Minutes

Attending: Kevin Ferrell, Mary Gallagher, Diana Parker, Rosa Peralta (conference call), Steven Ratner, Larry Root (chair), Katherine Terrell (conference call), Ada Verloren (staff to committee), Veronica Wilkerson-Johnson (conference call). About 25 observers attended the first 30 minutes of the meeting.

Absent: Kristen Ablauf, Sarah Bookbinder.

1. Review and approval of minutes
   The committee approved the minutes from February 10, 2006.

2. Discussion of USAS Designated Supplier Proposal (DSP)
   The discussion of the DSP started with the chair reporting about the WRC University Caucus meeting on February 17 in Washington, D.C. and the FLA meeting in Houston on March 5.

a. Report of the WRC University Caucus meeting
   At the WRC meeting, several schools described their decisions concerning the DSP.
   - University of Connecticut President Philip E. Austin endorsed the program “in concept and, for the most part, in its key aspects.” (Statement by President Philip E. Austin on Sweatshop Issues, October 31, 2005.) He reserved the right to review the final outlines of the DSP as it emerges from WRC deliberation.
   - The University of Wisconsin-Madison announced on December 13, 2005, that it would “launch a pilot program requiring companies producing officially licensed apparel products to purchase 25 percent of their goods from factories that allow a union, representative body or the right of free association for workers.”
   - President of the University of Maine at Farmington Theodora Kalikow, on December 22, 2005, endorsed a statement indicating the university’s support, “in concept,” of the DSP. She added that the university would “participate in discussions of the feasibility and means of implementation of the policy . . .”
   - Georgetown University’s Licensing Oversight Committee agreed on December 23, 2005 to pursue efforts that would promote some of the DSP’s guiding principles and strategies “in a manner that is consistent with applicable United States and international law.”
   - Indiana University President Adam W. Herbert indicated the university’s “willingness to agree in principle to the provisions of the Designated Supplier Proposal.” (Letter from President Adam W. Herbert to Jill Carter, No Sweat!, dated February 7, 2006.)
   - Duke University Executive Vice President Tallman Trask III announced on February 13, 2006 the university’s commitment to enter into a pilot program in which it will require that 25 percent of Duke production be moved to a smaller number of designated factories that could be more closely monitored. Factories must meet the university’s requirements: payment of a living wage, presence of a legitimate employee body, and sale of a majority of products to university licensees.
   - Smith College President Carol T. Christ declared on March 6, 2006, the college’s support for the principle “of identifying suppliers of college apparel who follow appropriate labor policies.”

The chair outlined the proceedings at the WRC University Caucus meeting. Rick Locke, professor at the Sloan School of Management, presented data from a study undertaken using compliance information from Nike. His research drew upon data collected from 697 factory audits. He was looking at relationship between compliance and “country effects” (standard of living/purchasing power, rule of law,) and “factory effects” (size of factory, length of operations, ownership, type of product). Among his findings were the following:
- countries where the “rule of law” is stronger had better factories;
- newer and smaller factories tended to do better;
- no clear association with who owns the factory;
- the more contact between Nike and the factory, the better the conditions;
- the length of the relationship with Nike had uneven relationship;
- some indication of improvement over time (re ratings of A, B, C, D), but 75% stayed the same or got worse.

Following Locke’s presentation, Donald I. Baker of Baker & Miller, discussed his opinion concerning the U.S. antitrust law issues raised by the proposed DSP for university-licensed apparel and textile products. Attorney Baker explained that the DSP was likely to be consistent with U.S. antitrust law, based primarily on the program’s humanitarian motives to improve labor practices and the absence of a commercial, profit-maximizing, revenue-enhancement goal.
In the discussion period following Baker’s presentation, some questioned his basic assumption that universities are not competing with each other. For example, they compete for shelf space and, in many cases a consumer may not be committed to a particular university, but rather may be selecting a collegiate product based on style, color, or current athletic success. The question was also raised whether the close involvement of UNITE in the formulation of the DSP might raise questions about whether the union was seeking to advance its own interests. One person raised the question about whether increases in prices associated with the DSP might be construed to be self-serving on the part of the schools because they would mean higher licensing income. Baker responded that he doubted it would be seen as a “major motivation.” The question was also raised how factories would be nominated and selected, emphasizing the need for a fair process in designating a factory.

In response to a question, Baker noted that he was focusing in his report on anti-trust issues that might affect colleges/universities. He noted that there may be other anti-trust issues associated with regard to licensee behavior under the proposal.

Following the discussion of anti-trust issues, there was a conference call involving two suppliers: Tienchai Maharisiti (Lian Thai Apparel, Thailand) and Robert Maxwell (Procan Textile, Swaziland). They talked about the situation in their respective markets. Lian Thai has about 600 workers. They have a union and social security programs. Tienchai said that wages in Thailand are about 2.5 times those in other southeast Asian countries. Nike and Puma have been major buyers, although Nike (and Puma?) is not currently a customer. About 50% of their work right now is subcontracting from other factories.

Maxwell’s factory employs about 1,000 workers. With the end of the MFA, “overnight” they saw a 50% reduction in order placement. Buyers keep pressure on, saying that they can get the product for a certain amount elsewhere and they have to match that if they are going to get orders. He contrasted selling to a major retailer (WalMart?), which has a compliance code, to selling to a middleman. If they are selling to a middleman, they are told by the middleman to ignore codes. Larger factories (1,000-3,000 employees) can live with lower margins because they make it up in volume. That doesn’t work for smaller factories (300-600 employees).

