sweatshops and Child Labor; Garrett Brown, Maquiladora Health and Safety Support Network; Stephen Coats, U.S./Labor Education in the Americas Project; Dennis Smith, Commission for the Verification of Corporate Codes of Conduct; May Wong and Aewha Kim, Asia Monitor Resource Center; and Pharis J. Harvey, International Labor Rights Fund.

### **LAWYERS COMMITTEE FOR HUMAN RIGHTS**

#### **Mila Rosenthal, presenter**

The Lawyers Committee for Human Rights (LCHR), founded in 1978, works in the United States and abroad to create a secure and humane world by advancing justice, human dignity, and respect for the rule of law. LCHR supports human rights activists who fight for basic freedoms and peaceful change at the local level; promotes fair economic practices by cre-

ating safeguards for workers' rights; and helps build a strong international system of justice and accountability for the worst human rights crimes.

#### KEY POINTS

Difficulties abound in monitoring international labor standards (ILS), including dissimilar data collection methodologies at the country level and the large number of indicators necessary to provide an accurate portrait of a country's labor standards climate. Complexity in assessing a country's compliance is also introduced by regional, industry, and ownership differences in how firms are managed and regulated. Interpreting data correctly requires detailed knowledge of every country examined, and it is unlikely that this level of expertise will be available. The proposed National Academies database should not be used to make cross-national comparisons or to establish any kind of global ranking of countries.

Ms. Rosenthal stated that there are many difficulties associated with monitoring the core labor standards, and these have been set forth in the numerous papers that the committee has received. Different methodologies for collecting data, the variety of systems for monitoring compliance, the breadth of indicators to be used, and the complexity introduced by sectoral, regional, ownership, and management differences create a situation in which it would be nearly impossible to aggregate the data into a unified system of ranking countries. To illustrate this point, Ms. Rosenthal gave a detailed account of her research into the labor conditions in the textile, garment, and footwear industries in Vietnam. Vietnam has a mixed economy with privately owned plants competing against those still owned by the state. Working conditions vary depending on the ownership structure and geographic location of facilities, but the variations are not consistent; for example, workers in different state-owned factories can have very different labor standards applied to their workplaces, just the opposite of what one would expect.

Vietnam presents a case study of the difficulties inherent in assessing compliance with core ILS. For example, there is little evidence that child labor is systematically used in factory work, but it does exist in home work and piecework (work that is compensated according to the number of pieces produced) in the informal economy. A recent report by UNICEF (United Nations Children's Fund) on Vietnam's compliance with international child rights standards concluded that there is no serious problem. Yet according to Ms. Rosenthal's presentation, child labor clearly exists in Vietnam, and this raises the question of how this situation would be handled in the proposed National Academies database. Furthermore, by International Labour Organization (ILO) standards, Vietnam is almost exemplary in its compliance with core labor rights, with the one huge exception being freedom of association and the right to collective bargaining; again, how would this be dealt with in the database? Finally, Ms. Rosenthal pointed out that there are significant regional differences that would necessitate careful analysis of labor issues in the north, south, and mountainous areas of the country, and it's not clear how these different perspectives could be combined into an overall rating of Vietnam.

Nevertheless, this does not mean that the database is not a worthwhile project, one that has the potential to assist everyone seeking better compliance with core labor standards around the world. But the expectations of the project should be modest in light of the many difficulties involved. From the perspective of the LCHR, the basic objective of the Department of Labor should be to enhance the role of national authorities in enforcing labor rights. It should not be to rank countries according to an index derived for the proposed database.

## **HUMAN RIGHTS WATCH**

### **Carol Pier, presenter**

Human Rights Watch (HRW), founded in 1978, is the largest human rights organization based in the United States. HRW's 150 professional researchers conduct fact-finding investigations into human rights abuses in all regions of the world. HRW does not accept government funding but depends on donations from private foundations and individuals.



### KEY POINTS

International law serves as the foundation for HRW's compliance analysis, and thus the focus is not on a single company. HRW's methodology of investigation into labor abuses matches that of its examinations of human rights abuses: The main focus is personal interviews, supplemented by whatever written documentation is available. Ms. Pier recommends that the database include the informal economy because this is where most labor rights abuses occur, and that the database measure the "climate of fear" that can be created by companies opposed to freedom of association and collective bargaining.

Although still focused on the traditional human rights agenda of investigating torture, denial of due process, disappearances, and arbitrary imprisonment, HRW recently expanded its activities to include labor rights abuses. Because international law provides the framework for its investigations—and not internal or external corporate codes of conduct—and because the primary objective of HRW is to influence governments to adopt and enforce international labor standards, HRW focuses its labor rights analyses on governments rather than on a single company. However, even though private corporations are not directly regulated by international law, as part of a broader analysis of the efforts of governments to abide by their international commitments to protect and promote workers' rights, HRW documents the failure of employers to uphold ILS.

The process begins with the selection of a country and an industry sector as the focal point of the investigation. The methodology of HRW is fairly simple and matches that used to investigate human rights abuses—personal interviews and written documentation. HRW endeavors to interview as many interested parties as possible, including current and former workers, government officials, company and trade union representatives, local NGO personnel, local labor activists, and officials of international institutions. Not surprisingly, workers and local groups are usually the best sources of information. Worker interviews are best conducted off-site, but this creates logistical and legitimacy issues. It is difficult to locate workers away from the workplace, and they are often afraid to talk because of employer threats of reprisal. Evidence gathered through this method has some-

times been challenged on the basis that HRW's personnel do not enter the workplace (and thus do not directly observe the workplace setting) and that the information gathered is not easily reproducible and is based on individual recollection, which is subject to bias.

To illustrate the methodology of fact-gathering used by HRW, Ms. Rosenthal described two investigations: one covered migrant domestic workers in the United States, and the other, banana workers in Ecuador. Ms. Pier's investigation of migrant domestic workers led her to strongly recommend to the National Academies that the database include monitoring of the informal economy. Because of the "hidden" nature of the work, this is where the greatest exploitation and labor rights abuses take place. Child labor is often involved in informal economy work, and thus not including this economy in the database would diminish its accuracy and relevance. Of course, the informal economy is extremely difficult to measure and monitor—and nearly impossible without either conducting onsite investigations or relying on local groups for data and information, or both. Informal economy workers are not members of unions, and very few, if any, unions have attempted to organize this economy in any country. In addition, most informal economy work takes place in private homes, and thus the workers are inaccessible.

The investigation of the banana industry in Ecuador was spurred by reports of child labor and widespread labor rights abuses. Although numerous labor rights violations were uncovered, from the perspective of the work of this committee, perhaps the most important violations involved freedom of association. Ecuador is the largest banana-exporting country in the world, and yet the unionization rate is less than 1 percent. At the time of the investigation in 2001, there had not been an aggressive union organizing drive in more than five years. This was because of a climate of fear among workers, but trying to provide evidence of this is much more difficult than documenting blatant anti-union activity. The latter is indicated by mass firings of union members or organizers and anti-union violence, for example, but none of these were occurring in Ecuador's banana sector because there was little attempt at union activity. This climate of fear existed because Ecuadorian labor law has very weak protections for freedom of association and numerous loopholes for those protections that do exist.

Ms. Pier made a recommendation based on her investigation in Ecuador: that the proposed database include not only the conventional measures of freedom of association but also some mechanism for identifying the existence of a climate of fear among workers that inhibits attempts at union organizing.

## CONSUMER UNITY & TRUST SOCIETY

### **Bipul Chattopadhyay, presenter**

The Consumer Unity & Trust Society (CUTS) was founded in 1983. Its mission is to promote consumer protection, economic equity, and social justice through research and advocacy. CUTS operates four centers in India and one in Africa, with a budget that exceeds \$4 million and a staff of more than 65 persons. Funding comes from membership subscriptions, sales of publications, research contracts, and donations from noncommercial organizations.

#### KEY POINTS

Child labor is a structural part of many industries in India. It varies widely across industries and regions, and as such it would be difficult to monitor compliance in one industry or state, let alone an entire country as vast and populated as India. Child labor is driven by poverty and lack of educational opportunities and is not a choice of parents and children. Consequently, imposition of trade sanctions will not solve the problem and, in fact, may make matters worse for those intended to benefit from such action.

Mr. Chattopadhyay contends that child labor is not only a phenomenon of the developing world; there are numerous studies showing its existence among industrialized nations as well, although its causes tend to be far different. In India, child labor is a structural part of many, though not all, industries, and the extent of its usage varies across regions. This is not surprising; the presentations at the New York City Forum suggested, both directly and indirectly, that violations of ILS are typically industry- and geographic-specific. Mr. Chattopadhyay stressed that child labor is not a choice of either the children or their parents. Studies by his organization—and some western academics as well—indicate that child labor is driven first and foremost by a lack of financial resources. For the parents it is simply a matter of physical survival, not a question of whether their children should work or go to school. The second driving force is the lack of

educational opportunities. Indian government expenditures on education are very low, and schools either do not exist or are so poorly equipped and staffed that the educational experience is meaningless.

If indeed child labor is not a “free will” choice in the developing world, then the application of trade sanctions through the linkage of trade and labor rights is not only ineffective but harmful to the very sector of society it is intended to benefit. By definition, trade sanctions affect only the tradable goods sector, which accounts for only a small proportion of the child labor problem. In all likelihood, trade sanctions would force children to accept lower paid jobs in the nontradable goods sector or, more likely, in the informal economy, both of which would probably have jobs with even worse working conditions than those being eliminated. Mr. Chattopadhyay argued that the World Trade Organization (WTO) should not incorporate labor rights provisions into its trade agreements. The best way to eliminate child labor is to foster rapid economic development, in part through the elimination of trade barriers in the developed world against labor-intensive products produced in the south, and to take steps to assist governments in the task of enforcing already existing labor laws, which in many cases are as stringent as those in the West.

### **INTERFAITH CENTER ON CORPORATE RESPONSIBILITY**

#### **Rev. David Schilling, presenter**

The Interfaith Center on Corporate Responsibility (ICCR), founded in 1971, is a coalition of 275 institutional investors from various religions. ICCR’s primary goal is to change corporate programs and practices so that they are better aligned with the social, human rights, and environmental policies espoused by ICCR members. To accomplish this, the ICCR works closely with unions, labor rights groups, and NGOs.

