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February 1998

## Code of Labour Practices for the Apparel Industry Including Sportswear

Clean Clothes Campaign

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## Code of Labour Practices for the Apparel Industry Including Sportswear

### Abstract

Code of labor practices which Clean Clothes Campaign seeks to have agreed to and enforced by companies at international level. The code sets forth minimum standards for wages, working time and working conditions and provides for observance of all of the core standards of the International Labour Organization.

### Keywords

Clean, Clothes, Campaign, Practices, Apparel, Industry, Sportswear, Codes, Code, Conduct, Corporate, Globalization, Portal, NGOs, Workplace, International, Labor, Labour, Standards, Freedom, Association, Forced, Bonded, Slave, Labor, Child, Nondiscrimination, International, Organization, Organisation

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## CODE OF LABOUR PRACTICES FOR THE APPAREL INDUSTRY INCLUDING SPORTSWEAR

February 1998

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### I. Introduction

#### Statement of purpose

The Clean Clothes Campaign is dedicated to advancing the interests of workers in the apparel and sportswear industry and the concerns of consumers who purchase products made and sold by this industry. The Campaign seeks an end to the oppression, exploitation and abuse of workers in this industry, most of who are women. The Campaign also seeks to provide consumers with accurate information concerning the working conditions under which the apparel and sports wear they purchase are made. The Clean Clothes Campaign seeks to achieve its aims through a variety of means including a code of labour practice that would be adopted and implemented by companies, industry associations and employer organisations. The code, which is a concise statement of minimum standards with respect to labour practices, is meant to be accompanied by a commitment by the companies adopting it to take positive actions in applying it.

Companies are expected to insist on compliance with the code by any of their contractors, subcontractors, suppliers and licensees organising production that would fall under the scope of the code.

Companies adopting the code will be expected to engage an independent institution established for the purpose of monitoring compliance with the code, in assisting companies in implementing the code and in providing consumers with information concerning the labour practices in the industry.

This code of labour practice sets forth minimum standards for wages, working time and working conditions and provides for observance of all of the core standards of the International Labour Organisation including Conventions 29, 87, 98, 100, 105, 111 and 138. These are minimum standards that are meant to apply throughout the industry and in all countries. The code is not a trade protectionist measure. It is not meant to be used as a means to close the markets of some countries at the expense of workers in other countries.

The code is not meant to be a substitute for international intergovernmental co-operation nor for international legislation. Although the code does seek to afford workers protection from oppression, abuse and exploitation where national laws are inadequate or are not enforced, it does not seek to become a substitute for national laws or the national labour inspectorate. The code is not a substitute for secure and independent trade unions nor should it be used as a substitute for collective bargaining.

### **Scope of application**

The code is intended for retailers as well as manufacturers and all companies positioned in between those in the apparel and sportswear supply chain. It can also be used by industry associations or employer organisations.

The code applies to all of the company's apparel and sportswear products (including sportshoes). The code specifically applies to the following general industrial classification of economic activities within the European Community (NACE) classification codes:

- 436 knitting industry
- 451 manufacture of mass-produced footwear
- 452 production of hand-made footwear

- 453 manufacture of ready-made clothing and accessories
- 454 bespoke tailoring, dressmaking and hatmaking
- 456 manufacture of furs and of fur goods

Through the code retailers and manufacturers declare their responsibility for the working conditions under which the apparel, sportswear and shoes they sell are produced. This responsibility extends to all workers producing products for the company, regardless of their status or relationship to the company and whether or not they are employees of the company. The code would therefore apply to home-based workers and to workers who are engaged either informally or on a contracted basis.

The code applies to all of the companies' contractors, subcontractors, suppliers and licensees world-wide. The terms 'contractor', 'subcontractor', 'supplier' mean any natural or legal person who contracts with the company and is engaged in a manufacturing process, including CMT (cut-make-and-trim), assembly and packaging, which result in a finished product for the consumer. A licensee means any natural or legal person who contracts with a company to produce or distribute finished products using the name or brand image of that company.

Observance of the code must be an enforceable and enforced part of any agreement between the company and its contractors, subcontractors, suppliers and licensees.

