

Ethical Standards and Working Conditions in Wal-Mart's Supply Chain



**A research report conducted by the
International Labor Rights Forum (ILRF)**

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www.LaborRights.org

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The International Labor Rights Forum was founded in 1986 and serves a unique role among human rights organizations as advocates for and with the working poor worldwide. ILRF works to support the right of all workers to a safe working environment where they are treated with dignity and respect, and where they can organize freely to defend and promote their rights and interests. ILRF has worked for two decades to ensure that the rights enshrined in international conventions and covenants are made real through effective enforcement mechanisms. ILRF has been in the forefront of organizations working to develop practical and effective new tools to assist workers in winning enforcement of protections for their basic rights.

The following is a description of ILRF's four programs as well as many of ILRF's ongoing campaigns:

Stop Child Labor: ILRF engages in corporate campaigns to fight for an end to child labor globally. We are currently focusing on the cocoa industry (especially Nestle) for their use of child labor in West Africa and Bridgestone Firestone for child labor on their rubber plantation in Liberia. ILRF also has been heavily engaged in the issue of child labor in cotton and cottonseed fields.

Rights for Working Women (RWW): This campaign seeks to alleviate sexual harassment in the workplace and address other issues of concern to women workers through campaigns, worker education, reform of local laws, judicial advocacy, and workplace monitoring.

Create a Sweatfree World: Through this campaign, the ILRF seeks to challenge sweatshop conditions globally, promote ethical alternatives and advocate for labor rights in US trade policy. The ILRF also has a campaign targeting Wal-Mart for abuse of workers' rights in their suppliers' factories. ILRF's newest focus is on sweatshops in the fields as the food and agricultural supply chains become increasingly consolidated and riddled with unimaginable labor rights violations. The Fairness in Flowers campaign raises awareness in the US about labor rights violations and health and safety problems in the cut flower industry.

End Violence against Trade Unions: Throughout the world, labor activists are targets of repression for their organizing efforts. ILRF, in collaboration with unions and activist groups, campaigns to fight violence against trade union leaders globally. We participate in urgent actions to support unions, especially in the Philippines and Colombia which are two of the most dangerous countries for trade unionists.

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EXECUTIVE SUMMARY

The purpose of this report is to assess Wal-Mart's Ethical Standards Program for its suppliers worldwide, as described by the company's 2003 Factory Certification Report, 2004 Report on Standards for Suppliers, 2005 Report on Standards for Suppliers, and 2006 Report on Ethical Sourcing. As the world's largest retailer, Wal-Mart has a unique responsibility to ensure that labor rights protections apply to all its workers in all its supplier facilities worldwide. The company has not invested the resources necessary to ensure that the commitments they have made on paper can be upheld in practice. Some of the key points explored in the report include:

- **Trends in Wal-Mart's factory auditing program:** The report documents trends in the company's audit program over the past four years, including an assessment of the factory rating systems and flaws therein. For example, there was a considerable decline in the percent of factories earning a "green" rating (for minor or no violations) from 21% in 2003 and 2004 to a mere 6% in 2006, despite a cumulative increase in the number of suppliers, owners, and factory managers trained by ethical standards staff.
- **Assessment of the structure of Wal-Mart's audit system:** The report documents the audit system's failure to provide adequate oversight into factory operations and working conditions. Minimal factory tours, interviews with workers afraid to divulge problems, and management manipulation of conditions prevent auditors from formulating a clear picture of how a factory runs during day-to-day business. Eighty percent of audits in 2005 were announced to factory management before auditors arrived, giving management a chance to clean up and coach workers. Additionally, the absence of a solution-based program or a system of rewards and punishments for compliance compromises the audit program's ability to motivate factories to be violation free.
- **Accountability in finding solutions:** The report explores Wal-Mart's role in providing accountability for activities within factories that it purchases from, and its responsibility to find solutions as opposed to merely identifying problems. Wal-Mart's Ethical Standards Department is taking steps to put more distance between itself and its suppliers through participation in the Global Social Compliance Programme (GSCP), which is designed to cut expenditures on monitoring working conditions.
- **Investigation into Wal-Mart's principles in action:** Several case studies of Wal-Mart's suppliers in different countries across the globe demonstrate Wal-Mart's worldwide impact on respect for labor rights.

In conclusion, ILRF offers several recommendations to improve the treatment of workers in Wal-Mart's supply chain and in factories all over the world. Wal-Mart must recognize that its purchasing policies create a downward pressure on wages in the countries in which their suppliers operate and a deterioration of labor standards in an effort to fill orders. To effectively address these flaws, Wal-Mart must reorganize its auditing program to enable auditors to fully investigate factories and gain a realistic depiction of operations. Further, Wal-Mart needs to communicate and engage with all levels of the supply chain directly, from workers to suppliers, and take responsibility for its powerful role in the production process.

INTRODUCTION

Wal-Mart is currently the world's largest retailer. In response to concerns raised by several partner organizations and trade unions documenting severe labor right violations in factories producing for Wal-Mart, ILRF commenced a Wal-Mart "Nailed" Campaign three years ago. ILRF research has documented that the vast majority of Wal-Mart's supplier factories are not in compliance with the company's own Ethical Standards program. This report further explains the problematic auditing system implemented for supplier factories by Wal-Mart and also the company's unwillingness to take direct actions against such violations as required by its Ethical Standards Program.

This qualitative analysis provides a comprehensive explanation of the failures of implementation of the Ethical Standards Program and Auditing System in Wal-Mart's supplying factories. ILRF conducted a comparative analysis from reports released by Wal-Mart regarding its auditing program from 2003, 2004, 2005, and 2006. The report also presents two case studies of violations in the Chong Won Fashion factory in the Philippines and TOS Dominicana in the Dominican Republic. Analysis of the case studies is supplemented by information from other primary sources, particularly worker testimonials from other Wal-Mart supplier factories.

The purpose of this report is to prove through various data and case studies that even though Wal-Mart has established an Ethical Standards Program, including an auditing component, it has failed to enforce its own "Standards for Suppliers" (also referred to in this report as a code of conduct) and has not provided any incentives for improvement. The lack of corporate accountability in the cases of TOS Dominicana and the Chong Won Fashion factories are supportive evidence of Wal-Mart's unwillingness to take action when violations are uncovered.

Section 1 of this report outlines data collected from the audit 2003, 2004, 2005, and 2006 reports released by Wal-Mart. This section compares the different results each year and points out some of the most significant trends. This section also explains Wal-Mart's rating system, referenced throughout the entire report. **Section 2** describes the auditing procedures used to rate each factory and pinpoints the flaws in the company's internal system of controls. **Section 3** explains the compliance process and the Global Social Compliance Programme, demonstrating the considerable gap between Wal-Mart's paper commitments and actual supplier practices. The TOS Dominicana case study is used as a supportive example. **Section 4** uses the Chong Won Fashion case study to further demonstrate Wal-Mart's negligence and lack of action to protect workers' rights. The report concludes with a series of recommendations for improvement of Wal-Mart's labor rights practices.

SECTION 1: BY THE NUMBERS

As do many major corporations, Wal-Mart produces an annual report outlining its corporate social responsibility practices, including efforts to improve working conditions within supplier facilities. Table One, below, summarizes the findings of audits (both internal and external) of factories supplying for Wal-Mart over the past four years.

Table One: Wal-Mart Supplier Factory Audits 2003-2006

Question	2003	2004	2005	2006
How many factories are supplying for Wal-Mart?	7,700	7,600 (stopped doing business with 1,500 due to capability issues)	7,200	8,873
Number of total audits conducted	14,750 inspections (40 per day; nearly 300 per week)	12,500 (30 per day)	13,600	16,700
How many were unannounced?	1%	8%	20%	26%
How many were rated Green for having no or low risk violations?	21%	21%	10%	6%
How many were rated Yellow for having medium risk violations?	43%	43%	37%	52%
How many were rated Orange for having high risk violations?	36%	36%	53%	41%
How many were rated Disapproved?	0%	9%	1%	2%
How many were Failed and banned from future orders?	1% (103 factories)	1% (108 factories)	1% (141 factories)	1%
What violations led to failures?	Failures due to child labor, forced labor, attempted	Most failures due to child labor issues, one due to forced labor	Primarily underage labor violations	Primarily forced labor and underage labor

	bribery, and unsafe working conditions			
Number of Ethical Standards Staff	104 associates	202 associates	200 assoc. approx.	Over 200
How many new factories?	N/A	1,100	Approx. 2,000	N/A
How many disapproved factories later reapproved?	N/A	260 of 1,211	23	N/A
Contractors used for audits	Global Social Compliance and Interfaith Services	Global Social Compliance and Intertek Testing Services	Accordia, Bureau Veritas, Cal Safety Compliance Corporation, Global Social Compliance, Intertek Testing Services, and Societe Generale de Surveillance	Only known contractor is Verité
Number of Factories audited by 3 rd party auditors	35%	15%	N/A	24%
Direct Factories vs. supplier factories	5,700 vs. 2,000	5,300 vs. 2,300	6,120 vs. 1,080	6,757 vs. 2,116
Number of People Trained	Representatives of 2,846 suppliers and 1,798 factories	7,900 suppliers and factory managers	11,000 suppliers and factory managers	5,000 suppliers and factory managers *session postponed from 2006 to 2007*
Most Common Violations	N/A	Legally required benefits not paid, working off the clock, double books, and incomplete documentation	Legally required benefits not paid, working hours violations, overtime compensation, coaching workers	Legally required benefits monetary or non-monetary value not paid, failure to pay minimum wage, overtime, safety issues.