Rev. Schilling maintained that governments and international organizations have a critical role to play in enforcing ILS because enterprise management efforts in this regard have generally been lacking or ineffective. To this end, the ICCR’s Global Corporate Accountability Program attempts to get companies to adopt codes of conduct for their supply chain, pay a living wage, and adopt human rights policies based on the ILO’s core labor standards. Growing public awareness of the labor rights issue in recent years has occurred because of consumer and student campaigns, press reports,

### KEY POINTS

There is a growing awareness of the labor rights issue, but much more needs to be done. Codes of conduct need to be strengthened, and the entire process of monitoring and evaluation needs to involve workers or worker representatives, or both. Local groups need to be included in the monitoring process because they are best positioned to uncover the failure of factory managers to fully implement codes of conduct and/or remediation plans; such failure, known as “compliance slippage,” is a major problem. Company reporting on code compliance has been woeful to date. The database needs to be clear in methodology, accessible to all individuals and organizations, and open to criticism and subsequent modification.

and the activities of socially responsible institutional investors and companies themselves. But there remains a great deal of work to be done; labor rights violations are occurring at this very moment, and this fact should spur action on a number of fronts.

First, corporate codes of conduct need to be strengthened, in particular through the addition of ILO Conventions 87 and 98 on freedom of association and collective bargaining. A study conducted in the late 1990s found that of 120 corporate codes surveyed, fewer than 10 percent included provisions concerning freedom of association. Even more disturbing, some codes that do include freedom of association define it in such a way as to emasculate the concept. Second, workers need to be involved in the process of formulating, monitoring, and enforcing ILS and codes of conduct, and, to this end, they should receive training and education similar to that accorded factory managers. The top-down approach of corporate codes of conduct needs to be balanced through the involvement of workers.

Third, monitoring should include local civil society groups because they operate in the communities where factories are located and thus are more acutely attuned to the issues confronting workers and their representatives. Such participation by local groups can help overcome compliance slippage. It is not uncommon for an external monitor to identify a problem and then agree with factory management on a remediation plan; but a subsequent follow-up visit finds that the problem still exists. Such

compliance slippage could be reduced if local groups were involved in the process.

In addition, Rev. Schilling noted that it is important that monitoring in general seek not only to point out problems and judge whether plants pass a test but also to build up the capabilities of governments and civil society to enforce labor codes. Compliance monitoring is good at pointing out deficiencies in factory management vis-à-vis labor rights issues, but it is the role of government to implement and enforce its labor laws.

Rev. Schilling's final point was that the end results of monitoring must be transparent and that it is critical that the National Academies project handle the transparency issue correctly. The reporting of companies on compliance and social responsibility has been very disappointing to date, and this must change. Reports should include meaningful quantitative goals demonstrating compliance progress, a focus on the core international labor standards, and information on the following points:

- the monitoring system used and the specifics of its methodology;
- the number of subcontractors;
- the size of the internal and external (if applicable) monitoring staffs;
- the number of facilities audited;
- the frequency of audits, the pass/fail rate, and the reasons for failure;
- the findings;
- remediation efforts undertaken; and
- any measurable goals that were set.

It is also important for institutional investors to be able to compare the performance of companies. This means that there must be an effort to standardize company reporting, much like that in finance. There are a number of initiatives that are working on public reporting standards, including the Global Reporting Initiative.

## **THE CAMPAIGN FOR THE ABOLITION OF SWEATSHOPS AND CHILD LABOR**

**Tom Hayden, presenter**

The Campaign for the Abolition of Sweatshops and Child Labor is a new and growing coalition of religious, labor, student, human rights, civil

rights, women's, and community organizations that believe that workers' rights are human rights. The Campaign seeks to enact national legislation at home to protect workers abroad.

#### KEY POINTS

Over the past century, there have been numerous reform movements, the demands of which, while initially rejected, were eventually accepted and became commonplace. It was argued that we are now in the midst of a similar process with respect to international labor rights and that it is only a matter of time before ILS are widely accepted by all stakeholders.

Mr. Hayden recalled that during the past century, there have been periodic upsurges in social unrest that have heralded coming change in the economic and political arenas. Mr. Hayden noted the agrarian/populist movements of 1890–1910, the labor unrest of the 1930s, and the social responsibility and democratic movements of the 1960s. Many, if not all, of these reform movements were resisted by business organizations on the basis that a reliance on free market forces alone was the best remedy for social and economic ills; government intervention would not just fail to solve the problems at hand, it was claimed, but would exacerbate them.

For example, one assertion of those groups opposed to ILS is that the enforcement of the ILO's core labor standards will interfere with the free functioning of the labor market, resulting in lower aggregate welfare among those least able to afford it, that is, those in the developing world. In addition, opponents of the enforcement of labor rights often argue that all industrialized countries went through periods where working conditions were poor, and thus there is no need for action to ameliorate poor working conditions abroad as this is simply a necessary stage of development through which all countries must pass. This market fundamentalism and mythological view of American economic development has been proven wrong time and time again, and this will also prove to be the case with respect to ILS.

There is little question that the continuation of globalization is inevitable, but it remains unclear as to exactly what rules will ultimately govern the process and the relations between the various stakeholders. The first set of rules has been written by business, but this likely will change. Because it appears that governments will not enforce internationally agreed-upon labor standards, it is imperative that this task be taken up by workers, their organizations, and civil society groups. To make progress in this effort, greater transparency of company actions and the conditions under which workers toil in foreign factories must be achieved. In addition, the governments in first-world countries should ban all products produced in sweatshops and shift public procurement to goods produced under decent working conditions. When large amounts of money are designated for buying only goods made under decent working conditions, real progress will be made on combating violations of ILS.

## MAQUILADORA HEALTH AND SAFETY SUPPORT NETWORK

**Garrett Brown, presenter**

The Maquiladora Health and Safety Support Network is a volunteer network of 400 occupational health and safety professionals who have placed their names on a resource list to provide information, technical assistance, and onsite instruction regarding workplace hazards in the 3,000 “maquiladora” (foreign-owned assembly) plants along the U.S.–Mexico border.

### KEY POINTS

The worldwide decline in workplace health and safety has been the result of globalization and the pressures brought to bear on management, workers’ organizations, and governments. The impetus for implementing ILS has largely come from NGOs, and these organizations need to be strengthened so that they can pressure governments and employers to abide by their legal responsibilities, including compliance with core ILS.



Mr. Brown argued that the optimal paradigm for addressing health and safety matters is a joint effort of management, labor, and government—with management committing the necessary resources and devising the appropriate organizational structure, workers being informed and trained and empowered to act, and government adopting regulations and allocating enough resources for enforcement. But the advance of globalization has severely undermined this framework and has led to a marked downward shift in health and safety standards around the world. Management is under tremendous financial pressure, is continually searching for less expensive production locations, and is no longer willing to invest in safety and health; governments are terrified of chasing away foreign investment and thus are no longer willing to enforce health and safety laws; and workers lack union representation and other avenues for participating in management decisions about working conditions.

Declining health and safety standards worldwide have been mirrored by declining economic and social well-being. Understanding this economic and political macro-context is crucial to the evaluation of ILS and the likelihood that they will ever be adopted and implemented. The push for ILS has been driven by NGOs; they have spurred the corporate social responsibility movement and the adoption of codes of conduct. Mr. Brown believes that the effective implementation of ILS requires that companies and governments be forced to fulfill their legal and ethical responsibilities and that NGOs be strengthened in order to monitor and remedy violations.

There remain serious economic and political hurdles to the adoption and implementation of ILS. Foremost are the failures of companies and governments to meet their legal responsibilities. If NGOs—and thereby the expression of civil society that they represent—are strengthened, they will be able to pressure both companies and government. What do companies have to do in order to achieve better health and safety worldwide? They must dedicate adequate resources to health and safety issues, adopt the most forward-thinking health and safety standards and monitoring practices, and nurture the health and safety infrastructure where they operate. As for governments, they must update regulations, devote resources to enforcement, muster the political will to act, and adopt an upward harmonization platform for negotiating trade and investment agreements.

## U.S./LABOR EDUCATION IN THE AMERICAS PROJECT

**Stephen Coats, presenter**

The U.S./Labor Education in the Americas Project (US/LEAP), founded in 1987, is an independent nonprofit organization dedicated to supporting the labor rights of workers in the Americas who are employed either directly or indirectly by U.S. companies. US/LEAP collaborates with unions, religious institutions, and civil rights and student groups to achieve this goal; US/LEAP's primary sources of funds are donations from foundations, unions, religious groups, and individuals.

### KEY POINTS

Written documentation on ILS in Latin America is scarce, and thus US/LEAP relies on direct communication with workers and on local NGOs and unions in its research. Gathering data is difficult in developing countries, and careful interpretation is needed to deal with subjects like freedom of association. Cross-national comparisons could be very useful in monitoring, but obtaining comparable data is a problem. Experience with the Generalized System of Preferences (GSP) and the recent Cambodia–U.S. trade agreement suggests that the most effective means of ensuring compliance with ILS is to link labor rights issues to trade privileges.

US/LEAP monitors and reports on labor rights problems in the Americas, pursuing concrete progress for workers, either at the factory, industry, or country level. US/LEAP is not interested in research for its own sake but rather as a means of obtaining information that can be used to change the reality on the ground for workers. Most of its industry experience has been in the apparel, banana, and coffee sectors. In terms of ILS, most of its efforts have focused on freedom of association and wages, hours, and benefits; child labor and discrimination are not within its area of expertise, and forced labor is not a major issue in the countries in which it works.

Mr. Coats noted that there is a dearth of surveys and written documentation on labor standards in Latin America. This means that when US/LEAP investigates a labor rights problem, it must undertake extensive in-

interviews and direct communications with workers, trade union leaders, labor lawyers, local NGOs, employers, and local government officials. Of course, legal documents, reports from local NGOs, and company and union materials are reviewed when available. To get a broad picture of a country's labor law and practice, US/LEAP reviews the U.S. State Department's annual *Country Reports on Human Rights Practices* and ILO publications, and consults with the labor attachés in the U.S. embassies in the region on issues such as labor law, judicial reform, and enforcement.

The most extensive US/LEAP reports have been GSP workers' rights petitions, and these can be very time-consuming, involving a variety of methods and sources of information. In Guatemala, for example, one petition required two to three months of staff time to prepare, in addition to field research by local and U.S. delegations. Trade union contacts provided background material on specific cases, as well as more general information on the judiciary and labor law enforcement. In addition, through their contacts, unions were able to obtain government information that was otherwise not readily available, such as the number of pending applications for union recognition and the length of time they had been pending, the number of collective bargaining cases pending before labor courts, and so on. Interviews with officials in the labor ministry provided a means to verify information from trade unions and other parties.