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## **II. Code of labour practices**

### **Introduction**

The code provides a concise statement of minimum labour standards together with a pledge by the company to observe these standards and to require its contractors, subcontractors, suppliers and licensees to observe these standards. The code is concise in order to display it in workplaces and in order to avoid any confusion between basic principles and the application of principles. An independent institution, established to provide independent monitoring of compliance with the code and to assist companies in implementing the code, will provide an auditable check-list of practices and

conditions that are consistent with the standards set forth in the code. This independent organisation will also provide a means by which questions over the meaning of the code can be resolved.

The preamble establishes three principles: First, the company accepts responsibility for its workers, including workers involved in contracting and subcontracting agreements. Second, the company pledges to observe the core ILO labour standards and to ensure that workers are provided with living wages and decent working conditions. Third, the company pledges to make observance of the code a condition of any agreements that it makes with contractors and suppliers and to require them to extend this obligation to their subcontractors.

The body of the code is based on the same core ILO conventions including prohibitions against child labour, forced or bonded labour, discrimination, freedom of association and the right to collective bargaining. This is followed by the basic labour conditions - wages, hours and working conditions (including health and safety) and their formulation in the code, also derived from ILO standards.

This section also addresses the issue of regular employment relationships. Increasingly employers avoid the obligations of the employment relationship by treating workers as "independent contractors" when in fact their situation is the same as that of regular employees. The ILO is in the process of developing an international standard on this subject.

The closing section sets out the most important obligations contractors, subcontractors, suppliers and licensees must undertake in implementing the code and pledges the company to enforce its code using a range of sanctions up to and including termination of any agreements. The closing section pledges all employers concerned to refrain from disciplinary action, dismissal or otherwise discriminating against any worker for providing information concerning observance of the code.

This part also states that the code establishes only minimum standards that must not be used as a ceiling or to discourage collective bargaining. The text of the code, when meant to be posted where workers can see it, shall also include a means by which workers can report failure to comply with the code

in a confidential manner.

## Preamble

1. (name of company) recognises its responsibilities to workers for the conditions under which its products or services are made and that these responsibilities extend to all workers producing products or services for (name of company) whether or not they are employees of (name of company).
2. Any workers producing products or services manufactured, sold or distributed by (name of company) must be provided with living wages and decent working conditions, and the international labour standards established by Conventions 29, 87, 98, 100, 105, 111 and 138 of the International Labour Organisation must be observed.
3. (name of company) will require its contractors, their sub-contractors, suppliers and licensees to provide these conditions and observe these standards when producing or distributing products or components of products for (name of company). (name of company) will, prior to placing orders with suppliers, engaging contractors and subcontractors or granting licenses, assess whether the provisions of this code can be met.
4. For the purposes of this code the term 'contractor', 'subcontractor' or 'supplier' shall mean any natural or legal person who contracts with (name of company), either directly or indirectly via another natural or legal person who contracts with (name of company) and is engaged in a manufacturing process, including CMT (cut-make-and-trim), assembly and packaging, which result in a finished product for the consumer. The term 'licensee' means any natural or legal person who as part of a contractual arrangement with (name of company) uses for any purpose the name of (name of company) or its recognised brand names or images.

## Content

- **Employment is freely chosen.**

There shall be no use of forced, including bonded or prison, labour (ILO Conventions 29 and 105). Nor shall workers be required to lodge

"deposits" or their identity papers with their employer.

- **There is no discrimination in employment.**

Equality of opportunity and treatment regardless of race, colour, sex, religion, political opinion, nationality, social origin or other distinguishing characteristic shall be provided (ILO conventions 100 and 111).

- **Child labour is not used.**

There shall be no use of child labour. Only workers above the age of 15 years or above the compulsory school-leaving age shall be engaged (ILO Convention 138). Adequate transitional economic assistance and appropriate educational opportunities shall be provided to any replaced child workers.

- **Freedom of association and the right to collective bargaining are respected.**

The right of all workers to form and join trade unions and to bargain collectively shall be recognised (ILO Conventions 87 and 98). Workers' representatives shall not be the subject of discrimination and shall have access to all workplaces necessary to enable them to carry out their representation functions (ILO Convention 135 and Recommendation 143). Employers shall adopt a positive approach towards the activities of trade unions and an open attitude towards their organisational activities.

- **Living wages are paid.**

Wages and benefits paid for a standard working week shall meet at least legal or industry minimum standards and always be sufficient to meet basic needs of workers and their families and to provide some discretionary income.

Deductions from wages for disciplinary measures shall not be permitted nor shall any deductions from wages not provided for by national law be permitted without the expressed permission of the worker concerned.