(Data obtained from 2003 Factory Certification Report, 2004 Report on Standards for Suppliers, 2005 Report on Standards for Suppliers, and 2006 Report on Ethical Sourcing, all published by Wal-Mart, Inc.)

WHAT DO THESE NUMBERS TELL US?

Table One summarizes key findings from reports Wal-Mart has published regarding its sourcing practices over the past four years. Some trends demonstrate positive changes, such as the increased number of unannounced audits, but most demonstrate continued areas for improvement, such as the decrease in “green” rated audits in the last four years. The purpose of this section is to examine what some of these data points are demonstrating. Key findings include:

- **Decreasing Percentage of Factories Rated Green:** The number of factories rated green (as having no or low-risk violations) had been consistent at 21% for the first two years that data was available, decreased to 10% in 2005 and to only 6% in 2006. Wal-Mart explains the dramatic shift as resulting from increasing standards for factories. However, the factories had fair warning and time to improve their practices, since the policy to increase standards was issued in 2004.
- **Increasing Number of Unannounced Audits:** The number of unannounced audits gradually increased from 1% in 2003 to 26% in 2006, which is a significant improvement. However, Wal-Mart’s goal for 2006 was to increase the percentage of unannounced audits to 30%, but the company reversed this commitment a year later to decrease the target rate again to 25%. Wal-Mart has committed itself to monitoring factory conditions through unannounced audits, admitting that they give a more realistic picture of factory conditions and are often more useful for identifying violations. So why not strive for a larger percentage of unannounced visits?
- **Increasing Number of People Trained by Ethical Standards Staff:** The number of suppliers and factory management personnel trained by ethical standards staff increased from 4,644 in 2003 to 11,000 in 2005, a significant increase in the number of people being made aware of the Standards for Suppliers. In 2006, however, training was cut in half. Only 5,000 suppliers and members of factory management were trained that year. Even though Wal-Mart had increased the number of people it trained between 2003 and 2005, the number of factories rated green decreased and the number of factories rated orange jumped higher. This suggests that education alone is not sufficient to ensure compliance and that the resources expended would be better focused on direct approaches to ensuring that violations do not occur.
- **Recurring Violations:** The 2004, 2005 and 2006 reports listed some common and repeated violations that are “related to legally required benefits not being paid,” “workers not being paid for all hours worked,” and “the use of double books to hide the number of hours worked.” Wal-Mart describes these common violations as “Global Challenges and Trends.” The “double books” violation is particularly telling since it reveals that suppliers and factory management officials recognize that they are violating labor rights standards and laws.

One of the challenges of analyzing Wal-Mart’s Ethical Standards program, and the extent of violations against workers throughout its supply chain, is the lack of accurate information

available to the public. Information on sourcing policies and practices is conspicuously absent from the Ethical Standards Reports. It is not clear how Wal-Mart decides which factories to use, and it is not evident that its sourcing practices have changed to reflect a growing awareness of working conditions. Moreover, there is little information on internal policies such as the amount of lead time given for orders and determination of length of time required to complete orders – both of which have considerable impact on working conditions. Pressure of these purchasing policy decisions encourages excessive overtime and illegally low wages due to Wal-Mart’s unreasonable deadlines for orders and demands for ultra-low prices.

FACTORY RATING SYSTEM

Wal-Mart uses a “traffic light” system to rate factories as Green, Yellow, Orange, Red, or Disapproved, based on the number and type of violations. Clear information on qualifications for each system is not publicly disclosed, and this lack of transparency to stakeholders is itself a serious issue. ILRF encourages Wal-Mart to define its factory rating system for the public. The little information that is publicly available is described below.

Green:

- Low risk or no violations.
- Includes violations such as poorly lit work areas, poorly maintained restroom facilities, one or two missing pulley guards on sewing machines, or insufficient cafeteria capacity.
- If a Corrective Action Plan is required: the plan is due to Wal-Mart within 90 days from the closing meeting date (It is unclear which of these or other violations would require a Corrective Action Plan.).
- Green violations were described in Wal-Mart’s 2005 report as minor violations and the period before a re-audit was lengthened to one year after the initial audit; in the 2006 report, that period was lengthened to two years.

Yellow:

- Medium risk violations.
- Includes violations such as incomplete age documentation, violation of Wal-Mart’s requirement of a seventh day of rest, no pay slips given to workers, and “employees lifting greater than allowed loads.”
- Must submit a Corrective Action Plan within 15 days from the closing meeting date.
- Factory must be re-inspected within 180 days of the original inspection (which is a departure from the 120 days re-audit practices in 2005).
- The most common causes of Yellow ratings in 2004 were: failure to pay legally required benefits, incomplete age documentation, withholding of documentation, failure to provide or use personal protective equipment, and inadequate fire safety equipment.

Orange (Red in 2003 & 2004 Report):

- High risk violations.
- Violations include inadequate compensation, severe work hours violations, false record keeping, failure to pay legally required overtime premium, and counterfeit employee identification documents.
- Must submit a Corrective Action Plan within 15 days of the closing meeting date.

- Factory must be re-inspected after 120 days (changed from 60 days).
- The major cause of Red ratings in 2004 was a lack of time keeping systems, leaving auditors unable to verify wages and hours worked.

Orange-Age (New Rating as of 2006 Report):

- One or two underage workers are found to be employed by a factory.
- Factory receives 30 days to address the violation by discontinuing the use of underage workers and properly compensating and repatriating the underage workers.
- If a factory does not properly compensate and repatriate the underage workers, the factory is given a Red-Failed rating and banned permanently from producing merchandise for sale by Wal-Mart.
- A factory is only permitted one Orange Age Assessment. Any subsequent violation results in a Red-Failed rating.

Disapproved:

- Wal-Mart considers factories that do not take sufficient corrective measures as disapproved. Factories that Wal-Mart rates as disapproved will not receive new orders from Wal-Mart.
- According to the 2005 Report, a factory will be disapproved if it receives four Orange assessments within a two year period.
- There was an increase in the penalty period for disapproved factories in 2005 from 90 days to one year.

Red (Failed in 2003 & 2004):

- Replaced the Failed Rating in 2005.
- Red factories are permanently banned from producing merchandise for Wal-Mart.
- According to the 2004 report (when Red factories were labeled “Failed”), factories rated as Failed had serious violations related to child labor, forced and prison labor, transshipment, discrimination, human rights abuses, attempted bribery, or unsafe or hazardous working conditions.

While Wal-Mart’s rating system provides auditors a starting point for monitoring factories, it is a vague and subjective list and open to interpretation. There is no definition of low, medium, and high risk. For example, auditors are able to decide the severity of work hours violations and rate the factory accordingly (as Red for severe, and Orange or Yellow for minor). Such vague descriptions of the rating system, as well as the changes in the system over the past three years, make it difficult not only for stakeholders who want to be involved in this process, but also for the factory owners and suppliers themselves to keep track of violations classification.

SECTION 2: “VIOLATIONS WILL OCCUR”

HOW HARD ARE THE AUDITORS LOOKING?

Wal-Mart has repeatedly excused its own failures on the basis that auditors can not find all of the violations. However, the structure of the audit system prevents auditors from having a chance to really look for violations.

First, factory auditors do not spend enough time at a factory to really get a clear picture of how it runs and what violations may be occurring. According to the 2005 Report, a factory tour to check on safety and question production workers on equipment and working conditions typically lasts about three hours, “depending on the size of the factory.” The 2006 Report the report states that “a team of two auditors spends a full day auditing a factory, thus a combined time of approximately 16 hours is spent auditing each factory.”