When examining a specific sector or workplace, US/LEAP has found that NGOs are good sources of information. The Commission for the Verification of Corporate Codes of Conduct and HRW have issued extensive reports on the coffee and banana industries. The industry being examined determines in part the methodology for collecting data; for example, there are very few unions in the coffee industry and thus information is scarce, while the banana industry is more unionized, and some of the companies (such as Chiquita) issue social responsibility reports. In the maquiladora sector, maquila industry associations and governments provide a fair amount of general information, and local and international NGOs are issuing a growing number of reports on conditions of work at specific workplaces. But there is a general absence of reporting on freedom of association at the factory level in the maquila sector because gathering this information is difficult, time-consuming, and expensive. One exception was the HRW report in 1997 that led Phillips-Van Heusen to negotiate a union contract. This report required extensive interviews with management and labor, as well as an extensive review of government, employment, and financial records.

Gathering data and interpreting it are difficult tasks, especially in developing countries where the data collection systems are often rudimentary. For instance, while it is easy in most countries to get information on the minimum wage, it is far more arduous to get reliable data on what wages and benefits are actually paid. Problems in interpretation can be acute. Central America's maquiladora sector, for example, is almost completely nonunion despite a decade of active organizing efforts. If this is attributed to management's union-busting, it represents a serious breach of the right to freedom of association; but if it's attributed to management's enlightened human resource policies and/or union ineffectiveness, a violation of freedom of association would not be indicated. Complicating the issue in Central America are criminal justice systems that routinely fail to prosecute management-sponsored violence against trade union organizers. Thus, a conclusion that low levels of unionization are the result of trade union apathy or ineffectiveness can be made only after an examination of how the criminal justice system operates. This means that monitoring freedom of association and collective bargaining must include assessments of the criminal justice system.

Cross-national comparisons, although rife with difficulty, can sometimes shed light on a particular issue. For example, in Ecuador fewer than 1 percent of banana workers are unionized, while in Colombia and Honduras nearly 90 percent are unionized, even though wages and working conditions are inferior in Ecuador. This should raise a red flag in the interpretation process, and, in fact, it is clear that freedom of association is not being respected in the Ecuadorian banana sector.

Mr. Coats noted a number of obstacles to monitoring and reporting. The lack of reliable written information and documentation places a premium on labor-intensive interviews and field research, all of which are time-consuming and expensive. Site visits are next to impossible in the agricultural sector, and this limits the usefulness of field research. Local trade unions rarely have the capacity (financial and otherwise) to provide detailed and consistent information, and labor lawyers are few and far between.

Finally, Mr. Coats addressed the state's responsibility in enforcing compliance with ILS. Clearly, the ultimate responsibility for compliance rests with the state. Codes of conduct are useful because they bring improvements to workers' lives, but they risk privatizing compliance, and implementing them requires enormous investment on the part of employers. Efforts to improve compliance, whether by the state or through private

codes of conduct, should focus on the industry level. Otherwise, those companies that do not correct labor rights violations could gain a competitive advantage over those that do. A similar argument holds for enforcing labor rights across national borders. In both cases, the responsibility lies with governments or international bodies, which alone have the power to impose sanctions.

US/LEAP has found the threat of lost trade privileges under the GSP program to be the best means to improve labor rights compliance in Guatemala. Sweatshop campaigns, codes of conduct, and ILO complaints have not been nearly as effective a motivator as the potential loss of trade privileges.

## COMMISSION FOR THE VERIFICATION OF CORPORATE CODES OF CONDUCT

**Dennis Smith, presenter**

The Commission for the Verification of Corporate Codes of Conduct (COVERCO) is an independent, nonprofit monitoring group that focuses on businesses that operate in Guatemala. It was formed in 1997 by a group of professionals active in Guatemalan civil society with expertise in the areas of law, business administration, sociology, communication, education, and religion. COVERCO employs monitors to regularly document working conditions, inspect working environments, interview workers and management, and conduct financial audits.

### KEY POINTS

External and independent groups are best suited to monitor compliance with codes of conduct. Monitors must have complete control over reports and full access to workplaces, workers, and employment records; auditing should occur over a period of time. Compliance slippage has been a major problem, and this is a strong reason to involve local worker and NGO groups in the monitoring process. Cultural differences are important in analyzing issues such as freedom of association, and these differences will have to be addressed by the National Academies project as it deals with monitoring processes and the construction of the proposed database.

COVERCO is actively involved in discussions around the world concerning what form of monitoring is best and how such monitoring should be conducted. Although there is room for disagreement on technical issues, it is clear that independent, external groups provide the most accurate and reputable monitoring. Internal compliance programs have the almost insurmountable problem of credibility with consumers and advocacy groups. Governments, especially in the developing world, often lack the financial means, political will, and technical expertise to meaningfully enforce their own labor laws.

To maintain credibility, a monitor must comply with certain basic rules. First and foremost, access to workers, the worksite, payroll records, and workers' files must be unrestricted. Second, a monitoring group must have complete and total editorial control over the reports it issues. Third, the audit should be carried out over a period of time, not just in a single visit. In its analysis, COVERCO applies the most stringent criteria as reflected in national law, international law, company codes, and factory codes.

Adhering to these three rules does not mean that a monitoring exercise will be successful, however, because the list of potential violations is long. Mr. Smith noted the most frequent violations that COVERCO comes across:

- noncompliance with legally mandated wages, bonuses, and benefits, and confusion among workers concerning the calculation of wages, bonuses, and benefits;
- excessive and forced overtime;
- sexual and physical abuse of workers;
- active employer resistance to union organizing; and
- health and safety issues.

In addition to a failure to uncover actual violations, a monitoring exercise can be derailed in a number of other areas. These include securing follow-through on remediation plans; ensuring that workers and factory management understand their rights and responsibilities under international labor standards; and maintaining independence from the firms when monitors charge for an auditing service.

It is clear from the experience of COVERCO and from discussions with many other institutions involved in monitoring compliance with codes of conduct that a number of things must occur before global compliance with ILS will dramatically improve. Asian governments, businesses, and

labor movements, as well as the “big box” retailers in the United States and Europe, must join in the effort to eliminate violations of core labor standards. There needs to be a concerted effort to develop comparable monitoring methodologies and uniform reporting standards. The confusion that reigns at the moment needlessly complicates what is already a convoluted issue. Without comparable and reliable information on which to base their decisions, consumers will find it increasingly difficult to factor labor rights issues into their choice of products.

Finally, there are certain issues, such as freedom of association, that are subject to differing interpretations in different cultures, and this raises the question of how to handle such variation in the database. Relationships on the shop floor are driven not only by economic and political forces and legal regimes but also by deep-seated cultural and social realities. The question then becomes, should the database incorporate cultural factors into its analysis and, if so, how can this be done?

## ASIA MONITOR RESOURCE CENTER

### May Wong, presenter

The Asia Monitor Resource Center (AMRC) is a nonprofit organization based in Hong Kong and focuses on labor issues in the region. Its main goal is to support democratic and independent trade unions in Asia. To accomplish this, it publishes reports, holds conferences, and works with other groups in the region to monitor compliance with ILS in factories in Asia.

#### KEY POINTS

Some of the problems that AMRC has faced in attempting to monitor industry codes of conduct in China include the training and education of factory owners, managers, and workers; the cost of monitoring; and the nature of multilayered subcontracting systems.

Ms. Wong identified three major problems with monitoring as it is currently practiced in China. First, factory workers are inadequately educated about their rights. Frequently however, companies offer training about workers' rights and company codes of conduct to their own monitors or to factory owners and managers. The International Council of Toy Industries is now promoting a unified code that calls for education and training of factory owners and managers. This is not sufficient, however, to ensure compliance with codes for two reasons. First, factory managers have become adept at falsifying records and obscuring the true nature of working conditions from even well-trained external auditors; falsification of records of hours of work and wages is especially serious. Second, in some cases, the factory owners and managers receiving this training are the same individuals responsible for falsifying records and concealing the truth. Workers on the factory floor must be trained and educated about their rights as set forth in codes of conduct. If this is done, workers would be an excellent source of information about compliance with labor standards. One company that is doing this is Reebok, a U.S. footwear company.

Second, the cost of monitoring is often beyond the means of small- and medium-sized factories, especially when the price demands of large multinational corporations (MNCs) are such that operating margins are very small. In the toy industry, it is not unusual for U.S. and European companies to demand that a factory have SA8000 certification, but the cost of obtaining this certification will often eliminate any profit the factory might make from production. Thus, a system must be established to pay for monitoring compliance that does not result in serious financial harm to factories.

Third, because auditors often lack proper training in labor relations and labor rights, they are likely to fail to recognize violations of core labor standards. Auditors must understand the core labor standards and follow a sound methodology in their investigations. For example, auditors should interview employees away from the worksite and conduct unannounced visits. Finally, it is often very difficult to monitor compliance in companies that have numerous layers of subcontractors feeding into the final product. This complexity is compounded by a lack of transparency or the failure of companies to provide enough information on their operations.



## ASIA MONITOR RESOURCE CENTER

**Aewha Kim, presenter**

### KEY POINTS

Some of the obstacles faced by the AMRC in its efforts to monitor compliance with codes of conduct in factories located in China and Indonesia are lack of access to workplaces and opposition from local managers. Difficulties in monitoring are heightened by cultural and linguistic differences and the problematic nature of determining the existence, or lack thereof, of freedom of association.

In conducting its monitoring and research, the AMRC tries to gather information from all parties that have a stake in how workplaces are managed. Although secondary sources are at times adequate, the AMRC nonetheless places greater weight on interviews with factory workers. These interviews not only provide new information but also serve as a means to verify secondary sources. In this respect, the AMRC has often discovered inconsistencies between the information gathered in worker interviews and that contained in audit reports. In one such instance, an audit report issued by a U.S. MNC highlighted the free health care and lack of overtime in one factory. The interviews conducted by AMRC, however, revealed that these claims were not true. There are difficulties with direct interviews with workers, however, especially with language and cultural barriers and workers' lack of understanding of their workplace rights.

The AMRC desires to get information directly from employers, but unfortunately many companies deny access or refuse to answer questions. Audit reports done for companies can sometimes be at odds with reality because the auditors fail to understand the nuances of labor–management relations on the factory floor. This problem is compounded by cultural differences. For example, the audit teams of a German-based MNC did not thoroughly investigate the nature of freedom of association; when workers told them that they were members of a union, the auditors took this to mean that freedom of association did exist. They did not ask any questions about whether the union was freely chosen or whether its processes were

democratic. This example illustrates how difficult it is in practice to judge the nature of freedom of association.