All workers shall be provided with written and understandable information about the conditions in respect of wages before they enter employment and of the particulars of their wages for the pay period concerned each time that they are paid.

- **Hours of work are not excessive.**

Hours of work shall comply with applicable laws and industry standards. In any event, workers shall not on a regular basis be required to work in excess of 48 hours per week and shall be provided with at least one day off for every 7 day period. Overtime shall be voluntary, shall not exceed



12 hours per week, shall not be demanded on a regular basis and shall always be compensated at a premium rate.

- **Working conditions are decent.**

A safe and hygienic working environment shall be provided, and best occupational health and safety practice shall be promoted, bearing in mind the prevailing knowledge of the industry and of any specific hazards. Physical abuse, threats of physical abuse, unusual punishments or discipline, sexual and other harassment, and intimidation by the employer is strictly prohibited.

- **The employment relationship is established.**

Obligations to employees under labour or social security laws and regulations arising from the regular employment relationship shall not be avoided through the use of labour-only contracting arrangements, or through apprenticeship schemes where there is no real intent to impart skills or provide regular employment. Younger workers shall be given the opportunity to participate in education and training programmes.

## **Closing section**

Contractors, subcontractors, suppliers and licensees shall undertake to support and co-operate in the implementation and monitoring of this code by:

- providing (name of company) with relevant information concerning their operations;
- permitting inspection at any time of their workplaces and operations by approved inspectors;
  - A. maintaining records of the name, age, hours worked and wages paid for each worker and making these available to approved inspectors on request;
  - A. informing, verbally and in writing, the workers concerned of the provisions of this code; and,
  - A. refraining from disciplinary action, dismissal or otherwise discriminating against any worker for providing information concerning observance of this code.

Contractors, subcontractors, suppliers and licensees found to be in breach of one or more terms of this Code of Labour Practices may lose the right to produce or organise production of goods for (name of company).

Questions as to the interpretation of the meaning of the provisions of this code shall be resolved according to the procedure set forth by an independent institution established for this purpose.

The provisions of this code constitute only minimum standards and conditions for the purpose of preventing exploitation. (name of company) does not intend, will not use, and will not allow any contractor, subcontractor, supplier or licensee to use these minimum standards and conditions as maximum standards or as the only conditions permitted by (name of company) or to serve as the basis for any claim as to what standards or conditions of employment should be provided.

### **Specific industry standards**

Specific industry standards, especially with respect to health and safety (including access to medical services) and workers' accommodation may be incorporated into the code or attached separately and referenced in the code under section # 7 "working conditions are decent". These standards may be formally recognised standards or established best practice.

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## **III. Implementation**

### **Introduction**

Implementation refers to the whole range of activities that could be taken by a company to give effect to the Code of Labour Practices. In the past some companies have adopted codes as a public relations response to reports of exploitation but have failed to implement them. Companies adopting the Code of Labour Practices for the apparel and sportswear industry will be expected to agree to certain minimum conditions with respect to implementing the code. One of the most important ways in which a code can be implemented is for it to become an enforceable and enforced part of agreements with contractors, subcontractors suppliers and licensees.

Implementation and monitoring are often confused. Monitoring, which means to watch or check that the terms of the code are being respected is one aspect of implementing a code. It is expected that companies adopting the code will in their relationship with their contractors, sub-contractors, suppliers and

licensees monitor their compliance with the code.

Companies adopting the code are also expected to co-operate and support a system of independent monitoring of compliance with the code. This section concerns the general obligations of the company to implement the code. The obligations of the company with respect to independent monitoring are considered in Part IV.

**obligations of the company to implement the code:**

- The company agrees to take positive actions to implement the code, to incorporate the code into all of its operations and to make the code an integral part of its overall philosophy and general policy.
- The company will assign responsibility for all matters pertaining to the code within its organisation and inform the independent institution and other relevant bodies where this responsibility is assigned.
- The Board of Directors (or other governing body) of the company shall periodically review the operation of the code, including the reports of internal and external monitoring.
- The company accepts responsibility for observing the code with respect to all employees and workers that it supervises and agrees to:-
  - assign responsibility for implementing this code at each place that it owns or controls;
  - ensure that all workers are aware of the contents of the code by clearly displaying an authorised text of the code at all workplaces and by orally informing these employees in a language understood by them of the provisions of the code;
  - refrain from disciplining, dismissing or otherwise discriminating against any employee for providing information concerning observance of this code.
- The company will make observance of the code a condition of all agreements that it enters into with contractors, suppliers and licensees. These agreements will obligate these contractors, suppliers and licensees to require observance of the code in all agreements that they make with their respective subcontractors and suppliers in fulfilling their agreement with the company. Such agreements shall also oblige these contractors, subcontractors, suppliers and licensees to undertake the same obligations to implement the code as found in the preceding point.