Further compromising the weak rating system is auditors’ lack of compliance in following the guidelines of the system. Auditors are required to assess specified safety and equipment usages and they are also expected to talk directly to workers; yet this rarely occurs. For example, an auditor for the Chong Won Fashion, Inc. factory in the Philippines decided to simply cut off orders because of perceived freedom of association violations. This violation according to Wal-Mart’s rating system does not warrant a Failed rating, but rather a Corrective Action Plan. Even more alarming is that the auditor made this decision without speaking with factory workers or the NGOs operating in the region to determine if this was the best approach to solving the factory problems.

In reality, the workers who are interviewed by auditors are often too scared to speak candidly about their conditions. Wal-Mart itself admits that coaching of workers is one of the bigger problems they have identified. With “minimal factory officials present,” workers who are least likely to give a bad report are those who are hand-picked for interviews. Factory conditions have instilled fear in the workers, whom are hesitant to speak up against the abuse. In the Petra Apparel Factory in Jordan, there have been reports of physical and verbal abuse for speaking during work hours. One worker gives an account of being coached by managers before an audit at a factory producing for Wal-Mart in northern India:

“We (workers) have to work seven days in a week. We are never paid double the wage for overtime since we are paid on piece rate. We always had complaints about low wages and working hours but we could not express it. Auditors have interviewed me once. Before that the management instructed me that we regularly use needle and pulley guards, that we do not have overtime, that we are all paid very well and that all the workers are very happy.”¹

Although Wal-Mart believes that as “our auditors became more familiar with the factories and the factory workers and as the workers became more accustomed to the interview process, they more openly shared their experiences,” these relationships never actually form because auditors are rotated. According to the 2005 report “the practice of rotating auditors allows a new perspective during each factory visit,” along with the practices of only seeing an auditing team

¹ Clean Clothes Campaign, “Looking for a quick fix,” 2005. <http://www.cleanclothes.org>.

once every year or two in some instances. It is common knowledge among the corporate social responsibility community that interviewing workers inside of a factory does not allow workers the ability to truly share their concerns.

ILRF's experience has shown that monitoring is effective only when it includes the participation of local grassroots NGOs and trade unions. This develops long-term relationships with workers, allowing the monitoring process to identify deep rooted problems that often take months to expose and remediate. Interviews of workers must also be conducted outside of the factory so that workers can be granted anonymity and do not feel threatened by management.

Advance knowledge of audits hinders the evaluation process because it gives the management time to prepare, coach workers, and manipulate the factory setting. Wal-Mart freely admits that unannounced audits offer a more realistic picture of factory conditions, stating in the 2004 Report that they "introduce the element of surprise into the audit procedure and reduce opportunities to...potentially manipulate the audit process," and admitted in the 2005 Report that they help provide a "truer snapshot of factory conditions." However, despite this recognition, only 26% of factory audits were unannounced in 2006. While announced audits may save time by allowing factory management to gather the necessary paperwork ahead of time, they do so at the expense of workers.

In order to obtain an accurate depiction of working conditions, audits do not necessarily need to be more frequent, but need to be longer and more thorough. Auditors need to be able to observe factory and working conditions over a longer period of time to truly see how factories operate. Auditors also need to work with local NGOs and trade unions in order to fully understand the overall conditions in a given area. Freedom of Association is a particular concern for monitoring: Wal-Mart's 2005 Report recognized the "challenge of auditing this area and believe that non-compliance with this standard may happen more frequently than our data suggests."

Auditors need to be able to build relationships with workers so that workers feel comfortable telling them about violations. Additionally, ensuring auditors are at a factory for more than just a few days would mean that all audits could be unannounced, since management would have the time to gather the necessary paperwork while the auditors were observing.

Finally, the auditing system does not fully utilize its most compelling resource for maintaining ethical standards: workers. Workers are the best auditors because they have the most incentive to report violations; if they could be sure that they could do so without losing their jobs, this would help corrective measures be more efficient. Furthermore, if Wal-Mart was serious about its standards, it would recognize the imperative need to create a space for freedom of association as a longer term solution to identifying and solving problems at the factory level.

NO GOALS = NO FAILURES = NO PROGRESS

One of the main problems with Wal-Mart's factory monitoring system is that no goals are in place to accurately measure compliance and progress. Wal-Mart blames "a lack of clear consensus on how 'progress' should be defined" as the reason for this system. In order to measure progress, Wal-Mart merely needs to set its own goals and then follow how well it is

meeting those goals. By avoiding definition, Wal-Mart can define progress both as seeing an increase in high risk violations and a decrease in high risk violations depending on the numbers that year. If the number of Orange and Red violations increase, they call this progress because it means that audits are more rigorous and standards are increasing. Conversely, if the number of Orange and Red violations decrease, then they can argue that factory owners and suppliers are learning the system and following the standards better.

Wal-Mart does just this in its 2004 Report on Standards for Suppliers. Despite the fact that there is no discernible measure of progress, Wal-Mart claims that more factory violations are actually a good thing. The Report portrays that Wal-Mart's expanded monitoring program has resulted in more frequent reports of violations, following from more awareness and vigilance rather than "deteriorating factory conditions." The Report goes on to suggest that most of the important complaints came not through their audit system but through phone calls from workers who "could not share with auditors during the employee interview process."

Without any goals in place, Wal-Mart can never fail, yet can also never succeed. Goals and targets are important benchmarks which help a company evaluate its business strategies. Wal-Mart would never say that it was unable to define progress in its retail stores. Their Board of Directors, Wall Street, and the business community understand the necessity to measure performance. Wal-Mart should consider its workers another key piece of their business plan which deserves goal setting, benchmarks and regular evaluation.

AUDITING INCENTIVES

Another problem with Wal-Mart's auditing program is the incentive system. Wal-Mart says that "the program is structured to provide motivation for improvement and bring about positive change at the factory level" and yet the only reward it offers for compliance is less frequent audits. This does not encourage factories to be violation-free, but to only clean up just enough.

For example, a factory that receives a Green rating might receive a two year reprieve from audits. There would be no checkups, and they would know approximately the time of the next audit. Moreover, a Green rating does not even mean that a factory has to be violation free. A Green rating merely means that at the time of an announced audit, the factory had no violations beyond the "minor" classification.

Additionally, there is the problem of what happens when the standards or local laws change and the factories are in their two year reprieve from audits. How does one ensure that factories have changed their practices to comply with the new regulations?

From 2003 to 2004 there was no change in the percentage of Green factories. There was no clamor for fewer audits by modifying factory practices. From 2004 to 2005 the percentage of Green factories fell to a dismal 9.6%. In 2004 Wal-Mart Disapproved 1,211 factories due to infractions which they thought resulted from changes in the rigor of their Standards. However, only 260 factories had the incentive to fix their problems and become reactivated.

Audits may be a hassle but they do not prevent the company from doing business, and if they are able to fill more orders by operating at a Yellow or Orange level, there is little incentive for

change. Wal-Mart goes further to try to explain the burden of audits on factories as “audit fatigue,” but never comments on why these audits should be considered so burdensome.

Wal-Mart should create incentives that truly encourage factories to comply with their standards. For example, instead of extending the period between audits for factories rated Green, Wal-Mart should extend the length of those factories’ contract or make a promise to maintain a certain level of production within that factory. Wal-Mart is an innovator in consumer marketing, in production, and in the retail business - they should be able to come up with an incentive that will truly motivate suppliers and factory owners into compliance.

WHAT’S THE POINT?

Wal-Mart may not be able to define any specific or long term goals for their audit program, but the company does speak briefly about the overall purpose of its Ethical Standards Program in vague phrases. According to the 2005 Report, the Ethical Standards Program Objectives are:

- “To encourage the adoption of ethical sourcing practices through supplier and factory education;
- To monitor, through auditing, supplier and factory management practices to ensure they are in accordance with the Wal-Mart Standards for Supplier and the local law; and,
- To engage stakeholders in order to continually strengthen our Ethical Standards program.”

Wal-Mart goes on to state in the 2006 Report that it intends to:

- Identify internal processes that might contribute to non-compliance with Wal-Mart’s Standards for Suppliers; such as short lead time for production and last minute design changes;
- Increase internal alignment between social and commercial objectives, factoring labor compliance and social responsibility into purchasing decisions; and,
- Reward suppliers who drive compliance throughout their supply chain but still deliver on quality with on-time shipping, and price with incentives in the form of future business.