## INTERNATIONAL LABOR RIGHTS FUND

### Pharis J. Harvey, presenter

The International Labor Rights Fund (ILRF) was founded in 1986 by a coalition of human rights, labor, policy-making, academic, and religious organizations to fight for the rights of workers in international trade through monitoring the enforcement of labor clauses in trade agreements. Through the years, the ILRF has become instrumental in stimulating solutions to the issues and problems of worker rights and labor standards around the world. The primary source of ILRF funding is contributions from organizations and individuals; it does not receive any government funds.

#### KEY POINTS

There are numerous linkages between labor rights and trade agreements in the United States, but usefulness in enforcing compliance has declined. The ILO and local NGOs and unions provide very useful information. The proposed database must not only be easily accessible to the public but should also allow for comment and criticism as a substitute for the peer review process.

Mr. Harvey argued that the 1980s and early 1990s witnessed numerous successes in tying labor rights to U.S. trade initiatives. In 1984 the GSP was amended to include workers' rights, and in 1985 the Overseas Private Investment Corporation (OPIC) took a similar step; in 1988 the omnibus trade bill<sup>1</sup> was passed, and it cited repression of workers' rights as an unreasonable trade practice. In 1994 the North American Free Trade Agreement (NAFTA) went into effect with its side labor accords (although these were

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<sup>1</sup>H.R. 4848, the Omnibus Trade and Competitiveness Act of 1988.

disappointing). All of these efforts had a similar rationale: to ensure that violations of labor rights would not be used to gain an unfair competitive advantage. Initially the ILRF was very active in bringing cases under the GSP and, to a lesser extent, OPIC, but this strategy eventually became unproductive, and few cases have been filed since the mid-1990s. The NAFTA side labor accords, although accorded a great deal of press coverage and play by politicians, are actually quite cumbersome and woefully lacking in remedial power.

These efforts and the more recent rise of codes of conduct and NGO activist and monitoring groups have a common theme—an attempt to substitute for, or move beyond, the authority of national governments to enforce labor standards. The global economy lacks a coherent and permanent governance structure sufficient to address the issues being created by commercial forces that do not recognize political boundaries. At the same time, most governments lack the technical expertise, political will, and financial resources to effectively enforce their own laws in the face of the unrelenting power of global commerce.

The work of the ILRF has benefited greatly from the work of the ILO. In particular, reports from the ILO's Committee of Experts and Committee on Freedom of Association have been very valuable and are prepared by committees that command wide support. These reports are among the best sources of case law related to compliance with ILS. In addition, they are useful for sorting out the complicated cultural and political nature of cases involving violations of freedom of association. Also of note from the ILO are the two follow-up reports to the 1998 Declaration. In addition to the ILO, the ILRF has found that staff of, and reports from, U.S. embassies are often helpful, as are local, national, and international NGOs, including unions.

Finally, it is critical that the National Academies database be accessible to the public and open to challenge and dialogue from interested parties. This will serve as a peer review process and increase its legitimacy.

## 6

# Question-and-Answer Sessions

### NEW YORK FORUM

*QUESTION: What are the difficulties involved in monitoring and compliance?*

**Mila Rosenthal (Lawyers Committee for Human Rights)**

It is important to have a means for monitoring and measuring compliance at companies, but this becomes very complex at the country level and probably not possible, given the constraints on data and interpretive capabilities; you would need an expert for every country to tease out the nuances in the data.

**Neil Kearney (International Textile,  
Garment and Leather Workers' Federation)**

The fact is that companies are not doing what they should, and in particular they are not integrating compliance with international labor standards (ILS) into all aspects of their business. Different departments within companies either do not know about labor standards issues or simply do not care; for example, buyers are looking for the best price and quality, but is there also a concern for how the people who make the product are being

treated? Also, there is a lot of free-riding among companies; only a few are making the necessary investment in monitoring and compliance; the remainder hide behind a veneer of monitoring activity while they continue to violate ILS.

*QUESTION: How should the issue of the informal economy be handled in the National Academies database?*

**Neil Kearney**

ILS monitoring and compliance should definitely be extended as much as possible to the informal economy. Historically, laws applied to the formal economy have filtered down to the informal economy, but the effect has been haphazard and incomplete, and thus this issue needs to be addressed more directly.

*QUESTION: What are the concerns about the number of codes and the confusion this brings?*

**Neil Kearney**

Clearly there are too many codes, and it is also clear that voluntary initiatives are not working. Codes are not focusing on the International Labour Organization (ILO) core labor standards, but rather on welfare issues, such as cafeterias and bathrooms. If the codes sincerely focused on freedom of association and collective bargaining, they would be much more effective because workers would be empowered to act on their own behalf. The existence of independent unions that are free to act in the interests of workers would go a long way toward eliminating violations of ILS.

The issue of too many codes creating confusion among factory managers is a red herring; these same factories apparently have little trouble handling the extremely complex tasks involved in making clothing.

**Gregg Nebel (adidas-Salomon AG)**

Too many codes should not be a problem because many are almost exact copies of one another. It is true, however, that factory managers hide behind the argument that there are too many codes and too much confu-

sion, and they use it as an excuse for inaction. Improving the observance of freedom of association would certainly help, but it would not be a cure-all for labor rights violations. Financial pressure from multinational corporations (MNCs) is probably a more effective tool to force change.

**Robert Zane (Liz Claiborne, Inc.)**

In a recent visit to a plant, there were 12 different codes of conduct posted on the wall, but there were only minor differences in detail. The large number of codes should not be accepted as an excuse for inaction by factory managers.

**Mike Grace (Communications Workers of America)**

There would be no need for codes of conduct, and thus the monitoring and compliance industry, if workers were given the right to form trade unions and to collective bargain. Unions and their members can overcome problems of violations of labor standards and, in the process, enhance employers' ability to manage. In terms of monitoring compliance with core ILS, unions will become more active once a database is developed because it will provide a legitimate source of information that can't be attacked by critics as biased.

**Mila Rosenthal**

Unions can't overcome some problems, such as the active suppression of the right to freedom of association, if the government is not willing to enforce laws or if it narrowly defines the standards for forming a union. In this case, codes of conduct can substitute when unions are repressed and government enforcement is lax.

**Neil Kearney**

In some areas of China, workers have been able to develop alternative forms of representation, which the government machinery was not strong enough to prevent. These are not state-sanctioned, and they have arisen because there are simply too many workplaces for the government to monitor. Arguably, the same thing is happening now in Vietnam. If companies

were to allow the development of trade unions, then the anti-union stance of a government would have little impact, and there would be no immediate need for national legislation of the type envisioned by the ILO labor law standards.

*QUESTION: What is the role of the institutional investor in the process of monitoring compliance with ILS?*

**Barbara Shailor (American Federation of Labor,  
Congress of Industrial Organization)**

This is a very good approach to enforcing labor rights and one that will probably increase in the future as unions become more sophisticated in their use of workers' pension fund assets. Financial pressure is the quickest way to get the attention of business.

**David Schilling (Interfaith Center on Corporate Responsibility)**

Greater coordination of investors is happening at this very moment; religious, labor, and other stakeholders are at last getting companies and their boards of directors to at least listen to concerns about labor rights abuses.

**Roland Schneider (Trade Union Advisory Committee to the OECD)**

The European Parliament resolution has called on pension funds to take into account various labor rights issues when they are investing, and this is a trend at the national level throughout Europe.

*QUESTION: What should be in the database? What are the potential problems?*

**Neil Kearney**

The database has to include the full spectrum of workers' concerns: What is the labor legislation and what is the impact? What are the mechanisms for enforcement? What resources are devoted to labor standards? Does freedom of association exist? What are the hours of work and the wages, and how are health and safety, child labor, and discrimination handled? A database funded by the U.S. government will have to overcome substantial credibility problems

abroad because the United States has a long history of union-busting activity and has not yet ratified many of the most basic ILO conventions.

### **Mila Rosenthal**

It is important that the database incorporate an interactive feature that allows experts to comment on conclusions and, perhaps, to provide evidence that contradicts information in the database. The sources of data should be clearly set forth, and the data should be disaggregated by regional and ownership differences. It is important to identify differences at the company, industry, and regional levels.

### **Gregg Nebel**

When local labor laws and enforcement mechanisms are examined, the criteria used for judgment should be internationally agreed-upon standards and not those of the United States. The exercise of developing the database might be helpful in reforming a country's labor laws, but it will probably not have much impact on the work of adidas-Salomon.

### **Mike Grace**

One of key problems over the years has been the lack of credibility of data, whether they come from unions or employers; the database will overcome this hurdle. The database should include information from the ICFTU (International Confederation of Free Trade Unions), each of the international trade secretariats, and the AFL-CIO.

### **Barbara Shailor**

It should be recognized that data on labor relations and labor markets are difficult to get, and even if they can be found, there is the issue of comparability across countries. The most important question is how to measure freedom of association. This would involve looking at the percentage of the workforce that is unionized, the percentage covered by collective bargaining, the incidence of termination of union leaders and workers who are trying to organize, the number of fines paid for labor law violations, and the amount of violent crime against union workers. Much of this information will not track across borders.



### **David Schilling**

One area not yet mentioned is training expenditures; this reflects the commitment of employers and government to human resource development. It is critical to capture in data the existence of hostile organizing environments; how do you measure this?

### **Marcela Manubens (Phillips-Van Heusen Corporation)**

To fully reflect economy-wide employment, it will be necessary to incorporate the views of small business owners and statistics covering small businesses.

### **Roland Schneider**

Improvement of compliance monitoring should be viewed as a process, and it may be useful to examine the European experience. For example, the European Industrial Relations Observatory has people in the field reporting from individual countries. This network of correspondents might be a model to consider for collecting the information to be included in the database. It might be possible to collaborate with local unions or universities in gathering the data.

### **Carol Pier (Human Rights Watch)**

The database should be easily available to the public, and it should include the informal economy and indicators that give a sense of the labor rights climate. This would achieve the objective of capturing anti-union employer and government activities that infringe on the exercise of freedom of association. Potential proxies include the extent of the use of subcontractors and temporary workers; a high level of such workers can suggest an anti-union bias.

### **Anna Walker (United States Council for International Business)**

The data to be collected depends on what purpose the database serves—is it for consumers to use to make buying decisions, or is it for the government to use to identify countries with labor rights compliance problems? Is the U.S. government the right body to undertake this project, or should it be in the hands of the ILO?

**Bipul Chattopadhyay (Consumer Unity & Trust Society)**

In order for the database to be accurate and credible, it must contain input from consumers.