## Obligations of the company to enforce the code

Observance of the code by contractors, sub-contractors and suppliers must be an enforceable and enforced condition of agreement with the company.

In order to achieve this:

- The company will ensure that all agreements it enters into concerning the production of apparel and sportswear allow for the termination of the agreement for failure to observe the code by any contractors, sub-contractors and suppliers.
- The company shall authorise a procedure with fixed time limits to rectify situations where its code is not being fully observed by a contractor, sub-contractor or supplier. The agreement by the contractor, sub-contractor or supplier to abide by this procedure would enable the continuation of the agreement with the company. The company shall require contractors or suppliers to institute similar procedures with respect to their contractors, sub-contractors or suppliers.
- Such procedures shall be authorised only where:
  - there is a reasonable expectation that the situation will be corrected and that the code will be observed in the future;
  - the period specified for correcting the situation is reasonable;
  - recognisable and unmistakable violations of the code are ceased immediately;
  - such procedures shall not be authorised more than once for the same contractor, sub-contractor or supplier for the same or similar failure to comply with the code; and
  - such procedures are consistent with any recommendations or procedures set forth by the independent institution established to assist in implementing this code.
- With respect to child labour, such procedures shall require that there be no further engagement of children and that temporary measures to assist child workers such as the reduction in working time, the provision of educational opportunities and transitional economic support be instituted. In the end, child workers must be replaced by adults and, where possible, from the same family. Procedures should also include measures to assist the children concerned through provision of educational opportunities and transitional economic support.
- Contractors, sub-contractors and suppliers must, as part of their

agreement with the company, agree to terminate any contract or agreement for the supply or production of goods by any contractor, sub-contractor or supplier that they engage not fully observing the code, or they must seek and receive approval from the company to institute a procedure with fixed time limits to rectify situations where the code is not being fully observed.

- Where there is repeated failure to observe or to ensure observance of the code by a particular contractor, sub-contractor, supplier or licensee, the agreement should be terminated. Guidelines or procedures for determining when it is necessary to terminate a contract for failure to observe the code shall be set forth by an independent institution established for this purpose.

In situations where it is not clear whether a particular practice constitutes a violation of the code, relevant international labour standards of the International Labour Organisation (ILO) and any recommendations provided by the independent institution established to assist companies in implementing this code shall be sought for guidance.

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## **IV. Independent Monitoring, Accreditation and Certification**

### **Introduction**

When a sufficient number of companies, industry associations or employers' organisations have adopted the code of labour practice for the apparel and sportswear industry, then they, in conjunction with appropriate trade union organisations and NGOs, shall establish jointly an independent institution, referred to in this document as "the Foundation".

The purpose of the Foundation shall be to:

- conduct, directly or indirectly through other organisations, the independent monitoring of compliance with the code;
- assist companies in implementing the code; and
- provide a means to inform consumers about observance of the code and more generally about labour conditions in the industry.

To these ends the Foundation shall:

- establish standards for the independent monitoring and for the accreditation of independent monitors;
- train, or to arrange for the training, of independent monitors;
- prepare an auditable checklist of labour practices to be used in monitoring the code;
- conduct or otherwise cause to be conducted independent monitoring of compliance by specific companies with the code of labour practice;
- receive reports of such independent monitoring and make effective recommendations based on these reports to the companies concerned;
- investigate any substantiated reports concerning compliance by participating companies and make effective recommendations based on the findings of such investigations;
- prepare and publish guidelines for participating companies on the implementation of the code;
- provide other technical assistance to companies in implementing the code, including the training of company personnel;
- prepare and publish the authorised version of code in various languages and in sufficient quantities as required by participating companies;
- establish a means to interpret the provisions of the code, provided that this means is based on the recognised jurisprudence of the International Labour Organisation;
- provide a means by which workers and any others can report on a confidential basis observance of the code;
- establish, based on independent monitoring, a system of certification concerning labour practices which can be used by consumers;
- collect information from any source on working conditions in the apparel and sportswear industry and make this information available to consumers;
- promote the code of labour practice and encourage all companies operating in the industry to adopt it; and
- establish a mechanism that can make effective recommendations with respect to any disputes arising out of the implementation or the certification process.