The 2005 stated objectives do nothing more than identify problems. The 2006 report suggests that Wal-Mart is exploring more systemic purchasing processes. However, the decrease in Green-rated factories suggests that in reality the company’s sourcing practices may be doing just the opposite. It is too early to tell how the statements made in the 2006 report will materialize into any real change for workers. In ILRF’s assessment, it will take a fundamental shift on the part of Wal-Mart in order to create an “internal alignment between social and commercial objectives.”

SECTION 3: “WAL-MART IS A RETAILER, NOT A MANUFACTURER”

OWNERSHIP OF THE COMPLIANCE PROCESS

Wal-Mart has a clear idea on who should be held responsible if factories fail to provide workers with proper working condition; anyone but Wal-Mart. The company believes that “ultimately our suppliers and their factories must realize the benefits of improving worker conditions and incorporate improved standards and processes into their businesses.” However, Wal-Mart fails to recognize that its purchasing policies make this difficult and in fact encourage very different practices. Moreover, it sees its own role in this process as merely setting the standards and checking in periodically.

Wal-Mart has designed its system of production to contain as many degrees of separation between the corporate head and factory workers as possible, leaving the middleman as the scapegoat. Suppliers are the ones in charge of factories. Factory managers are in charge of workers. Third party auditors are in charge of finding violations for the majority of the products sold in Wal-Mart stores.

The TOS Dominicana factory in the Dominican Republic is a good example of this gap between the retailer and the supplier. The TOS Dominicana factory is owned by Hanesbrand and is one of the largest cloth-producing facilities in Central America. The cloth is then sent to other factories that produce t-shirts, pants, and other garments. Wal-Mart is the factory’s largest client, since they require large amounts of cloth for the facilities that produce Wal-Mart clothing. In addition, Hanes supplies Wal-Mart with many products to sell to Wal-Mart stores.

A summary of problems at TOS Dominicana identified through a recent investigation performed by the Worker Rights Consortium include:

- Unlawful coercion of workers to sign new employment contracts and complaint waivers reducing workers’ employment rights and benefits;
- Forced and unpaid overtime;
- Verbal harassment and abuse; and,
- Use of a range of illegal means to thwart workers’ efforts to exercise their associational rights.

Wal-Mart has stated that because this is not a factory that is directly producing Wal-Mart’s own branded products, it assumes that Hanes will take care of all factory monitoring and remediation issues. However, this case demonstrates a serious flaw in Wal-Mart’s Ethical Standards Department. This is of great concern because of the significant number of companies that are major corporations in their own right but yet rely on Wal-Mart to bring their product to consumers through Wal-Mart retail operations. Companies like Disney, Nike, and Sara Lee all provide products to Wal-Mart that can only be found at a Wal-Mart store, and yet Wal-Mart considers these products outside the purview of the auditing program. This policy points again to a clear underlying theme of Wal-Mart’s purchasing policies to externalize risk whenever possible. It is essential for Wal-Mart to take action in defense of the TOS Dominicana workers who are being routinely threatened because they decided to form a union.

Wal-Mart further shifts the risks more generally associated to their supply chain, resulting in even larger burdens on factories in order to meet all of Wal-Mart's requirements. This is due to Wal-Mart's use of short term contracts that is further compounded by the practice of paying only after the order has been received. Unfortunately the Ethical Standards Department does not seem to focus or even mention how these practices contribute to suppliers violating Wal-Mart's code of conduct and local laws.

Wal-Mart's Ethical Standards Reports frame the company's role as the coach for factories that supply for its stores. The 2005 Report stated that "the program can only be successful if suppliers and factories take ownership of the compliance process. Therefore, a goal of our program is to move from a policing approach to a coaching approach."

Before Wal-Mart initiates a formal relationship with a new supplier, the supplier is required to review and sign Wal-Mart's "Standards for Suppliers." It is required to print this and provide a copy to each factory they use. The factory management is then required to sign that they have read and fully understand the Standards for Suppliers. Once the "Standards for Suppliers" is signed and returned, Wal-Mart plays no role until the first audit. If a factory is not in compliance, then that is the factory's fault. If the factory management does not understand the "Standards for Suppliers," then that is a failure on the part of the supplier and the factory owner. If a factory owner does not receive a copy of the "Standards for Suppliers," then that is the fault of the supplier.

Passive assistance and sideline direction is not enough to confront worker exploitation in factories. Wal-Mart needs to use its influence to take responsibility and action to protect workers producing its products. Suppliers need to be involved in the process of ensuring compliance and not abandoned when it comes to correcting violations.

Wal-Mart is one of the largest corporations in America, and continues to profit considerably at the cost of workers' rights. Wal-Mart has a responsibility for all its products. Education and audits are not enough. Wal-Mart must have a relationship with the factory owners, not just the suppliers. After all, the company has a stated "desire to be a leader in factory compliance, be responsive to the sensitivities of the global community, and meet the expectations of our customers and shareholders."

IS IT TOO MUCH?

Throughout four of its recent reports on ethical sourcing, Wal-Mart laments how difficult its monitoring job is. Wal-Mart states that "we audit more factories than any other company in the world." However, the company also uses far more factories than any other company in the world. Wal-Mart is an ingenious company that has created one of the most sophisticated supply chains in the world. Wal-Mart's products make their way to Wal-Mart Stores in record breaking time. Orders from Wal-Mart are shipped, tracked and received in meticulous fashion. The company has found a way to ensure that a product made in America is the same as a product made in Bangladesh or in China. It ensures that pieces made in Bangladesh fit with pieces made in Jordan and can be assembled together in China.

When it comes to product quality control and actual production, Wal-Mart is truly a leader. Indeed, Wal-Mart admits that “as a market leader, we recognize that the public expects a higher level of performance from us and expects that the factories we utilize follow the strict standards we have set for them.” The follow up to that statement is that “at the same time, the size and scope of our business makes the monitoring and enforcement of our standards more challenging.” Wal-Mart must do more; size should not be an excuse, but rather an asset.

Wal-Mart also argues that it is too difficult to monitor and enforce their standards because of the difficulty in overcoming inconsistent laws and the biases of factory owners. This is especially relevant to problems of payment of legal wages. Wal-Mart says that “often local overtime wage laws are not consistently enforced by the local government” and that “without local law enforcement, factory management has little incentive to pay the legal wages.” Wal-Mart chooses not to use its influence to step in and appropriately monitor factories to ensure worker protections.

Wal-Mart’s potential influence upon its supply chains is documented in The Wal-Mart Effect by Charles Fishman. Fishman argues that Wal-Mart buys so much salmon that if it imposed and enforced a set of standards on how salmon was to be raised, and how salmon workers were to be treated, salmon farming and processing companies would be forced to comply. Given the volume of purchasing and Chile’s drive to expand the supply of farmed salmon, the increased price of a pound of salmon would be offset by improved conditions for both the salmon and the workers who harvest it.²

Finally, Wal-Mart claims that violations are simply too hard to find. If Wal-Mart revamped their audit system more violations could be found and corrected. It is possible to find them. But one has to take the time to look beyond the surface. ILRF recognizes that these changes will not be easy, but Wal-Mart has a responsibility to consumers, stakeholders and most importantly, their workers.

GOING GLOBAL - THE GLOBAL SOCIAL COMPLIANCE PROGRAMME

Wal-Mart has publicly recognized the value of adhering to ethically standards, at least on paper. The company’s 2004 “Report on Standards for Suppliers” claims that they want “suppliers and factory managers to see compliance as an investment, not as a cost, and to make the link between productivity and quality.” However, Wal-Mart is not following its own advice. The Ethical Standards Program as a whole should be viewed as an investment, not as a cost. Wal-Mart should strengthen the link between working standards and business strategies.

Wal-Mart’s involvement in the Global Social Compliance Programme (GSCP) is a testament to its unwillingness to employ effective strategies to monitor the factories within its supply chain. In 2005, Wal-Mart claimed that, “as we’ve dug deeper into our supply chain, it has become clear that it is not efficient or cost-effective for individual retailers or brands to monitor factories.”

The Global Social Compliance Programme was developed by Wal-Mart, Carrefour, Metro, Migros, and Tesco as a new initiative to create a unified code of best practices and cut down on

² Ibid, p. 180.

the cost of auditing for all of the firms involved. The GSCP is lauded by Wal-Mart and other business ventures as a beneficial means to improve labor standards create a new efficiency and cut down on costs.