**LOS ANGELES FORUM**

*QUESTION: What is the appropriate level of worker involvement in monitoring? Have workers been involved in designing and monitoring codes of conduct, and if so, how?*

**Stephen Coats (U.S./Labor Education in the Americas Project)**

Through their union, workers were involved in the recent agreement between the Chiquita Company and the International Union of Foodworkers. The agreement was based on the major ILO Conventions, and it is the first international agreement to cover workers in the southern hemisphere. It has improved labor–management relations and working conditions in Chiquita’s facilities and those of its suppliers, even though it does not include any sanctions for labor rights violations. It established an arbitration mechanism for resolving disputes between workers and management, and this has been used and proved beneficial.

*QUESTION: What should be included in the database? What is the best way to develop it?*

**Garrett Brown (Maquiladora Health and Safety Support Network)**

This is a very ambitious project, and we need to recognize that there are no magic bullets. It will require the efforts of individuals and organizations at all levels of the issue, and it is particularly critical that local capacity (government, nongovernmental organizations [NGOs], and trade unions) be built up and its inputs actively sought. The best way to monitor is through independent trade unions.

**Debbie O’Brien (Business for Social Responsibility)**

Local organizations need to be involved and their capacities, which are rather limited at this point, must be strengthened. The ILO is the best

monitor because it is tripartite and its deliberations are fairly transparent. With respect to enforcement, consideration should be given to providing incentives, and not just sanctions, for countries that improve their adherence to ILS. One example of this is the Cambodia–U.S. free trade agreement that increases the export quota to the United States if ILO core labor standards are met.

*QUESTION: What is the response to the recent decision of the Sri Lankan government to increase the permissible number of hours of overtime from 60 per year to 100 per month?*

**Roger McDivitt (Patagonia, Inc.)**

This is a very difficult issue for MNCs and for supplier factories because they face contradictory demands; the host-country government is saying that this is legal, while company codes may not allow for such a policy. These kinds of dilemmas perhaps argue for the centrality of unions as the best mechanism for monitoring and enforcing core labor rights.

*QUESTION: Are the many ILO Conventions, two major guidelines (ILO and OECD), and thousands of codes of conduct harming the movement to improve compliance with core labor standards?*

**Pharis Harvey (International Labor Rights Fund)**

The proliferation of codes is not surprising; it is a natural outgrowth of the relative newness of the codes. It is important to note that codes exist because of the low level of enforcement of labor standards by national governments, and this in turn reflects the lack of incentives for enforcement. Foreign governments are concerned about alienating investors. Although the confusion is somewhat inevitable, it is hoped that instead of leading to even greater confusion, it will lead to a greater standardization of codes and consolidation in their number.

**Katie Quan (Center for Labor Research and Education,  
University of California, Berkeley)**

Codes exist primarily because of lax labor law enforcement, and this is largely attributable to the absence of unions with real power in most coun-

tries. If unions existed and were free to pursue their interests, there would be no need for codes of conduct. The challenge is how to use the codes and monitoring procedures to create strong unions; in other words, we need to move toward a situation where codes are not necessary because unions are the enforcers and monitors of labor law.

**Dennis Smith (Commission for the Verification of  
Corporate Codes of Conduct)**

In Latin America over the past 20 years, there has been a systematic dismantling of the state apparatus, and this has left many countries incapable of monitoring and enforcing basic labor laws. What is needed is a reempowerment of the state so that it can perform its rightful functions, including enforcing labor standards.



## Appendix A

### Forum Speaker Biosketches

**Janice Bellace (New York Moderator)** is the Samuel Blank Professor of Legal Studies and Professor of Legal Studies and Management at the Wharton School of the University of Pennsylvania, where she joined the faculty in 1977. She is also director of the Huntsman Program in International Studies and Business, a unique four-year undergraduate course of study that integrates business education, advanced language training, and a liberal arts education.

From 1994–1999, she served as Wharton’s deputy dean, the school’s chief academic officer. In July 1999, Professor Bellace took a leave of absence from Penn to become the first president of Singapore Management University, Singapore’s newest university, which matriculated its first students in August 2000.

The author of numerous books, chapters, articles, and papers, Bellace’s research interests are in the field of labor and employment law, both domestic and international. Her most recent article on a non-U.S. topic is “The ILO Declaration of Fundamental Principles and Rights at Work.”

Bellace is a member of the Committee of Experts on the Application of Conventions and Recommendations of the International Labour Organization (ILO), a group of 20 scholars from around the world who report on compliance with fundamental labor and human rights standards.

Bellace received her bachelor’s and law degrees from the University of Pennsylvania. She holds a master’s degree from the London School of Economics, which she attended as a Thouron Scholar.

**William B. Gould IV (Los Angeles Moderator)** is the Charles A. Beardsley Professor of Law (Emeritus) at Stanford Law School and the William M. Ramsey Distinguished Professor of Law at Willamette University College of Law. He has been a member of the Stanford Law School faculty for three decades. Professor Gould was chairman of the National Labor Relations Board in Washington, DC, from 1994–1998. He has been an impartial arbitrator of labor–management disputes and conflicts since 1965 and a member of the National Academy of Arbitrators since 1970.

Professor Gould received his law degree from Cornell Law School in 1961 and subsequently did graduate work in comparative labor law at the London School of Economics. The recipient of five honorary degrees, Professor Gould is the author of eight books and more than 50 law journal articles, including “Labor Law for a Global Economy: The Uneasy Case for International Labor Standards.” He has written numerous articles for general-circulation publications, such as the *New York Times*, the *Los Angeles Times*, the *London Economist*, the *Manchester Guardian*, and *The Nation*. One of his books, *A Primer on American Labor Law* (MIT Press, 3rd ed., 1993), was recognized with a Certificate of Merit from the American Bar Association Gavel Award Committee and has been translated into Chinese, Japanese, German, and Spanish. He is currently working on the fourth edition.

**Garrett D. Brown** has an undergraduate degree in U.S. history from the University of Chicago and a Master in Public Health degree from the University of California at Berkeley. He is a certified industrial hygienist in comprehensive practice, as certified by the American Board of Industrial Hygiene.

Mr. Brown currently works as a compliance officer in the Oakland District Office of the California Division of Occupational Safety and Health (Cal/OSHA). In his nine years with Cal/OSHA, he has conducted more than 500 inspections in Alameda County; as part of statewide teams, he has inspected agricultural fields in California’s Central Valley and garment sweatshops in Los Angeles and Orange County.

Since 1993, Mr. Brown has served on a volunteer basis as coordinator of the Maquiladora Health and Safety Support Network, which includes more than 400 occupational health and safety professionals in Canada, Mexico, and the United States. On a pro bono basis, the Network provides information, technical assistance, and Spanish-language training to community-based organizations of Mexican workers on the U.S.–Mexico border.

Mr. Brown has published articles on global occupational health and safety issues in the *International Journal of Occupational and Environmental Health*, *New Solutions*, *Multinational Monitor*, *Social Justice*, *The Synergist*, and the *Industrial Safety and Hygiene News*.

**Peter Chapman** is executive director of the Shareholder Association for Research and Education (SHARE). SHARE is a Canadian national not-for-profit organization helping pension funds build sound investment practices, protect the interest of plan beneficiaries, and contribute to a just and healthy society. Before joining SHARE, Mr. Chapman was the coordinator of the Canadian Friends Service Committee, the peace and service arm of the Religious Society of Friends (Quakers) in Canada. He has also held research positions with Project Ploughshares and the Taskforce on the Churches and Corporate Responsibility. Mr. Chapman served as a member of the Taskforce on Sustainable Forestry of the National Roundtable on the Environment and Economy, and he is a past director of the Social Investment Organization.

**Bipul Chattopadhyay** is associate director at Consumer Unity & Trust Society (CUTS), a leading international nongovernmental organization on trade and economic issues headquartered in Jaipur, India. He heads the trade team of the CUTS Centre for International Trade, Economics & Environment. He is a graduate in economics from the Delhi School of Economics. Before joining CUTS in 1997, Mr. Chattopadhyay worked with several research institutes in Delhi, such as the Institute of Economic Growth and the Centre for Development Economics. His area of interest is the political economy of trade and development.

**Richard Clayton** is a research analyst with the Service Employees International Union (SEIU) Capital Stewardship Program. The SEIU is the largest union in the AFL-CIO, and it organizes workers in the building service, health care, and public service sectors. The Capital Stewardship Program works with institutional investors, including public pension funds, to develop investment policies that simultaneously ensure market rates of return while protecting the rights and interests of working people. Previously, Mr. Clayton was a doctoral candidate in government at Cornell University, where he worked in the fields of comparative politics and international political economy.



**Stephen Coats** has been executive director of the U.S./Labor Education in the Americas Project since 1990. Previously, he worked for Bread for the World, a Christian citizens anti-hunger advocacy organization, for 13 years in various capacities, including assistant director and director of issues. He later served on Jesse Jackson's 1988 presidential campaign as assistant policy director. He holds a Master of Divinity from Union Theological Seminary in New York City and has studied development economics in the political economy graduate program at the New School for Social Research.

**Tom DeLuca** is vice president of imports, product development and compliance, for Toys "R" Us, Inc. Mr. DeLuca has more than 30 years of retailing experience and has spent the past 19 years with Toys "R" Us in senior management positions. During this period, he has made more than 60 buying and sourcing trips to Hong Kong and China. Mr. DeLuca is also responsible for the company's benchmark toy safety compliance programs, which he developed and implemented in 1989. In 1995, the company was honored by the chairman of the U.S. Consumer Product Safety Commission for its significant accomplishments in toy safety.

Mr. DeLuca's responsibilities include the company's comprehensive Code of Conduct for Suppliers program, which he authored and implemented in 1997. In that same year, Toys "R" Us was honored with the Pioneer Award in Global Ethics as a corporate conscience award-winner by the Council on Economic Priorities.

Mr. DeLuca is chairman of the company's corporate Toy Safety and Code of Conduct Committees. He is chairman of the Advisory Board of Social Accountability International (SAI) and a member of SAI's Governing Board of Directors. He has been a frequent guest speaker and panelist at numerous conferences, including the joint U.S. and European Symposium on Codes of Conduct and International Standards in Brussels, the Rutgers University School of Law Conference on Corporate Multinationalism and Human Rights, and the Carnegie Council on Ethics and International Affairs.

**Mike Grace** is associate administrative assistant to President Morton Bahr of the Communications Workers of America (CWA). He has been associated with CWA for more than 20 years. Mr. Grace has extensive experience in international labor relations and has participated in numerous international labor delegations to Europe, the Middle East, and Asia. He

also serves as the CWA staff liaison to the AFL-CIO International Affairs Committee, which is chaired by President Bahr.

