

The Workers Rights Consortium

The WRC, introduced in October 1999, was developed by anti-sweatshop student activists and their allies as an alternative to the FLA. Recently, President Bollinger made the decision to have UM join the WRC on a provisional basis and to take an active part in the development of the organization, beginning with its inaugural conference on April 7. Further information concerning the WRC is available on its website:

www.workersrights.org.

The WRC focuses on the eradication of sweatshop labor in the production of university licensed apparel, not the entire apparel industry. Universities will be the only members of the WRC, although its governing structure involves students, worker representatives, and representatives of NGOs from the U.S. and abroad. Its financial resources will come from dues paid by universities and from grants from foundations. It intends to focus its efforts on the investigation of worker complaints, supplemented by a smaller program of spot monitoring. The WRC will develop recommended sanctions for code violations of various kinds, but it will not impose sanctions itself. Instead, it will pass along to its member universities reports on complaints filed against particular licensees, leaving it up to the universities to take appropriate action. The WRC contains a code of conduct that includes a commitment to a living wage, but since it will be up to universities to determine sanctions, they will be able to make their own choices concerning the appropriate response to complaints concerning wages.

There is much that is attractive about the basic framework of the WRC. This includes:

1. Its emphasis on disclosure, transparency and public information about the conditions in apparel factories. Of all options before us, the WRC is most insistent on full disclosure, which we regard as essential to an effective compliance mechanism.
2. Its emphasis on the investigation of complaints as a way to focus energy and resources in such an extensive and complex environment. With thousands of factories producing university licensed apparel and limited resources to work with, there is merit in focusing attention on factories where problems are reported.
3. Its commitment to involving a broad range of stakeholders. The WRC is committed to involving workers and their representatives in the development and implementation of its policies. Here, too, the WRC takes a stronger commitment than any other major organization working against sweatshop labor.
4. Its strong code of conduct, including a living wage standard. Although many of us on the Committee harbor doubts about the wisdom of imposing a living wage standard because of concerns about its impact on jobs in poor countries, it is useful to have an organization that takes a strong stand on the living wage as a goal and provides pressure on universities and licensees to give this standard serious consideration. With the industry staking out a wage standard we regard as too weak, even those of us who harbor doubts appreciate the balance the WRC brings to the debate with its insistence on a living wage.
5. Its focus on university licensed apparel. As noted above, there is something to be said for focusing on the entire apparel industry in hopes of affecting the largest

possible number of workers. But given some of the barriers that exist to industry-wide progress, there is much to be said for having another active organization that focuses just on university licensed apparel, since this is where the leverage of universities is most likely to be productive.

6. Its independence from other monitoring efforts (such as the FLA, SA8000, etc.). In the spirit of the RLS approach, having multiple monitoring agencies is a good idea. So is having an organization whose complaint investigation procedures can be an effective check on the quality and reliability of monitoring by others. Reports of complaints can also be useful in helping universities to target monitoring activities of these other organizations. It should be noted that the WRC does not advertise this feature about itself, and USAS, which developed the WRC, actively opposes university affiliation with the FLA. Nevertheless, we regard the presence of the WRC as an important addition to the landscape of compliance mechanisms currently available.

There are, however, areas in which the structure of the WRC is vague or problematic to a degree that concerns many of us. These include:

1. Its adversarial approach toward licensees. Licensees are conspicuously absent from the framework of the WRC, except as the object of complaints. Many of us believe this is unfortunate because the lack of a role for licensees is likely to lead them to react with suspicion to the WRC, to make them reluctant to participate in self-reporting about their activities, and to undermine the credibility and legitimacy of reports arising from the investigation of complaints. Ensuring compliance with our code by hundreds of licensees operating in a broad range of producing countries will be difficult at best, and a framework that does not seek some form of buy-in by licensees at the outset runs a risk of being ineffective and unable to adapt successfully over time. For this reason, some of us believe that the WRC's prospects for success would be greatly enhanced if licensees were to have a greater role in the development of the structure of the WRC. This role need not, however, extend to membership in the WRC.
2. Concerns about university-licensee relationships. The antagonistic stance of the WRC to licensees, who are our business partners, is likely to create some challenges for the University in maintaining productive relationships with licensees. Should the WRC continue in its reluctance to engage with licensees, some specific efforts by the University to address the resultant tensions will most likely be necessary.
3. Concerns about the process for identifying and investigating complaints against licensees. Most of us believe that we know too little about the nature of the investigatory agency that will be at the heart of the WRC--who will conduct the investigations under the WRC, what procedures will be used, how will workers how to file complaints, and what role licensees will have in the process? We fear that if licensees do not believe they will be accorded due process in the investigation of complaints, they will be less likely to cooperate in investigations, to accept the results as legitimate, or to develop appropriate remediation strategies. Should this happen, the process will be unable to play its intended role, which is to resolve complaints in a manner that is viewed as independent, credible and legitimate by the various parties to a complaint. If the WRC fails to develop an investigation process that is widely

viewed as independent and credible, it will be unable to help the University of Michigan advance its anti-sweatshop goals. It may prove difficult for a single organization to be both active in educating workers and encouraging them to act on their rights and also involved in investigating complaints and filing reports with the WRC. An organization's success in worker education may raise doubts among some about whether it can be sufficiently impartial and independent as a complaint investigator.