Wal-Mart claims that “duplication of audits by different retailers and brands also leads to confusion on the part of factory managers” and those factories are suffering from “audit fatigue.” Through their program, audits will be conducted in a given factory and rated, then that rating will be available to the companies that use that audited factory. For example, if Tesco audits Factory X and gives it a Green rating, then Wal-Mart, who also uses Factory X, would not have to conduct an audit because it could use Tesco’s audit results. However, from the information disclosed pertaining to the GSCP, it is difficult to determine what process Wal-Mart would take if and when violations found in their factories are the result of another company’s audit.

The fact that stakeholders were only invited to join such a discussion of this new initiative after much of the original intent of the GSCP was determined, suggests that there is no real commitment on the part of businesses to involve trade unions and labor rights NGOs in the development of this new program. Multi-stakeholder involvement is an important part of lending any sort of credibility to this kind of initiative; independent advocates are needed to express the interests and concerns of workers in ways that businesses and their suppliers cannot. However, to serve as a real participant in this program, a level of transparency is required that Wal-Mart and other companies are not prepared to give. The GSCP says that it wants to include stakeholders and will take their advice into consideration, but it has already excluded such groups from the development of the initial code of conduct.

Companies with effective monitoring programs, such as Nike, Gap, and Levi’s, are conspicuously absent from the GSCP. Both Nike and Levi’s list the names of their factories on their website as a minimum recognition that factory disclosure is essential for supply chain transparency. Information disclosure is an essential first step in committing to industry ‘best practices.’

The GSCP could be a more credible and effective program if it expanded its focus and developed plans to investigate other issues such as the following.

- (1) While most programs are geared towards workers in factory production, Wal-Mart’s supply chain also involves those that participate in the food and agricultural sector. Labor rights and the code of conduct need to extend to these facilities where workers are further taken advantage of. According to Wal-Mart’s recent Ethical Standards Program fact sheet, the “GSCP covers both food and non-food production for retailers and brand owners.” The GSCP should engage those working on labor rights in food and agricultural production to capture the expertise of stakeholders as the GSCP moves forward.
- (2) Wal-Mart needs to make auditing information and factory disclosure available to stakeholders in order for the information to be verified. NGOs and other independent worker advocates can be useful partners on this issue only if they are informed and kept as part of the process.

- (3) Wal-Mart needs to develop a role for independent grassroots monitoring organizations that will provide an opportunity for short and long-term remediation given that the local organizations are constantly working to improve labor rights in their communities.

- (4) Wal-Mart has made it a public policy in the United States to not support unions, and has even gone so far as to create a kit with specific tools and steps to prevent employees from associating. Wal-Mart and other corporations need to recognize their contradictory claims of a commitment to the principle of freedom of association in their supply chains while they undermine unions in their domestic policies. Provisions and codes of conduct for all worker protections need to apply to domestic employees as well as those abroad.

There is a considerable cost component to auditing and maintaining a quality ethical standards program. ILRF is not advocating an increase in the quantity of inadequate audits performed. It seems unreasonable to create a new organization whose only function is to cut down on duplication and become more cost efficient when Wal-Mart is already the member of several organizations that provide this function and present a more valuable representation of stakeholder involvement. Wal-Mart is already a member of the MFA Forum and Ethical Trading Initiative. The more appropriate step would be investing its energies working with these established groups which also have the participation of other brands, trade unions, and labor rights NGOs. By putting more time and resources into these organizations, Wal-Mart may come closer to cutting costs and developing an efficient, workable Ethical Standards program.

SECTION 4: WAL-MART STANDARDS PUT TO THE TEST

Chong Won Fashion, Inc. is one of the few cases in which Wal-Mart has responded to letters of concern relating to the treatment of its factory workers. By Wal-Mart's own admission, it has spent more time on Chong Won than any other factory case and yet the account below shows how Wal-Mart did not move swiftly to address violations. The factory ultimately closed, leaving hundreds of workers without a job.

CASE STUDY: CHONG WON FASHION, INC.

Chong Won Fashion, Inc. is a factory in Cavite, Philippines that produced No Boundaries and other Wal-Mart branded garments. Wal-Mart's relationship to this factory was through one of their suppliers, One Step Up. Wal-Mart often uses companies like One Step Up to handle the placement of orders in various factories. This factory, which also produced for Target and Mervyn's, has had a series of violations and problems culminating in physical violence against striking workers. Wal-Mart, who the factory primarily produced for, conducted several audits and was aware of the violations that were occurring. Wal-Mart still chose to keep investigating rather than engaging in remediation.

The factory had employed between 250 and 900 workers over the past six years and in 2000 they started a union, the Nagkakaisang Manggagawa sa Chong Won-Independent or "United Workers at Chong Won" (NMCW-Ind), to address the violations of workers' rights. In 2004, after four years of organizing and constant factory management repression, NMCW-Ind won a union election. However, management contested its results for an entire year.

Workers at Chong Won experienced serious violations including receiving less than the minimum wage and forced overtime. The Worker Rights Consortium (WRC) visited the factory in 2006 and found 30 to 40% of the factory's workforce earned less than the regional minimum wage. The WRC's conclusions in this area were supported by discussions with Wal-Mart's local compliance officer. Compounding these wage violations, all of the employees shown in the payroll with salaries ranging between 180 and 242 pesos a day were also shown to regularly perform overtime (of two or more hours a day).

Additionally, a series of Chong Won employee interviews showed that Chong Won workers have been forced to perform overtime without the right to refuse, in violation of the Labor Code of the Philippines. A series of Chong Won employee interviews and examination of the company's payroll records also showed that workers have performed amounts of overtime in excess of what is allowed under Wal-Mart's code. Payroll records from October 11 to October 25, 2006 showed that some employees had performed between eighteen and twenty-seven and a half hours of overtime per week. These violations include two of the most important aspects of any job: hours worked and pay. Workers were forced to toil to exhaustion and then paid much less than the already small wages they were supposed to earn.

In response to workers' efforts to form a union at the factory, management had engaged in numerous acts of interference, intimidation and retaliation. The company refused to bargain with the NMCW-Ind and formed a company union to try to undermine the independent union. On September 25, 2006 workers went on strike and were met with further management interference

and physical violence as the Philippine Economic Zone Authority (PEZA) police and Jantos security guards, armed with weapons, came to break up the workers' peaceful picket. The factory persisted in trying to break up the strike by dismissing workers engaged in the lawful strike and employing replacement workers, which is illegal in the Philippines; and colluding with police and other security personnel in the use of intimidation and violence to interfere unlawfully with peaceful picketing. Many workers have been injured as a result of these interactions with PEZA and other armed groups attempting to break up strikes, even though the workers have been peaceful.

Wal-Mart was made aware of this action by the Workers' Assistance Centre, Worker's Rights Consortium (WRC), International Labor Rights Forum, and Maquila Solidarity Network (MSN). Wal-Mart admitted to being aware of violations of minimum wage laws during previous audits and noted that while the violations had not stopped, they had improved. Instead of developing a plan of action based on their previous audits and the WRC's Assessment, Wal-Mart chose to hire Verité to perform yet another audit of the factory which took several months to be completed. Because Wal-Mart took several months to perform their various audits, workers continued to suffer violent outbreaks, sometimes resulting in hospitalization. It is even rumored that the factory itself paid large sums of money to PEZA security in order to use physical violence against the striking workers.

Although Wal-Mart has put time and resources into investigating these violations and attempted to mediate a solution through its supplier, it has not taken sufficient direct action. The WRC recognized this in its February 2007 report on Chong Won and stated that in its view Wal-Mart's "unwillingness to deal directly with the employer has contributed to his [the factory owner's] lack of understanding of Wal-Mart's demands and intentions."

When dealing with the issue of collective bargaining and the independent trade union, a key issue and reason for the strike, Wal-Mart has not upheld its own code to protect the principles of freedom of association. The legitimate union in this case is the NMCW-Ind, which was legally certified in an election by the workers. However, factory managers created a company union to undermine the true workers' union. Wal-Mart initially conferred legitimacy to this imposter union and dealt with it more favorably than the actual workers' union.

While Wal-Mart's auditing program may have been able to catch some of the violations occurring at the factory, they clearly were not resolved. Even as late as January 2007, a letter from Wal-Mart regarding Chong Won still noted that they were "monitoring the situation" and "will continue to investigate any reports or allegations of labor rights violations."

Although Chong Won closed in early 2007, there are many similar stories in the Philippines and around the world. Wal-Mart recently signed onto a letter [Appendix B] to Philippines President Macapagal-Arroyo, along with seven other major retailers, expressing "concerns about disturbing reports of violence and threats of violence against human and labor rights promoters, labor leaders and workers and the alleged negative role of the Municipal and Export Processing Zone police in such attacks and assaults." While ILRF respects and supports the sentiments of this letter, unless it is followed up with action, it will be ineffective. Wal-Mart must be vigilant about enforcement of its standards at the factory level, because change will only occur once factories see that they are serious about enforcing their code of conduct. Chong Won Fashion is

an example of the failures of Wal-Mart's Ethical Standards Program and auditing system to make a meaningful impact in preventing or resolving factory violations.