**Pharis J. Harvey** (retired), a founder of the International Labor Rights Fund (ILRF), serves as senior consultant to ILRF. Mr. Harvey served as ILRF's executive director from 1990 to 2001. Before joining the fund, Mr. Harvey spent 12 years with the North American Coalition for Human Rights in Korea, which is based in Washington, DC. This followed many years of work in Asia, under the sponsorship of the United Methodist Church and various ecumenical bodies, to support the efforts of workers and community organizations to defend their human rights. His most recent post in Asia (1975–1979) was as consultant on economic justice to the Christian Conference of Asia.

Mr. Harvey is the author of *Trading Away the Future: Child Labor in India's Export Industries* (1994) and editor of several studies of labor and people's movements in Asia, including *People Toiling Under Pharaoh: MNCs in Asia* (1976) and *No Room in the Inn: Asia's Minorities* (1978). He has published many articles in U.S., Japanese, and Korean journals. In October 1996, Mr. Harvey received the prestigious Letelier-Moffitt Human Rights Award for Lifetime Achievement in developing labor rights law and defending labor rights internationally.

**Tom Hayden** has played an active role in American politics and history for more than three decades, beginning with the student, civil rights, and antiwar movements of the 1960s. Mr. Hayden was elected to the California State Legislature in 1982 and served for 10 years in the Assembly before being elected to the State Senate in 1992, where he served 8 years. Recently, Mr. Hayden has been involved with the Campaign for the Abolition of Sweatshops and Child Labor. He serves as the director of the West Coast Regional Office.

Mr. Hayden is the author of more than 175 measures that address issues such as reform of money in politics, worker safety, school decentralization, small business tax relief, domestic violence, gang violence in the inner city, student fee increases at universities, protection of endangered species like salmon, and overhauling the “three strikes, you're out” laws. He also authored a measure that was signed into law to assist Holocaust survivors in receiving recognition and compensation for their exploitation as slave labor during the Nazi era. Mr. Hayden is the author of 11 books, including his autobiography *Reunion*.

**Neil Kearney** has been general secretary of the International Textile, Garment and Leather Workers' Federation (ITGLWF) for the past 14 years. Born in Ireland, Mr. Kearney began work in the banking sector in the United Kingdom before becoming a full-time trade unionist. He has served on various U.K. Government Economic and Industrial Committees and was active in U.K. politics where he held elective office for more than a decade.

Mr. Kearney travels extensively in his trade union role and has visited some 150 different countries since his election as general secretary of the ITGLWF. He is a member of the Advisory Board of Social Accountability International, which manages SA8000, and the United Kingdom's Ethical Trading Initiative. He received the "Il Natale, La Notta della Vita" international award for his work on the elimination of child labor worldwide in 1998 and the 1999 Work and Environment Award of the Associazione Ambiente e Lavoro for his efforts to improve working conditions, especially in developing countries.

**Aewha Kim** was born in Seoul, Korea, and holds a diploma from Sookmyeong University in Korea. She has worked as an organizer and trainer for workers in Korea and as a general secretary at the Labor Human Rights Center in Korea. She is now in charge of the Asian Transnational Corporation Project at the Asia Monitor Resource Center.

**Marcela Manubens** is vice-president of Human Rights Programs for Phillips-Van Heusen Corporation (PVH). At PVH she has created and directed the company's human rights and working conditions programs worldwide. Since 1996, Ms. Manubens has participated in the Apparel Industry Partnership—now the Fair Labor Association (FLA), a tripartite initiative to eliminate sweatshops. She is a member of the Audit Committee of the FLA Board and of the Monitoring Subcommittee. She is also a member of the Women's Foreign Policy Group.

A professor at Columbia University, Ms. Manubens teaches Human Rights and Multinational Corporations in a Global Economy. She has been a lecturer and guest speaker at national and international conferences and has conducted human rights and compliance awareness sessions in various countries. Ms. Manubens has extensive working experience in multinationals in the areas of operations, finance, auditing, and ethics.

Ms. Manubens holds an M.B.A. from the University of Bridgeport where she was a Fulbright and Halsey International Scholarship recipient,

and a master's equivalent in economics and finance from Universidad de Belgrano, Argentina.

**Roger P. McDivitt** has a B.A. in economics from the University of California, Davis. After serving in the Marine Corps, he started working with Yvon Chouinard in 1972 at Chouinard equipment, the predecessor to Patagonia, Inc. He has been the director of sourcing for Patagonia for the past 17 years. He is responsible for all production source development, sourcing strategies, and manufacturing.

Mr. McDivitt has developed sourcing for Patagonia in Asia, Europe, and Central and South America as well as in the United States. In this position he leads the team effort to set and achieve corporate objectives in manufacturing in the areas of product quality, product delivery, product cost, workplace codes of conduct, and environmental improvements to manufacturing processes. Mr. McDivitt has worked with the Fair Labor Association from its inception in 1997.

**Gregg Nebel** has been head of Social and Environmental Affairs, Region Americas, of adidas-Salomon AG since January 1998. He also represents adidas-Salomon on the Fair Labor Association's Board of Directors. Before that, Mr. Nebel spent five years as adidas America's head of apparel sourcing for the Americas Region. Mr. Nebel has spent 24 years in the apparel industry and has worked in a variety of sourcing and operations management functions and with apparel and footwear supply chains in Europe, Asia, and the Americas.

**Debbie O'Brien** is director of the Business and Human Rights Program at Business for Social Responsibility (BSR). She has worked in the Human Rights Program at BSR since 1998. Her primary focus has been on helping companies develop strategies and practices to implement fair working conditions in their global supply chain. She has conducted a number of workshops for suppliers and brand representatives on compliance and codes of conduct in Asia and Latin America and has conducted intensive research on the living wage and metrics for measuring workers' basic needs. She has completed a comprehensive study on working conditions for the licensed apparel for five major universities.

Before joining BSR, Ms. O'Brien worked at Levi Strauss & Company in the government affairs department, focusing on labor rights for its global supply chain. She also served as the deputy director for the National Pollu-

tion Prevention Roundtable, and worked for Speaker of the U.S. House of Representatives Tom Foley for three years.

Ms. O'Brien earned a master's degree in Public Policy from the Goldman School of Public Policy at the University of California, Berkeley, and a B.A. from Whitworth College in Spokane, Washington.

**Carol Pier** is the labor rights and trade researcher for Human Rights Watch's (HRW) Business and Human Rights Program. She graduated from Harvard Law School in 1998. While in law school, she spent a summer working with the Bureau of International Labor Affairs at the U.S. Department of Labor, where she analyzed Chilean labor law and practice in preparation for the possible accession of Chile to NAFTA. In 1998, she published an article based on that research "Labor Rights in Chile and North American Free Trade Agreement (NAFTA) Labor Standards: Questions of Compatibility on the Eve of Free Trade." In fall 1999, she joined HRW as a fellow and researched and authored the report *Hidden in the Home: Abuse of Domestic Workers with Special Visas in the United States*. As a fellow, she also provided research and writing assistance for an HRW report documenting violations of workers' right to freedom of association in the United States. From 2000 through 2001, she worked as a labor rights researcher for the Americas Division of HRW, where she investigated child labor and obstacles to freedom of association on Ecuador's banana plantations. In April 2002, she released the HRW report based on those findings, *Tainted Harvest: Child Labor and Obstacles to Organizing on Ecuador's Banana Plantations*.

**Katie Quan** is associate chair of the Center for Labor Research and Education, Institute of Industrial Relations, University of California at Berkeley. She also directs the activities of the John F. Henning Center for International Labor Relations.

Before working at the Labor Center, Ms. Quan was with the Union of Needletrades, Industrial and Textile Employees. From 1975–1998, she was a rank-and-file seamstress, membership trainer, union organizer, and district council manager. She was also an international vice-president, the first Asian Pacific Islander in her union to hold such a position.

Ms. Quan is currently a member of the Boards of Directors of the Workers Rights Consortium, the International Labor Rights Fund, the AFL-CIO Union Community Fund, the Labor Project for Working Families, and Sweatshop Watch. She is also on the Board of Directors of the

Chinatown Economic Development Group and the California Labor Commissioner's Garment Advisory Committee.

Ms. Quan is a graduate of the University of California at Berkeley and has studied at Cornell University's Institute of Labor Relations and at Columbia University as a Charles H. Revson Fellow.

**Mila Rosenthal** is the director of the Workers Rights Program at the Lawyers Committee for Human Rights (LCHR). She joined LCHR after working at Amnesty International's UK Business Group, where she lobbied companies to adopt and enforce human rights policies and social accounting. A specialist in industrial development and labor rights in Southeast Asia, she conducted Ph.D. research in garment and textile factories and factory housing communities in Vietnam, and taught anthropology at the London School of Economics. She has been a consultant to Oxfam GB and the UN Industrial Development Organization; she served as director of the NGO Resource project in Phnom Penh, Cambodia.

Recent publications include "Facing a New Revolution in Vietnam: State Textile Workers in the Post-Reform Economy" in *Women & Work in Globalizing Asia* (Dong-Sook Shin Gills and Nicola Piper, editors, Routledge, 2002), "Everyone Was Equal: Nostalgia and Anxiety Among Women Workers in a Vietnamese Textile Factory" in *Modernisation and Social Change: Transformation in Vietnam* (Katja Hemmerich, editor, Munich Institute for Social Science, 2002).

**Reverend David Schilling** is director of the Global Corporate Accountability Program for the Interfaith Center on Corporate Responsibility (ICCR), a coalition of 275 Catholic, Jewish, and Protestant organizations. A United Methodist minister, Rev. Schilling works on labor rights and human rights issues in the global economy. He has had extensive experience in Mexico, Central America, and Asia. In Mexico, El Salvador, Honduras, Indonesia, Vietnam, and China, he has led delegations to visit factories and meet with workers, unions, and NGOs. He helped write the "Principles for Global Corporate Responsibility: Benchmarks for Measuring Business Performance" (1998), a comprehensive set of business principles proposed by ICCR and its religious partners in Canada and Great Britain. Rev. Schilling has published a number of articles in magazines and journals on workers' rights, sustainable community development, corporate codes of conduct, and shareholder activism.

Rev. Schilling is a member of the Coalition for Justice in the

Maquiladoras and was a founding member of the Independent Monitoring Working Group (which supports independent monitors at Gap suppliers in El Salvador, Honduras, and Guatemala). He was a member of President Clinton's Anti-Sweatshop Task Force.