4. Concerns about over-reliance on complaint investigation. Some of us are concerned that the WRC strikes the wrong balance between "fire alarms" and "fire prevention." We need to be confident that all workers will be aware of their rights and that they will be willing to take the risks they will very likely perceive to be associated with filing complaints. We also need to be aware that complaints may be more forthcoming from factories where compliance is reasonably advanced, since those are the factories where the risks of filing a complaint may be lowest.
5. Concerns about the governance structure of the WRC. The representatives of participating universities, which will be the major source of funding for the organization, will hold only three seats on the twelve person Governing Board, the other nine being selected in some way by USAS and the Advisory Council it will appoint. The committee will also contain three students, and some of those selected by the Advisory Council may also be students, staff, or faculty at participating universities, but some of us believe that having only three representatives selected by the universities affiliated with the WRC provides insufficient representation for the universities as institutions. One member of our Committee is also concerned that the presence on the Governing Board, as specified in the WRC documentation we have seen, of UNITE or other U.S. unions with a documented history of trade protectionism and opposition to apparel job creation in developing countries, may diminish the independence and credibility of the WRC in affected countries.

At present, most of us on the Committee find ourselves unable to predict how the framework of the WRC will be fleshed out with details in these and other areas. Proponents of the WRC have argued that the details should and will be worked out by the full range of stakeholders once universities have affiliated with the WRC, and that the University of Michigan should affiliate and join in the process. The University has now taken this step, and we urge that the representatives who attend the conference on April 7 do so with a commitment to making the WRC a viable organization and to raising the concerns that we have listed above.

The Fair Labor Association

The FLA is the largest and most well developed of the organizations that are focused on improving working conditions in the global apparel industry. Founded in 1998, it grew out of the Apparel Industry Partnership that was sponsored by the Clinton Administration and nurtured by the Department of Labor. The AIP began by enlisting representatives of industry, organized labor and the nongovernmental sector to participate in the development of a code of conduct for the apparel industry and a structure to monitor compliance with it. When the structure for the FLA was announced in November 1998,

representatives from organized labor and many of the NGOs withdrew from the partnership, leaving the FLA with a small number of corporate members and a few NGOs, the International Labor Rights Fund and the Lawyers Committee for Human Rights being the most prominent. At about this time, concerns about sweatshop labor began to surface on the nation's campuses. Universities had not been among the original parties that developed the FLA, but they were welcomed into the FLA as they began to look for a way to respond to the concerns being raised on their campuses. Over 130 universities have joined the FLA, and the University Advisory Council has been added to the organization as a means of coordinating the actions of the university affiliates. The FLA has not yet certified any monitors and its monitoring program is unlikely to be implemented before the end of 2000. Additional information concerning the FLA is available on its website at www.fairlabor.org.

There are a number of positive features to the FLA. These include:

1. It's the biggest game in town. The FLA contains among its members some of the largest and most influential apparel producers and over 130 universities, including many of the leaders in terms of licensing revenues. Because of government support and the revenues it will receive from its members, the FLA is likely to have the financial resources required to address seriously sweatshop labor. The fact that many of the universities share many licensees means that the FLA offers significant economies of scale if it provides monitoring rather than individual universities doing it themselves.
2. Most of our major licensees will be monitored by the FLA. Since most of our major licensees also have licensing agreements with universities that are members of the FLA, they will be required to participate in the FLA monitoring structure. There are compelling reasons for avoiding a proliferation of codes of conduct and monitoring arrangements, including avoidance of unreasonable burdens on licensees as they comply with the requirements of many universities. If the monitoring structure of the FLA can be altered through university action to correct its greatest flaws, then there is an argument that the FLA structure will be the most cost-effective option for us to ensure compliance with our code and avoid burdening our licensees with parallel monitoring structures.
3. The FLA charter allows universities the flexibility to pursue more forceful strategies if they wish. As noted below, the FLA Charter appears to allow universities to insist upon stronger codes of conduct, to participate in the selection of monitors, and to make the results of monitoring more transparent. It is regrettable that the FLA is unlikely to address these matters on its own, but if this flexibility is genuine, then these significant concerns can be adequately addressed by universities working alone or in concert.
4. The University Advisory Council can be a forum to coordinate university policies. It is imperative that universities coordinate their anti-sweatshop efforts so that licensees can focus their energies on compliance rather than on complaining about a proliferation of different requirements. With the largest group of participating universities, the FLA, and its University Advisory Council, will have a good chance of bringing order to and coordinating the efforts of a large number of major universities.

5. The FLA's focuses on the apparel industry as a whole. Most members of our committee favor focusing anti-sweatshop efforts on the industry as a whole rather than just on university licensed apparel, and the FLA provides this focus. But there is a potential downside to such a focus as well. It appears that the university affiliates, by and large, favor more forceful strategies against sweatshop labor (stronger codes, less corporate control of monitoring, more transparency) than do the corporate members of the FLA. If the latter are able, through the formal governance structure or otherwise, to prevent universities from acting as forcefully as they would like, then universities may well be better off pursuing their goals outside of the FLA.