CONCLUSION

Wal-Mart has a commitment to its shareholders, customers, and stakeholders to faithfully monitor and resolve issues surrounding factory conditions and worker exploitation. Their Ethical Standards Program is a first step, but after 15 years of program development and experience, Wal-Mart's monitoring program should be more sophisticated and effective.

To add credibility to its monitoring program, Wal-Mart must acknowledge that it is no longer sufficient for ethical standards to be an afterthought and a method to improve public relations and image. Ethical standards must be incorporated into the business strategy and tackled with the same innovation and competitiveness as they bring to other areas of their operations. Wal-Mart must recognize that their purchasing policies are a part of the problem, encouraging wage and hours violations. Insufficient lead time for orders and unreasonable demands on price translate to excessive, forced overtime and wages less than the legal minimum wage.

Wal-Mart's auditing program should be significantly modified so that auditors have the time and tools to accurately report on what goes on in the day-to-day workings of a factory. Incentives need to be changed so that they correctly reflect the needs and desires of management and owners. Incentives will provide the motivation to change - the motivation to be violation free. Progress needs to be defined and the program evaluated by a consistent set of standards so that progress can be tracked.

Corporate responsibility must come from the top; Wal-Mart should accept its role in the process of creating and maintaining adequate factory conditions. Problem solving and active participation need to become the goals of the Ethical Standards program. Additionally, Wal-Mart needs to recognize its suppliers and factories as partners and stick by them to see solutions through rather than cutting out when the going gets tough. Incorporation of workers into the audit process and increased transparency will also help solve monitoring problems and lend credibility to the program. Workers, when informed of their rights, are the best auditors because factory conditions have a direct impact on their lives.

Finally, Wal-Mart must commit itself to transparency with real, multi-stakeholder involvement and protect freedom of association. NGOs do not strive to be the enemy of business; they want to facilitate the monitoring process and help find new ways to address these age-old problems. Unions also are not designed to bankrupt corporations; they need the company to keep members' jobs. NGOs and unions can be effective partners if Wal-Mart accepts that they are a part of the process.

Chong Won is a perfect example of the failures of Wal-Mart's Ethical Standards program. When presented with a situation of increasingly disturbing violations of workers rights, Wal-Mart continued its investigations for six months, even while workers continued to be beaten and threatened. The company refused to disclose information to stakeholders involved with aiding the workers and ignored advice from others. Even after its final investigation was complete, the company wasted no time making its recommendations to One Step Up so that it could extricate itself from the situation. It seems that Wal-Mart only wants to identify problems and then report on them so that it appears to the public as if it is actually accomplishing something.

Wal-Mart needs to make serious changes to address deficiencies in how it deals with workers in their supply chain and in factories all over the world. Wal-Mart grew to become the world's largest retailer, and continues to post record profits, based on the hard work of production workers in factories that are unsafe, that push workers to exhaustion and continue to underpay them. ILRF recommends the following specific actions to reform these corrupt practices.

- **Enforce the Wal-Mart Code of Conduct.** Wal-Mart must make good on its promise and collaborate with worker representatives to develop a system that will ensure the effective implementation of the Wal-Mart Code of Conduct. Wal-Mart must communicate to all of its suppliers that it is serious about enforcing its code of conduct. Further, workers must be made aware of their rights under the code, and labor rights advocates must be given access to Wal-Mart suppliers to verify the actual conditions facing workers, and to participate in establishing true independent monitoring that is not on Wal-Mart's payroll.
- **Provide a Dispute Resolution System.** Wal-Mart, like many multinational corporations, chooses to outsource production of its goods from countries like China and Bangladesh, where labor is cheap and local labor laws are not enforced. If workers lack access to courts to enforce their rights, then the rights become mere aspirations. Wal-Mart takes advantage of this situation by asserting their inability to reform the laws and practices of entire countries. But Wal-Mart has assured the public that it *will* make sure that the workers at its suppliers will get the benefits of local laws. The only way to do this in the absence of a functioning legal system is to introduce a complaint-driven enforcement mechanism that allows workers to issue grievances to some independent body about their failure to receive the benefits promised by Wal-Mart's code of conduct. This entity must have the power to require Wal-Mart to provide immediate remediation. Workers and allied organizations must insist upon participation in this process to ensure that it provides a workable mechanism to deliver to workers the benefits of the code, but likewise protects them from retaliation.
- **Reform the Pricing Process and Commit to Long-Term Relationships with Suppliers.** Wal-Mart is notorious for pressuring its suppliers to provide prices that could not possibly allow an ethical supplier to comply with basic labor laws on issues like minimum wages and maximum hours. In addition, Wal-Mart refuses to make long-term commitments to its suppliers, and instead constantly shifts production to new factories when its pricing demands are not met. The result of this "low costs at any cost" approach is that the workers ultimately are forced to pay the price. Wal-Mart's sourcing practices exacerbate worker exploitation as the suppliers know that Wal-Mart will simply "cut and run" if they fail to provide goods at the prices demanded. Wal-Mart must reform its pricing practices to require and ensure that the prices provided to suppliers would still allow workers to receive the benefits of Wal-Mart's code of conduct, as well as all applicable laws and regulations. Workers and allied organizations must demand that Wal-Mart systematically raise payments to suppliers to enable them to pay workers a living wage, and provide them with additional benefits as guaranteed by law as well as commit to long-term sourcing from its suppliers. Further, Wal-Mart should make long-term commitments to suppliers, and only terminate relationships with suppliers when no viable economic alternative exists or when a supplier has repeatedly refused to remediate serious code of conduct violations, as verified by credible independent human rights advocates.

- **Provide Restitution to Wal-Mart Sweatshop Workers.** Wal-Mart recognizes, at least internally, that its suppliers are not providing the most basic rights to their workers, including paying at least minimum wages and refraining from forced and uncompensated overtime. Hundreds of thousands of sweatshop workers around the world have subsidized Wal-Mart's enormous profits with their uncompensated labor. Wal-Mart must compensate these workers for their back wages and benefits that were unlawfully denied.
- **Commit to Sourcing From Union Shops and Worker Co-Ops Worldwide.** Wal-Mart and other global corporations have undermined democracy in the workplace around the world through strategies of union-busting. Wal-Mart must make a public commitment to increasing from year to year the percent of its product that is sourced worldwide from factories and farms with democratic unions in place or that are democratically-organized cooperatives. Wal-Mart must ensure that all contractors respect workers' right to freedom of association and collective bargaining. Wal-Mart should not tolerate any harassment, intimidation or retaliation against employees for exercising these rights. If workers attempt to organize a union, Wal-Mart should not allow employers to intimidate, coerce, threaten, or make promises to employees in an attempt to convince them to reject the union.
- **Monitor, Punish and Eliminate Discrimination Against Women in Supplier Factories.** The majority of goods made in sweatshops overseas for Wal-Mart are made by a workforce dominated by poor, young women. Women in these factories face unique challenges in addition to the horrendous working conditions and grossly inadequate pay with which all workers are forced to contend. They also face increased discrimination in hiring and firing, sexual harassment (including rape on the factory floor), forced birth control as a condition of work, as well as denial of nationally recognized pregnancy benefits and maternity leave. Wal-Mart must pay special attention to these violations and should be held responsible for the condition of women workers in their supplier factories.
- **Pay a Living Wage.** Current minimum and prevailing wages in the industry fall far short of what is required for workers to meet their basic needs for nutrition, housing, clothing, healthcare and education. Wages are kept low by Wal-Mart's constant pressure on suppliers to cut prices, making the payment of a livable wage impossible. Wal-Mart must commit to the payment of a living wage in each of its supplier factories by paying these suppliers sufficient prices to allow workers to receive a living wage, and requiring that suppliers pay wages sufficient to meet workers' basic needs.

Wal-Mart may be a retailer, but it can also mean so much more than that. Wal-Mart can make a difference, but only if they try.