**Roland Schneider** is currently senior policy advisor at the Trade Union Advisory Committee (TUAC) to the Organisation for Economic Co-operation and Development (OECD) in Paris. TUAC is the interface for labor unions with the OECD. It is an international trade union organization with members in all OECD countries. TUAC has consultative status with the OECD and its various committees. Following an apprenticeship as a toolmaker, Mr. Schneider completed studies in mechanical engineering and political science.

From 1981 to December 1985, he conducted research projects at the Economic and Social Research Institute of the German federation of trade unions (DGB), located in Düsseldorf. In 1986 he joined the DGB as head of the Department of New Technology and Humanization of Work. At TUAC, which he joined in 1998, he works on employment, labor market, and social policy issues, as well as on education and training issues.

**Barbara Shailor**, director of the International Affairs Department of the AFL-CIO, is internationally recognized for her lifelong work to secure economic, social, and political rights for workers in the United States and throughout the world.

In 1996, Ms. Shailor was appointed by AFL-CIO President John Sweeney to reorganize and direct the organization's international work. She oversees the work of the American Center for International Labor Solidarity, which works through 26 field offices to support unions in 55 countries in Africa, the Americas, Asia, and Europe. She serves as a senior adviser to AFL-CIO President Sweeney on foreign and international policy issues.

She is a member of the Council on Foreign Relations and serves on the Board of Directors of the German Marshall Fund, the Global Reporting Initiative, Solidar, the Asian Advisory Committee of HRW, as well as numerous U.S. government committees.

**Dennis A. Smith** is the president of the Commission for the Verification of Corporate Codes of Conduct (COVERCO). For the past five years, COVERCO has monitored compliance with internationally accepted core labor standards in the Maquila, agricultural export, and construction in-

dustries in Guatemala. Mr. Smith, a writer and educator, is a mission co-worker of the Presbyterian Church (USA). He has lived and worked in Guatemala since 1977.

**Anna Walker** has been with the United States Council for International Business (USCIB) since September 1999. She is responsible for the Council's activities in the areas of international labor affairs, corporate responsibility, and health care policy. As part of her responsibilities at the USCIB, Ms. Walker serves as the representative of U.S. business to the ILO as adviser to USCIB President Thomas M.T. Niles. Ms. Walker also manages USCIB efforts related to corporate responsibility, including dissemination of best practices, revision of the OECD Guidelines for Multinational Enterprises, and implementation of the UN Global Compact with business.

Ms. Walker holds B.A. degrees in International Relations and Spanish from the University of California, Davis, and a master's degree in International Affairs and International Economics from the Johns Hopkins University Paul H. Nitze School of Advanced International Studies.

**May Wong** was born in Hong Kong and holds a Diploma in Sociology from Hong Kong's Shue Yan College. She studied at the University of York in Great Britain, and earned her master's degree in Women and Development in 1996. She has been a researcher on multinational corporations in China at the City University of Hong Kong and is currently China program officer at the Asia Monitor Resource Center, Hong Kong.

**Robert Zane** is the senior vice president, Manufacturing, Sourcing, Distribution and Logistics for Liz Claiborne, Incorporated, a multibrand apparel corporation with an annual sales volume of \$3.6 billion. He joined Liz Claiborne in 1995.

Mr. Zane has spent 40 years in the apparel industry in various operational, consulting, and international roles. He is a member of the Fair Labor Association Board of Directors, an organization that is pioneering the independent monitoring of factories throughout the world. Mr. Zane has degrees from Brooklyn College and the Fashion Institute of Technology.



## Appendix B

### Audience List

**Anthony Ewing**

Lecturer  
Columbia University

**Sam Gregory**

Program Coordinator  
WITNESS

**Christine Hammill**

Attorney

**Robert Hoskins**

Senior Specialist  
Service Employees International  
Union

**Gareth Howell**

Consultant  
Formerly International Labour  
Organization

**Raina Jamal**

Program Assistant  
United States Council for  
International Business

**Eileen Kaufman**

Executive Director  
Social Accountability International

**Anne Lally**

Outreach and Transparency  
Coordinator  
Fair Labor Association

**Maeve McGurk**

Human Rights Administrator  
Phillips-Van Heusen Corporation

**Emily O'Connor**

Associate  
Debevoise & Plimpton

**Olga Orozco**

Auditor  
A&L Group, Inc.

**Spiros Papachristodoulou**

Human Rights Compliance Officer  
Phillips-Van Heusen Corporation

**Jennie Pasquarella**

Program Assistant, Workers' Rights  
Program

Lawyers Committee for Human  
Rights

**Mary Broderick Ryan**

Manger of International Labor  
Relations

Verizon

**Diane Saunders**

Monitoring Program Officer  
Fair Labor Association

**Iwona Spytkowski**

Account Manager  
Cal Safety Compliance  
Corporation

**David Uricoli**

Senior Director of Global Human  
Rights Compliance

Polo Ralph Lauren

**Ted Verheggen**

Counsel

The Dow Chemical Company

**Laura Wittman**

Contractor Compliance Manager  
Jones Apparel Group, Inc.

## Appendix C

### The Committee on Monitoring International Labor Standards (2002–2003)

**THEODORE H. MORAN** (*Chair*), Marcus Wallenberg Chair, School of Foreign Service, Georgetown University, Washington, DC

**JARL BENGTTSSON**, Counsellor and Head, Centre for Educational Research and Innovation, Organisation for Economic Co-operation and Development, Paris

**THOMAS DONALDSON**, Mark O. Winkelman Professor, Professor of Legal Studies, The Wharton School of Business, University of Pennsylvania\*

**MARIA S. EITEL**, Vice President and Senior Advisor for Corporate Responsibility, Nike; President, Nike Foundation, Beaverton, OR

**KIMBERLY ANN ELLIOTT**, Research Fellow, Institute for International Economics, Washington, DC

**GARY FIELDS**, Chairman, Department of International and Comparative Labor, School of Industrial and Labor Relations, Cornell University

**THEA LEE**, Assistant Director for International Economics, Public Policy Department, AFL-CIO, Washington, DC

**LISA M. LYNCH**, Academic Dean and Professor of International Economic Affairs, The Fletcher School of Law and Diplomacy, Tufts University

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\*Thomas Donaldson resigned from the committee in October 2002.

**DARA O'ROURKE**, Assistant Professor of Environmental and Labor Policy, Department of Urban Studies and Planning, Massachusetts Institute of Technology

**HOWARD PACK**, Professor of Business and Public Policy, The Wharton School of Business, University of Pennsylvania

**EDWARD POTTER**, International Labor Counsel, U.S. Council for International Business; Attorney-at-Law, McGuiness, Norris & Williams, LLP, Washington, DC

**S.M. (MO) RAJAN**, Director, Labor and Human Rights, Worldwide Government Affairs and Public Policy Department, Levi Strauss & Company, San Francisco

**GARE SMITH**, Counsel, Foley & Hoag Attorneys at Law, Washington, DC

**T.N. SRINIVASAN**, Samuel C. Park, Jr. Professor of Economics, Department of Economics, Yale University

**AURET VAN HEERDEN**, Executive Director, Fair Labor Association, Washington, DC

**HEATHER WHITE**, Founder and Executive Director, Verité, San Francisco\*\*

**FAHRETTIN YAGCI**, Lead Economist, Africa Region, The World Bank, Washington, DC

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\*\*Heather White resigned from the committee in November 2002.

## Appendix D

# The International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work

Several events led up to ILO approval in 1998 of a Declaration of Fundamental Principles and Rights at Work. The ILO is a tripartite organization, affiliated with the United Nations and made up of representatives of workers, employers, and governments around the world. Traditionally, these three groups have established labor standards in the form of conventions. Under the ILO constitution, after the International Labour Conference (held each year in Geneva) has approved a convention and at least two nations have ratified it, the convention comes into force.<sup>1</sup> Each member nation is then expected to ratify that convention, creating a binding legal obligation to carry out its provisions through changes in the nation's labor laws and enforcement mechanisms. The ILO has created an extensive supervisory system to encourage nations to carry out the 184 conventions approved thus far. This system includes ongoing reporting, dialogue with member nations, complaints procedures, and special procedures focusing specifically on complaints related to freedom of association.

However, many ILO conventions have been ratified by only a few of the ILO's 175 member states.<sup>2</sup> At the same time, nations that do ratify conventions often do not carry out their legal obligations to change their

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<sup>1</sup>International Labour Organization. ILOLEX "Ratifications." Available: <<http://www.ilo.org/ilolex/english/newratframeE.htm>> [January 21, 2003].

<sup>2</sup>International Labour Organization. ILOLEX "Ratifications." Available: <<http://www.ilo.org/ilolex/english/newratframeE.htm>> [January 21, 2003].

labor laws and enforcement systems accordingly.<sup>3</sup> Some observers view the ILO as “toothless” because it lacks an enforcement system to address these problems. Activists have sought (and continue to seek) a link between labor issues and international trade negotiations at the World Trade Organization (WTO), hoping that trade sanctions would provide a stronger “stick” to encourage developing countries to improve labor protections.

Nations around the world responded to these problems and pressures by seeking a more focused approach to labor standards. At the 1995 World Summit for Social Development in Copenhagen, nations affirmed that all workers are entitled to four basic rights—freedom of association and the right to organize and bargain collectively; the prohibition of forced labor; prohibition of child labor; and the elimination of discrimination in employment. Later that year, the ILO identified eight conventions that addressed these four basic rights as “fundamental to the rights of human beings at work,” and launched a campaign to increase their ratification (see Table D-1 below). In 1996, the WTO in Singapore reiterated its longstanding opposition to addressing labor issues. At this WTO meeting, world leaders renewed their commitment to observe “internationally recognized core labour standards” and stated that the ILO was the appropriate body to set and promote these standards.

The 1998 Declaration reflected these developments, focusing and strengthening the ILO’s approach to protecting workers around the world. The Declaration not only calls on the ILO and its member nations to promote the four basic rights identified in Copenhagen, whether or not they have ratified conventions corresponding to those rights, but also creates new promotional mechanisms. These include increased technical assistance from the ILO and increased reporting from member nations to move toward attainment of these rights. Although the Declaration represents a new approach to international labor standards, different from the use of conventions, most observers equate its four rights and principles with the eight “fundamental” ILO conventions. Thus, the term “core international labor standards” has come to mean not only the four broad principles in the Declaration but also the eight corresponding conventions. The text of

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<sup>3</sup>Compa, L. (2002). *Assessing Assessments: A Survey of Efforts to Measure Countries’ Compliance with Freedom of Association Standards*. Paper prepared for the National Research Council Workshop on International Labor Standards: Quality of Information and Measures of Progress. Available: <<http://www7.nationalacademies.org/internationalabor/DQworkshop.html>> [October 15, 2002].