Maxwell talked about the problems facing his factory and the apparel industry generally in Africa. He has benefited from the African Growth Opportunity Act (AGOA). One big disadvantage he faces is the one-month transit time they need for raw materials. He also mentioned that he was working on HIV issues in large factories. In Swaziland, the estimated infection rate is 46%. But in his factory, he said that the infection rate is 80%.

After lunch, there was a presentation by a panel, including representatives from Adidas, Holloway Sportswear, CLC, LRG, and the FLA. Greg Nebel (head of Social and Environmental Affairs at adidas-Salomon Americas) talked about the complexity of sourcing decisions. They currently have 36 people working on monitoring their supply chain. Adidas produces collegiate products in about 60 factories (I think he said that). Nebel questioned whether the WRC had the capacity to certify the designated suppliers. He also questioned how the “winners” would be selected. Nebel finished his presentation by saying that Adidas was moving “beyond policing” models, looking more at “root causes” and engaging in developmental efforts with suppliers.

Rut Tufts talked about the FLA’s perspective. He said that auditing “takes a temperature” but doesn’t solve problems. The FLA has proposed a “preferred supplier” program, focused on those licensees who don’t have their own compliance programs. FLA members in “C” category would have to source from preferred factories or else be responsible for conditions in the factories they use. (Sixty percent of the factories used by “C” licensees are in the U.S.)

In discussion, the issue was raised how a limited number of suppliers could meet the need for nonstandard, fashion products that make up a large portion of licensees’ products. There was also some discussion about how a living wage provision would work if there isn’t a “business case” that supports it.

Following this panel, there were presentations by workers from Thailand (Lian Thai factory), Kenya, and Indonesia. The Thai worker, a union leader, talked of the volatility of orders and that garment factories are closing down. He said that Nike and Puma had moved production from his plant to lower-priced factories. The Kenyan worker also said that buyers were going to non-unionized plants in the EPZ. The Indonesian worker said that Nike and the WRC had ensured that their unionization process was fair.

b. Report of the FLA meeting

The FLA meeting had about 70 participants; about 36 university reps and the rest were licensees. After some discussion of FLA matters, there was discussion of the DSP. It was noted that it was one of the rationales for the DSP was that factories that improved conditions priced themselves out of the market—that licensees abandoned them for cheaper alternatives. Some licensees said that there are many aspects of the licensee-supplier relationship and that when they change suppliers, as they do from time to time, it is most often because of production issues not increased costs. They said that building stable supplier relationships is a key goal and they don’t like to disrupt these relationships. As one licensee put it, “from a quality standpoint, you want to have a relationship.” It also was noted, however, that this characterization might be more applicable to large, non-brand relationships.

Some of the issues about the DSP that I hadn’t heard before were that the highly cyclical nature of demand for collegiate goods would be very difficult for factories that were devoted to the collegiate market. Also, someone talked about the dilemma of a small licensee who has developed a relationship with a supplier who is mainly in the non-university market. Given the requirement that a designated supplier factor had to have most of its production for the collegiate trade, would the licensee have to stop using such a supplier?
There was some discussion of the DSP as forming a kind of “Potemkin” village—a small enclave of fortunate workers. This is the same phenomenon we’ve talked about in our committee as the “boutique” aspect of the DSP.

There was also some of the FLA’s “preferred provider” proposal, in which “C” level licensees would have to either use a “preferred provider” or explain how they were otherwise monitoring the code.

c. Committee discussion of the DSP

There was general agreement that the status quo was not acceptable and that codes of conduct are not currently being properly enforced. Committee members gave credit to USAS for coming up with a proposal to improve conditions for workers.

Committee members were concerned about the lack of a roadmap for the implementation of the DSP and lack of information about the WRC’s capacity to implement it. In addition, members wanted to learn more about specific criteria that the WRC would use for auditing factories.

Although there was general agreement on the principle of increased scrutiny, some members thought it would be necessary to involve more monitors that just the WRC.

There was a sense that the DSP would effectively mean that the FLA has no further role. Committee members would like to see the FLA engage in more proactive monitoring instead of just setting up procedures for monitoring.

Several committee members expressed concern about the results of designating a small group of suppliers: will it benefit more workers or end up hurting workers overall? There was also concern about the potential displacement of workers when factories consolidate. Consolidating factories might result in gains for some workers at the expense of others.

One possibility raised for endorsing the DSP would be to agree to a pilot program of 25% on an experimental basis. An alternative proposal was to shift the burden of proof to the shoulders of big licensees. Licensees would have to prove that there has been compliance with the Code of Conduct as confirmed by NGO’s that are qualified to monitor. Under this alternative proposal requiring licensees to prove that their factories meet certain standards, it would be necessary for the University to set out specific criteria.

Licensee perspectives

Before making a recommendation on the DSP, Committee members felt that it was necessary to understand the supplier system better. During the few discussions with licensees, it became clear that sourcing decisions are multidimensional, involving considerations beyond cost, such as on-time delivery, quality, and capacity. Licensees have indicated that it would not be feasible for different licensees to source from the same factories and still differentiate products. Another serious problem might be the cyclical nature of production that would result in down time for factories producing for the collegiate market.

Based on its discussion of the DSP, the Committee planned to have an information-gathering session on April 14 and then aim for approving a report/recommendation to the President at a meeting on April 21.

The Committee made plans to meet on April 14. The chair was requested to arrange to have representative at the meeting who could respond to questions about the DSP, both from the WRC point of view and from that of licensees. The committee also scheduled a meeting for April 21, with the goal of deciding on a recommendation to forward to the President.

It was announced that Agatha Schmaedick, WRC Field Director/Southeast Asia, and Caitlin Morris, from Nike’s compliance office, will participate in a Southeast Asia conference at U of M on March 31.

The next meeting of the committee will be on April 14, 9:00 a.m.