Appendix A: Factory Profiles

Petra Apparel Factory

Who owns it: Mr. Ahmed Nuseriat

What they produce: Blue jeans for women and children

Who they produce for: Wal-Mart and Gloria Vanderbilt

Address: Ad Dulayl Industrial Estate, Plot #25
Zaqua, Jordan

Number of workers: 850+

Summary of Problems at the Factory:

- forced and unpaid overtime
- failure to pay the legally mandated premium for work
- verbal harassment and abuse

Average rate of pay: \$0.46/hour

Work Schedule: 8am to 8pm

Reports/More Information about Factory:

- National Labor Committee March 2006 Report
http://www.nlcnet.org/documents/Jordan_PDF_Web/32_Petra.pdf
- Wal-Mart's Standards for Suppliers
<http://ilrf.org/projects/corporate/walmart/Supplier-Standards-2005.pdf>

Code of Conduct Violations: A report prepared by the National Labor Committee (www.nlcnet.org) on the working conditions of the factory revealed that Petra had violated Jordanian laws as well as the Wal-Mart Standards for Suppliers (March 2006).

Working Hours: Twice a week the company forced workers to work mandatory all night (20 ½ hour shifts) from 8am to 4:30am the following morning to meet production deadlines. It is not unusual for workers to spend 89 hours per week at the factory. They also received only one or two days off a month, even though they are supposed to have off every Friday.

Abuse: Workers have reported verbal and physical abuse including beatings, slapping and punching. They were routinely hit for making mistakes, for speaking during working hours, or for taking too long in the bathroom.

Pay: Workers are paid 21% below the legally-mandated minimum wage. They received \$0.46 an hour when they should have received \$0.58 an hour. This means that sewers who take 27 and a half minutes to make a pair of jeans are paid only \$0.21 per pair. Moreover, they are not paid the 25 to 50% overtime premium for extra hours and the penalty for a taking a LEGAL sick day is the loss of three days of wages. The lack of pay-slips or time-cards also makes it easier for the company to take advantage of workers because it makes it harder for them to keep track of their hours worked.

TOS Dominicana

Who owns it: Hanesbrand Inc.

What they produce: Fabrics primarily for t-shirts

Who they produce for: Wal-Mart is their largest client, but they also produce for University logo goods maker Grupo M, and their own blank t-shirts

Address: Textile Factory

Dos Rios Industrial Park

Bonoa, Dominican Republic (DR)

Number of workers: 1,100 workers (one of largest textile manufacturers in the DR)

Summary of Problems at the Factory:

- unlawful coercion of workers to sign new employment contracts and complaint waivers reducing workers employment rights and benefits
- forced and unpaid overtime
- verbal harassment and abuse
- use of a range of illegal means to thwart workers' efforts to exercise their right to association.

Union Information: Workers have tried to join the Sindicato de Trabajadores de la Empresa de Dos Rios/Hanesbrand, TOS Dominicana (Union of Workers of the Enterprise Dos Rios/Hanesbrand, TOS Dominicana) a local branch of the national union, the Federacion Dominicana de Trabajadores de Zonas Francas or FEDOTRAZONAS (Dominican Federation of Free Trade Zone Workers).

Communication with Buyers: The Worker Rights Consortium notified Hanesbrand about these issues and the violations were neither acknowledged nor addressed (as of their report on June 6, 2007).

Reports/More Information about Factory:

- WRC Report on TOS Dominicana
http://www.workersrights.org/Freports/TOSDominicana_Report_06-06-07.pdf
- Wal-Mart Watch Article
http://walmartwatch.com/blog/archives/look_who_hanes_has_got_their_labor_rights_violations_on_now/
- Hanesbrands Code of Conduct
<http://www.hanesbrands.com/hbi/Resources/GlobalStandardsforSuppliers.pdf>

Code of Conduct Violations: In a series of investigations of the working conditions of the factory on October 29-31, 2006, February 9-12, 17-19, and 26-28, 2007, and May 10-12, 2007, the Worker Rights Consortium (<http://workersrights.org>) found that Hanesbrand was in violation of Dominican and International laws.

Working Hours: Article 147 of the Dominican Labor Code establishes that the regular work week is to be eight hours per day and no more than forty-four hours per week. Article 203 of the Labor Code establishes that any work beyond this amount is to be compensated at a rate of 135% of normal pay and that overtime work is to be voluntary. However, TOS Dominicana makes employees work a schedule which requires unpaid overtime. Workers are forced to work daily 12 hour shifts (for four days straight) as a mandatory aspect of employment. In addition to

illegally forcing workers to work a 12 hour day, the company is also not paying them the overtime rate for the extra hours they work.

Verbal Abuse: Managers on repeated occasions screamed at workers using derogatory and insulting language. The workers most frequently identified one particular supervisor and one particular manager as behaving in this way. Some workers complained that they feel that they are treated like “animals” in the workplace.

Unionization: Worker’s rights to freedom of association and collective bargaining are protected by Dominican law, international law, and applicable codes of conduct. Article 333 of the Dominican Labor Code bars employers from engaging in practices that impede workers’ efforts to join in trade unions. Some of the actions taken by the company include threats and harassment, surveillance of workers’ activities, the mass dismissal of union members, and the repeated targeted dismissal and attempted dismissal of union officers. In one instance union members were targeted for mass dismissals; between April 12 and 16, TOS Dominicana terminated 31 employees, and of those 31 workers, 29 were union members.

Chong Won Fashion, Inc.

Who owns it: Mr. Yong Ryul Kim

What they produce: Garments, casual women's and men's apparel

Who they produce for: primarily produce for Wal-Mart Stores, Inc and its supplier One Step Up, though Target, American Eagle and Mervyn's have had production recently

Address: South Avenue
Cavite Export Processing Zone
Rosario, Cavite, Philippines

Number of workers: Workforce fluctuated between 250 and 900 in the past six years.

Summary of Problems at the Factory:

- minimum wage violations
- forced overtime
- violations of workers' right to unionize and bargain collectively
- collusion by factory management with government agents in violence against workers engaged in a lawful and peaceful strike

Union Information: Nagkakaisang Manggagawa sa Chong Won-Independent or "United Workers at Chong Won" (NMCW-Ind), the union legally authorized to represent Chong Won employees.

Communication with Buyers:

- According to university disclosure data, Chong Won has produced multiple orders of university logo apparel for Oarsman Sportswear as recently as October of 2006; however, when the WRC contacted Oarsman, company representatives claimed that they could not determine whether they had used the factory. Oarsman has not acknowledged responsibility for code of conduct compliance at Chong Won and has played no role in efforts to address labor rights violations at the factory.
- The WRC findings were conveyed to Chong Won in November 2006 and also shared at that time with Wal-Mart. Wal-Mart and the other buyers have failed to take meaningful action to compel Chong Won to cease its violations of worker rights.
- Additionally, Wal-Mart's own audits of Chong Won yielded findings consistent in key areas with the WRC's, but Wal-Mart has failed to take effective action. On November 17, 2006, Wal-Mart announced to the Maquila Solidarity Network (MSN), the International Labor Rights Forum (ILRF), and the WRC that it could apply no additional pressure and would make no further specific requests for corrections until it could conduct another investigation of the case.

Average rate of pay: The regional minimum wage is 272 pesos (US\$5.53) a day. However, 30-40% of workers at Chong Won receive less than this.

Reports/More Information about Factory:

- WRC Report on Chong Won

http://www.workersrights.org/Freports/Chong_Won_Report_2-21-07.pdf

- Business & Human Rights Resource Centre

<http://www.business-humanrights.org/Categories/Individualcompanies/C/ChongWon>

- Wal-Mart's Standards for Suppliers

<http://www.walmartstores.com/Files/SupplierStandards.pdf>

Code of Conduct Violations: In a series of on-site investigations of the working conditions of the factory between Oct 28 and Nov 2, 2006, the WRC (<http://workersrights.org>) found that Chong Won was in violation of international laws, Filipino laws, and Wal-Mart's Standards for Suppliers.

Minimum Wages: At the time the WRC visited the factory, 30 to 40% of the factory's workforce earned less than the regional minimum wage. These workers received salaries ranging from 180 to 242 Philippine pesos (US\$3.66 - 4.96) for a standard eight-hour workday. The regional minimum wage is 272 pesos (US\$5.53) a day. The WRC's conclusions in this area were supported by discussions with Wal-Mart's local compliance officer, who stated that audits the retailer had previously conducted at Chong Won had yielded similar findings concerning failure to pay the minimum wage and excessive use of apprentices.

Working Hours: All of the employees shown in the payroll with salaries ranging between 180 and 242 pesos a day are also shown to regularly perform overtime (of two or more hours a day). Additionally, Chong Won workers had been forced to perform overtime without the right to refuse, in violation of the Labor Code of the Philippines. Workers had performed amounts of overtime in excess of what is allowed under university codes of conduct and under Wal-Mart's code. Payroll records as recent as October 11 to October 25, 2006 showed that some employees had performed between eighteen and twenty-seven and a half hours of overtime a week.