The University originally opted not to affiliate with the FLA because of some significant concerns. Some of them have been addressed as the FLA has developed, but a number remain. The principal concerns include:

1. The governance structure. Because universities were an "add on" to the FLA, they have little formal representation in the organization. The board of directors contains six representatives chosen by the corporate members, six chosen by the NGO and organized labor affiliates, one representative from the University Advisory Council, and the executive director. A number of important features of the FLA, including modifications of its Charter, require supermajority votes of the board of directors, giving either of the principal groups an effective veto over fundamental change. Despite the fact that universities already outnumber all of the other members of the FLA, and that the majority of the corporate members of the FLA are very likely soon to be licensees brought into the FLA by universities, there is little likelihood of fundamental change in this governance structure. This governance structure may not impede significant progress on a number of our concerns, since it appears possible to address them separately through university licensing agreements. But the fact remains that given universities presence in the FLA, in terms of numbers and resources that will be provided through dues, they are woefully underrepresented in the formal structure of the FLA.
2. The FLA code of conduct. Most critics of the FLA believe that its code is too weak. Members of our Committee share this concern. The code we have recommended is stronger on a number of dimensions, including health and safety, women's rights, compensation, and hours and overtime. The FLA has said that it regards its code as "a floor not a ceiling," and has indicated its willingness to monitor stronger codes if they are adopted by universities affiliated with the FLA. In our view, this concession is significant. It would be best if the FLA adopted a stronger code that applied to all of its members, but the ability of universities to stipulate stricter codes provides the necessary flexibility for universities to take the initiative in implementing stronger codes of conduct. In addition, the University Advisory Council provides an important organizational venue for universities to work together to develop a strong code that they can all use.
3. The monitoring structure. Critics point to a number of features of the FLA monitoring structure that they regard as inadequate, including:
 - Apparel firms will be able to select the monitors who will monitor their factories/contractors, including monitors whose firms do substantial business (not more than \$100,000) of other kinds with the apparel firms. Critics fear that firms will

select “business friendly” monitors that will not be able to work effectively with workers or local organizations and that will be biased in favor of positive reports by other business dealings between the monitor and the firm it examines. Once again, this concern can be adequately addressed if universities include language in their licensing agreements that provides a role for the university (or its delegate) in the selection of monitors. The University Advisory Council, for instance, might play a role in ensuring the independence and credibility of the monitoring structure by developing an alternative procedure for selecting monitors.

- Monitors must be selected from among those accredited by the FLA. The FLA seems to be making efforts to involve a wide range of organizations in the monitoring process, including international accounting/consulting firms and local NGOs. It has taken one important step in making it possible for many organizations to participate by allowing an organization to be certified to monitor only part of the code. This may enable smaller, local organizations to be certified even though they lack the capacity to carry out, say, sophisticated audits of employment records. The FLA has recently issued detailed procedures concerning the accreditation of independent external monitors. However, we must await the publication of the first list of accredited monitors to know whether the accreditation process is working in practice.
 - Only a small percentage of factories/contractors (30% in the initial period and 10% each year thereafter) will be monitored in any given year. So far, there are no signs that this feature of the structure will be changed. This means that it will take years to cycle through all of the factories utilized by a firm. Also, monitoring visits will be announced in advance, which can undercut the role of monitoring.
4. The lack of transparency. The FLA does not require public disclosure of factory locations and its monitoring system does not provide the degree of transparency we think appropriate. Monitoring reports will be submitted by monitors to the firm being monitored and to the staff of the FLA. The staff will produce an annual report summarizing the contents of the reports and the firm’s responses to the reports. These summary documents will be used to make decisions about whether a firm is complying with the code or not. Members of our Committee regard this as a serious deficiency in the monitoring structure. Without greater transparency, it will be difficult to dispel the beliefs of those who view the FLA as a front for the apparel industry that is more concerned with good public relations for its corporate members than with the welfare of garment workers around the globe. The FLA charter provides an avenue for addressing this concern. Here too, universities can include as part of their licensing agreements a requirement that they receive copies of the detailed monitoring reports. They are free to make these reports public or to subject them to some other form of scrutiny that might more effectively address the doubts of critics of the FLA and its monitoring structure. To date, we know of no attempts to organize this kind of alternative, more transparent process among the FLA’s university affiliates. But the possibility seems to exist.
 5. The certification of firms as being in compliance with the code. As noted above, there are arguments on both sides of this question, and our Committee is divided on the matter.
 6. Lack of corporate participation. At this point, only eleven apparel firms have joined the FLA. Although many are major firms, including leaders in the production of

university licensed apparel; this is a disappointing demonstration of commitment by the apparel industry. It seems certain that licensees brought into the FLA by universities through their licensing agreements will outnumber firms that join of their own volition.

We have been unable to reach a consensus concerning affiliation with the FLA. Five of us favor affiliation now and five do not, although some think it may be appropriate to reconsider the issue in the future.