The Foundation shall be governed by a board consisting of equal representatives of appropriate trade union organisations and NGOs on one

hand and of appropriate representatives of retailers and manufactures on the other hand. The Foundation shall be financed by contributions from participating organisations and by payments for services from contracting companies.

The principal means by which the Foundation shall conduct its work will be based on contracts with specific companies to independently monitor and certify their compliance with the code and by contracts with individuals and organisations to conduct monitoring.

It is understood that the standards for independent monitoring established by the Foundation shall be based on the best practice of the two existing professions that monitor labour practices - the labour inspectorate and the contract-enforcement practices of trade unions. It is also understood that these standards shall include ethical practices for monitors, including respect for any confidential commercial information.

It is also understood that any individuals engaged to conduct monitoring shall receive training for this purpose.

### **Relation between the company and the Foundation**

Companies adopting the code of labour practice for the apparel and sportswear industry shall enter into an agreement with the Foundation. This agreement shall provide for the following:

- the time-frame in which the production in the different facilities should comply with all the standards in the code;
- the information the company has to give to the Monitoring Foundation;
- the payments the company should make to the Monitoring Foundation;
- the procedures for the actual monitoring and the obligations of the different parties; and
- the use of the Foundation contract by the company in its public relations.

With respect to (b) the company assumes the following obligations:

- to maintain full and up-to-date information on all contractors, sub-contractors, suppliers and licensees obliged to observe this code,

including the nature and location of all workplaces, and to provide this information to the Foundation or its accredited monitors in a timely manner upon request.

- to require contractors, sub-contractors, suppliers and licensees to maintain records of the names, ages, hours worked, and wages paid for each worker, and make these records available for inspection by accredited monitors, and to allow the Foundation or its accredited monitors to conduct confidential interviews with workers.
- to ensure that the code is clearly displayed in all places where apparel and sportswear are produced and/or distributed by or under agreement with or for the company and provide authorised texts of the code to contractors and suppliers for their use, and the use by any contractors, sub-contractors and suppliers obliged to observe this code. In all cases the text of the code so displayed shall be in languages so that the workers concerned are able to understand it. The text of the code shall be provided to each worker covered by its provisions and all workers so covered shall be orally informed in a language that they can understand of the provisions of the code.
- the code so displayed must provide information to assist workers in reporting violations of the code to the Foundation or its agents taking into account the difficulties that workers will face in doing this and the need for confidentiality in order to protect workers.
- to allow for the necessary access to independent monitors and provide them with any and all relevant information upon demand.
- to ensure and clearly demonstrate that the code is being observed by all parties obliged to observe the code, the company must allow the Foundation and its agents access to all information pertaining to the implementation of the code, and ensure that its contractors, sub-contractors and suppliers give similar access to the Foundation and its agents.

### **Monitoring: basic principles**

- monitoring must be by the actual observance of working conditions through unannounced inspection visits ("spot checks") to all workplaces covered by the code;
- the frequency of inspections must be established;
- accredited monitors must be permitted to interview workers on a



confidential basis;

- in addition to regular or routine inspections, inspections shall be undertaken at specific locations following substantiated complaints, where there is sufficient reason to believe that the code is not being observed;
- inspections shall be conducted in a way which does not cause undue disruption to the performance of work in the premises being inspected;
- written reports shall be provided by accredited monitors to all parties and to the participating company concerned following each visit.

The Foundation may seek other sources of information concerning compliance with the code including consulting appropriate trade union organisations, human rights organisations, religious and other similar institutions in order to obtain additional information on a certain company or in order to investigate a certain complaint.

If violations of the code are found, the company must agree to accept the recommendation of the Foundation. This recommendation shall in the first instance be aimed at improving the existing situation. Where such improvement is not possible or satisfactory, then the Foundation can oblige companies to re-negotiate, terminate or refuse to renew their contracts with certain contractors, subcontractors and/or suppliers.

Where companies fail to observe their agreement with the Foundation it is understood that the Foundation may release any relevant information to the public and may terminate the contract between the company and the Foundation.

The independent monitoring process shall form the basis for any public claims by the Foundation or by participating companies as to the operation of the code or concerning the actual labour practices covered by the code.

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