Unionization: Chong Won management had engaged in numerous acts of interference, intimidation and retaliation against workers seeking to exercise their right to unionize and bargain collectively. Management violations included: dismissing workers engaged in a lawful strike; employing replacement workers during a lawful strike, which is illegal in the Philippines; colluding with police and other security personnel in the use of intimidation and violence to interfere unlawfully with peaceful picketing; attempting to prevent workers from participating in an official union certification election; refusing to comply with the binding directives of the Filipino Department of Labor and Employment; refusing to bargain with a duly constituted union, as required by Filipino law; demoting and transferring union officers in a retaliatory manner; and illegally aiding the founding of a company union in order to undermine a duly constituted union.

Violent Response to Legal Strike: Chong Won employees had been subjected to violence and harassment by agents of the company and PEZA in retaliation for engaging in a lawful strike and picket. When the picketing workers refused to disband, guards hired by the company attacked the striking workers. During the melee, more than 40 workers, the strong majority of them women, were struck by the guards with bamboo clubs. As a result, fourteen workers suffered serious injuries to their heads, arms, and legs. Further incidents resulted in more injuries and unduly interfered with the lawful strike. Moreover, Chong Won sought to terminate the employment of 116 workers who participated in the factory-wide strike. The workers were given "notice of termination" on September 30, 2006.

Illegal use of Contract Workers: By law, contract workers may not be members of a union. Since Chong Won has been hiring primarily contract workers from late 2004 (which is when

workers voted to unionize) through the present time, and assigning to these workers the regular work of the factory, Chong Won management has caused the membership of the union to be a fraction of the size it would otherwise be, thus undermining the union's strength and bargaining power. In so doing, management has violated both Filipino law and the freedom of association provisions of applicable codes of conduct because Filipino law prohibits the use of contract workers to perform the functions of regular employees. Additionally, worker interviews, company payroll records and individual employee files show that many contract workers at Chong Won have been held in contract status beyond the legal time limit of one year.

Guangzhou Winbo Industrial Co., Ltd.

Who owns it: Winbo Industrial.Co., Ltd.

What they produce: writing utensils, gifts, household products, bags, etc.

Who they produce for: primarily produce for Wal-Mart (Tom & Jerry's), McDonald's, Coca Cola, Pepsi, Disney, Hello Kitty, Snoopy, Sesame Street, Garfield, Harry Potter, Barbie Dolls, Haier, Hooligan Rabbit, Hard Rock, Carlsberg, Grants, Tarzan, etc.

Address: Guangzhou Winbo Industrial Co., Ltd

No.3, Zhenzhong Rd.

Shenshan Industrial Area

Jiangao Town, Baiyun District

Guangzhou

Guangdong

Number of workers: More than 800 employees

Summary of Problems at the Factory:

- Labor Contracts violations
- Wages being withheld.
- Minimum wage violation
- Excess hours with no pay
- No paid holidays or rest days
- Salaries are not disbursed in a timely manner
- Labor Safety violations
- No Social Insurance, pensions, work injury insurance or medical insurance for employees.
- No Labor Unions
- Collective strikes result in high fines and leaders being fired.

Union Information: No Labor Unions

Average rate of pay: Salary Slips from Winbo in hourly wage payments ranges from 15-24 Yuan per day. Most workers' base salary is 15 Yuan per day (\$1.80).

Reports/More Information About Factory:

- International Labor Rights Forum

www.ilrf.org/press/Wal-Mart/China%20Report%20Press%20Release101206.pdf

- China Labor Watch

www.chinalaborwatch.org/2007FinalWorkInjuryReport.pdf

- Wal-Mart's Standards for Suppliers

<http://www.walmartstores.com/Files/SupplierStandards.pdf>

Code of Conduct Violations: Winbo Industrial Co., Ltd is in violation of the Chinese Labor Law, the Guangdong Province Wage Payment Regulations, the Safe Production Law and the Wal-Mart "Standards for Suppliers."

- **Minimum Wages:**

Standard minimum base salary used in hourly wage payments is 37.284 Yuan per day (\$4.73) as stated by local government. However, most workers receive 15 Yuan per day (\$1.80) and most workers are not paid hourly but instead their salary is calculated by piece-rate. Under this method, workers are paid based on how many items they produce in 8 hours. They do not receive a base salary even though the law stipulates that all full time employees (8 hours a day) must have a base salary.

- **Working Hours:**

A normal work day consists of 8 hours. Labor Law requires that the overtime be paid at a 1.5 regular wage rate. Winbo Industrial Co., Ltd does not pay for rest days or holidays. The factory does not pay double or triple salary for working on days of rest

- **Unionization:**

There is no labor union in the Winbo Factory. It is easier for the management to violate the workers' rights.

- **Violent Response to Legal Strike:**

In 2005, 150 workers participated in a collective strike in the sewing machine workshop due to the factory's illegal withholding of the workers' salary. In March 2006, 50 workers went on strike again due to the low rate salary of piecework. The leader was written up for serious misconduct, fined 500 Yuan and fired. Every strike has resulted in the termination of the lead organizer.

- **Illegal use of Contract Workers:**

Workers are required to leave their ID cards with factory management for a week when they interview. The factory signs labor contracts but does not provide the worker with a copy of their contract. Therefore the worker can not dispute any issue that might arise to hold the company responsible. The factory has each worker sign a 3 ½ year employment contract in order to keep its skilled workforce for longer. The factory regulations require 20% of these workers' wages to be withheld until the contract expires. If the worker chooses to leave the factory before then, the wages will not be returned.

Appendix B: Letter to Philippines President Macapagal-Arroyo from Wal-Mart, et al.

August 3, 2007

HE Gloria Macapagal-Arroyo
President, Republic of the Philippines
Malacanang Palace
JP Laurel Street, San Miguel, Manila
1005 Philippines
Fax: (+63 2) 736-10-10
Email: corres@op.gov.ph

Dear Honourable President Macapagal-Arroyo:

As companies that source apparel products from the Philippines, we are writing to follow up on a letter of November 7, 2006, wherein the signatory companies, including many of the signatories to this letter, expressed their concerns about disturbing reports of violence and threats of violence against human and labour rights promoters, labour leaders and workers and the alleged negative role of the Municipal and Export Processing Zone police in such attacks and assaults. (Copy of the November 7, 2006 letter attached as Annexure 2.)

The November 2006 letter had called upon your government to look into the matter and take proactive measures for ensuring the physical safety and for protecting the rights of the workers and labor rights promoters.

Unfortunately, we feel compelled to reach out to you again regarding concerns about alleged attacks and death threats against striking workers at the Chong Won factory, now known as C.Woo Trading, in the Cavite Export Processing Zone.

Based on the attached report, we are extremely concerned about the safety of the workers, as well as the safety of labour rights advocates who have been providing them support and advice.

Please note that many of the companies that have added their names to this letter have never sourced products from this particular factory, however, we are all concerned that these alleged incidents appear to be part of a larger pattern of harassment and violence against workers, labour leaders and human rights promoters that could discourage companies from doing business with your country.

We would therefore strongly urge your government to immediately launch an independent investigation into these incidents and ensure immediate steps to ensure safety of the striking workers and labour rights promoters who are providing support to those workers.

As was noted in the earlier letter as well, it is imperative that companies doing business in the Philippines remain confident in the government's commitment to freedom of expression, freedom of association and the rule of law.

Sincerely,

Guy D. Bradford, Vice President
Corporate Responsibility and Customs Compliance Officer
American Eagle Outfitters
BradfordG@AE.com

Dan Henkle
Senior Vice President of Social Responsibility
Gap Inc.
Dan_Henkle@gap.com

Laura Wittman, Vice President
Compliance and Human Rights
Jones Apparel Group
LWittman@jny.com

Daryl Brown, Vice President
Business Ethics and Compliance
Liz Claiborne
Daryl_Brown@liz.com

Marcela Manubens, Vice President
Global Human Rights & Social Responsibility Programs
Phillips-Van Heusen
MarcelaManubens@pvh.com

David M. Uricoli, Senior Director
Global Human Rights Compliance
Polo Ralph Lauren
David.Uricoli@PoloRalphLauren.com

Ron Martin
Director of Social Compliance
VF Corporation
Ron_A_Martin@vfc.com

Rajan Kamalanathan
Director of Compliance, Global Procurement
Wal-Mart
Rajan.Kamalanathan@wal-mart.com