TABLE D-1 The Four Core International Labor Standards

Fundamental Principle	Corresponding ILO Conventions	Number of Ratifications of Convention
1. Freedom of association and effective recognition of the right to collective bargaining	C. 87: Freedom of Association and Protection of the Right to Organize Convention, 1948	141
	C. 98: Right to Organize and Collective Bargaining Convention, 1949	152
2. The elimination of all forms of forced or compulsory labor.	C. 29: Forced Labour Convention, 1930	161
	C. 105: Abolition of Forced Labour Convention, 1957	159
3. The effective abolition of child labor.	C. 138: Minimum Age Convention, 1973	121
	C. 182: Worst Forms of Child Labor Convention, 1999	132
4. The elimination of discrimination in respect of employment or occupation	C. 100: Equal Remuneration Convention, 1951	160
	C. 111: Discrimination (Employment and Occupation) Convention, 1958	158

the Declaration is presented below,<sup>4</sup> followed by a table comparing its rights and principles with the corresponding ILO conventions (Table D-1).

<sup>4</sup>International Labour Organization. (1998b). *ILO Declaration of Fundamental Rights and Principles at Work. International Labour Conference 86th Session*. Geneva, Switzerland: Author.

## TEXT OF THE ILO DECLARATION

Whereas the ILO was founded in the conviction that social justice is essential to universal and lasting peace;

Whereas economic growth is essential but not sufficient to ensure equity, social progress and the eradication of poverty, confirming the need for the ILO to promote strong social policies, justice and democratic institutions;

Whereas the ILO should, now more than ever, draw upon all its standard-setting, technical cooperation and research resources in all its areas of competence, in particular employment, vocational training and working conditions, to ensure that, in the context of a global strategy for economic and social development, economic and social policies are mutually reinforcing components in order to create broad-based sustainable development;

Whereas the ILO should give special attention to the problems of persons with special social needs, particularly the unemployed and migrant workers, and mobilize and encourage international, regional and national efforts aimed at resolving their problems, and promote effective policies aimed at job creation;

Whereas, in seeking to maintain the link between social progress and economic growth, the guarantee of Fundamental Principles and Rights at Work is of particular significance in that it enables the persons concerned, to claim freely and on the basis of equality of opportunity, their fair share of the wealth which they have helped to generate, and to achieve fully their human potential;

Whereas the ILO is the constitutionally mandated international organization and the competent body to set and deal with international labor standards, and enjoys universal support and acknowledgement in promoting Fundamental Rights at Work as the expression of its constitutional principles;

Whereas it is urgent, in a situation of growing economic interdependence, to reaffirm the immutable nature of the Fundamental Principles and Rights embodied in the Constitution of the Organization and to promote their universal application;

### **The International Labour Conference**

#### 1. Recalls:

- (a) that in freely joining the ILO, all Members have endorsed the principles and rights set out in its Constitution and in the Declara-



- tion of Philadelphia, and have undertaken to work towards attaining the overall objectives of the Organization to the best of their resources and fully in line with their specific circumstances;
- (b) that these principles and rights have been expressed and developed in the form of specific rights and obligations in Conventions recognized as fundamental both inside and outside the Organization.
2. Declares that all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely:
    - (a) freedom of association and the effective recognition of the right to collective bargaining;
    - (b) the elimination of all forms of forced or compulsory labor;
    - (c) the effective abolition of child labor; and
    - (d) the elimination of discrimination in respect of employment and occupation.
  3. Recognizes the obligation on the Organization to assist its Members, in response to their established and expressed needs, in order to attain these objectives by making full use of its constitutional, operational and budgetary resources, including, by the mobilization of external resources and support, as well as by encouraging other international organizations with which the ILO has established relations, pursuant to article 12 of its Constitution, to support these efforts:
    - (a) by offering technical cooperation and advisory services to promote the ratification and implementation of the fundamental Conventions;
    - (b) by assisting those Members not yet in a position to ratify some or all of these Conventions in their efforts to respect, to promote and to realize the principles concerning fundamental rights which are the subject of these Conventions; and
    - (c) by helping the Members in their efforts to create a climate for economic and social development.
  4. Decides that, to give full effect to this Declaration, a promotional follow-up, which is meaningful and effective, shall be implemented

in accordance with the measures specified in the annex hereto, which shall be considered as an integral part of this Declaration.

5. Stresses that labor standards should not be used for protectionist trade purposes, and that nothing in this Declaration and its follow-up shall be invoked or otherwise used for such purposes; in addition, the comparative advantage of any country should in no way be called into question by this Declaration and its follow-up.

## Appendix E

### Forum Agendas

#### IMPROVING COMPLIANCE WITH INTERNATIONAL LABOR STANDARDS: A PUBLIC FORUM FOR THE NATIONAL ACADEMIES

By the Wharton School's Center for Human Resources

Monday, September 9, 2002  
The Hudson Hotel, 356 West 58th Street  
New York, NY

- 8:00 am–8:45 am *Continental Breakfast for Speakers, NRC/Wharton Staff and Invited NRC Guests*
- 8:45 am–9:00 am *Introduction and Opening Remarks*  
**Peter Cappelli**—Director, Center for Human Resources and George W. Taylor Professor of Management, The Wharton School at the University of Pennsylvania, Philadelphia, PA  
**Janice Bellace (moderator)**—Samuel Blank Professor of Legal Studies, and Professor of Legal Studies and Management, The Wharton School at the University of Pennsylvania, Philadelphia, PA

- 9:00 am–10:00 am *First Session*
- Neil Kearney**—General Secretary; International Textile, Garment and Leather Workers’ Federation, Brussels, Belgium
- Mila Rosenthal**, Director, Worker Rights Program, Lawyers Committee for Human Rights, New York, NY
- Gregg Nebel**—Head of Social and Environmental Affairs, Region Americas, adidas-Salomon, Seattle, WA
- 10:00 am–10:10 am *Break*
- 10:10 am–11:10 am *Second Session*
- Mike Grace**—Associate Administrative Assistant to the President, Communications Workers of America, Washington, DC
- Bipul Chattopadhyay**—Associate Director, Consumer Unity & Trust Society, Center for International Trade, Economics & Environment, Jaipur, India
- Bob Zane**—Senior Vice President, Sourcing, Distribution, and Logistics, Liz Claiborne, Inc., New York, NY
- 11:10 am–12:10 pm *Questions from the Committee and Audience*
- 12:10 pm–1:10 pm *Lunch Break*
- 1:10 pm–2:10 pm *Third Session*
- Roland Schneider**—Senior Policy Advisor, Trade Union Advisory Committee, OECD, Paris, France
- Carol Pier**—Labor Rights and Trade Researcher, Human Rights Watch, Washington, DC
- Anna Walker**—Manager of Labor Affairs and Corporate Responsibility, United States Council for International Business, New York, NY
- 2:10 pm–3:10 pm *Fourth Session*
- Barbara Shailor**—Director of International Affairs, AFL-CIO, Washington, DC

**Reverend David Schilling**—Director, Global Corporate Accountability Program, Interfaith Center on Corporate Responsibility, New York, NY

**Marcella Manubens**—Vice-President, Human Rights Programs, Phillips-Van Heusen Corporation, New York, NY

3:10 pm–3:20 pm *Break*

3:20 pm–4:20 pm *Questions from the Committee and Audience*

4:20 pm–4:30 pm *Summary and Adjournment*

**Janice Bellace (moderator)**

**IMPROVING COMPLIANCE WITH INTERNATIONAL  
LABOR STANDARDS: A PUBLIC FORUM FOR  
THE NATIONAL ACADEMIES**

**By the Wharton School's Center for Human Resources**

Tuesday, September 17, 2002  
The Westin Bonaventure Hotel  
404 South Figueroa Street  
Palos Verdes Room—Lobby Level  
Los Angeles, CA

8:00 am–8:45 am *Continental Breakfast for Speakers, NRC/Wharton Staff and Invited NRC Guests*

8:45 am–9:00 am *Introduction and Opening Remarks*

**Peter Cappelli**—Director, Center for Human Resources, and George W. Taylor, Professor of Management, The Wharton School at the University of Pennsylvania, Philadelphia, PA

**William Gould (moderator)**—Charles A. Beardsley Professor of Law, Emeritus, Stanford University, Stanford, CA

9:00 am–10:00 am *First Session*

**Stephen Coats**—Executive Director, U.S./Labor Education in the Americas Project, Chicago, IL

**Tom Hayden**—Director, West Coast Regional Office, Campaign for the Abolition of Sweatshops and Child Labor, Los Angeles, CA

**Roger McDivitt**—Director of Sourcing, Patagonia, Inc., Ventura, CA

10:00 am–10:10 am *Break*

10:10 am–11:10 am *Second Session*

**Garrett Brown**—Coordinator, Maquiladora Health and Safety Support Network, Berkeley, CA

**Peter Chapman**—Executive Director, Shareholder Association for Research and Education, Vancouver, British Columbia, Canada

**Debbie O'Brien**—Director, Business and Human Rights Program, Business for Social Responsibility, San Francisco, CA

11:10 am–12:10 pm *Questions from the Committee and Audience*

12:10 pm–01:10 pm *Lunch Break*

1:10 pm–2:10 pm *Third Session*

**Dennis Smith**—President, Commission for the Verification of Corporate Codes of Conduct, Ciudad de Guatemala, Guatemala

**Richard Clayton**—Research Analyst, Service Employees International Union, Oakland, CA

**Katie Quan**—Associate Chair, Center for Labor Research and Education, Institute of Industrial Relations, University of California at Berkeley, Berkeley, CA

- 2:10 pm–3:10 pm *Fourth Session*  
**May Wong**—China Program Officer, Asia Monitor Resource Center, Hong Kong  
**Aewha Kim**—Director, Asian Transnational Corporation Project, Asia Monitor Resource Center, Hong Kong  
**Tom DeLuca**—Vice President, Imports, Product Development, and Compliance, Toys “R” Us, Paramus, NJ  
**Pharis J. Harvey**—Former Executive Director, International Labor Rights Fund, San Jose, CA
- 3:10 pm–3:20 pm *Break*
- 3:20 pm–4:20 pm *Questions from the Committee and Audience*
- 4:20 pm–4:30 pm *Summary and Adjournment*  
**William Gould (moderator)**