

**The Final Report
of
The Advisory Committee
on Labor Standards
and Human Rights**

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Table of Contents

	Page
Summary and Recommendations	3
Recommended Code of Conduct	9
Introduction	11
The State of Our Knowledge	12
The Goals of the University's Anti-Sweatshop Policy	13
Conceptual Framework to Guide Analysis	15
The Apparel Industry	16
The Multifibre Arrangement	17
The University of Michigan Code of Conduct	19
International Labor Standards and the UM Code of Conduct	20
Core Labor Rights	20
Standards Concerning Wages, Hours of Work and Overtime	23
Standardization of Codes of Conduct	26
Ensuring Compliance with Our Code of Conduct	27
Dimensions of the Compliance Problem	28
The Workers Rights Consortium	31
The Fair Labor Association	33
Follow-Up Responsibilities	38
Non-Apparel Items Produced by UM Licensees	39
Appendix One: The Economic Arguments	40
Appendix Two: The Living Wage Debate	45
Appendix Three: A Dissent Concerning the Living Wage Debate	52

Summary and Recommendations

President Bollinger's charge to the Advisory Committee on Labor Standards and Human Rights asked us to study and recommend actions in the following areas:

1. Creating full public disclosure by licensees;
2. Protecting women's rights;
3. Identifying appropriate wage level(s)/compensation standards consistent with human rights and dignity;
4. Ensuring and monitoring compliance by licensees with our code of conduct.

This portion of the report summarizes the actions we have taken to date and our recommendations in each area (which we have highlighted in bold type). It also identifies a set of issues that will require continuing attention over the next several years. Further discussion of these matters and the reasoning underlying our decisions and recommendations are contained in the body of the report. The report goes into considerable detail on some of the central issues about which we were unable to reach consensus as a Committee.

Follow-Up Responsibilities

We begin by noting that there will be a continuing need for members of the UM community to be involved in efforts to ensure that UM licensed apparel conforms with our code of conduct. Many of the sections below note specific activities that we believe should be undertaken. Together, these activities will entail a significant investment of resources and of time. Some of them can be delegated to staff members in the Department of Intercollegiate Athletics or the Office of the General Counsel, but many should be entrusted to a committee with broad representation from the U-M community.

We recommend that a Standing Committee on Labor Standards and Human Rights be appointed to continue the work begun by our Advisory Committee. The membership of the Committee should include the Director of Trademarks and Licensing, students, faculty and staff, most of whom should be appointed for staggered two-year terms to provide continuity. The Director of Trademarks and Licensing should be a permanent member of the Committee. The Committee should report to the central administration and be charged with refining our code and our compliance strategies in light of new information and experience. This will include taking an active role in organizations that the University joins as well as continuous evaluation of information flowing from the disclosure, monitoring and complaint investigation processes in which we will be involved. The Standing Committee should play a significant role in making decisions concerning specific instances of non-compliance with or violations of our anti-sweatshop policies by licensees.

Full Public Disclosure

In July 1999, the University informed its licensees that they would be required to publicly disclose by January 1, 2000 information concerning the factories used in the production of all items bearing University of Michigan logos. Following discussion within our Committee and with others at the University, we decided to ask the Collegiate Licensing Company (CLC) to collect the requested information and to disseminate it to us. This approach permitted considerable economies of scale, since CLC ended up collecting information for a number of other universities, including Arizona, Duke, Georgetown, North Carolina—Chapel Hill, St. John's and Wisconsin. CLC sent a letter to licensees on December 7, 1999 outlining disclosure procedures.

We received the first batch of disclosure information from CLC in late January. We have worked with News and Information Service to make this information available to the public via the University of Michigan website.

In January we received disclosure information from about 60% of our more than 500 licensees. CLC has been following up with licensees that had not complied with our request, and they have now received information from 560 licensees, leaving only 15 who have not complied at this point. This additional information will soon be sent to us and transferred to the Web site. We regard this compliance rate as a very positive sign of our licensees' willingness to cooperate with the University's policy.

There are a number of issues concerning disclosure that must be attended to in the coming months. We make the following recommendations concerning these issues:

- **We recommend that the Manager of Trademarks and Licensing take the lead in working with CLC to resolve the remaining cases of non-compliance. At a minimum, we recommend that no licensing agreement be renewed unless the licensee has fully complied with our disclosure policy.**
- The arrangement with CLC has been a successful way to collect information from licensees. **We recommend that the Manager of Trademarks and Licensing be assigned responsibility for negotiating with the CLC an agreement that will allow this arrangement to continue.**
- **We recommend that a staff member from News and Information Services be identified to work with the Standing Committee and the CLC to put in place procedures for transferring disclosure information to the U-M Web site on a continuing basis.**
- **We recommend that someone be assigned to examine in detail the information we have received from licensees to determine whether we are receiving the information we requested. This individual should produce a statistical summary of the information so that the U-M community will have a better understanding of the geographical patterns of production of U-M licensed goods.**
- **We recommend that during the Fall Term the Standing Committee on Labor Standards and Human Rights review the results of this year's disclosure experience and make recommendations to the Director of Trademarks and**

Licensing concerning improvements in the disclosure process that can be implemented by January 2001.

The U-M Code of Conduct

President Bollinger's March 1999 statement on the University's Anti-Sweatshop/Human Rights policy contained a basic code of conduct for the University's licensees. We have developed wording that states more clearly our standards in the areas mentioned in that statement. A copy of the recommended code is attached to this report.

We recommend that the code be distributed to all licensees and that they be required as a condition of their license renewal to agree (1) to comply with the code, (2) to ensure that firms with which they do business in producing U-M licensed goods comply with the code, and (3) to be prepared to document the system of internal monitoring they use to ensure compliance.

In recent years a large number of codes of conduct have been developed by apparel firms, industry groups, individual universities and anti-sweatshop organizations. The code we recommend is similar in many respects to other codes, including those put forward by the CLC, the Fair Labor Association (FLA) and the Workers Rights Consortium (WRC). But some of its sections are different, and we consider these differences to be important. We mention several here. The background document provides additional commentary on them.

Women's Rights

Because most of the employees in apparel factories are women, and because it was part of our charge, we have given special attention to women's rights. In addition to a separate section on women's rights we have added wording to the sections of the code on harassment or abuse, nondiscrimination and health and safety to ensure that the rights of female workers are clearly identified.

Hours of Work and Overtime

The section of the recommended code is stronger than the similar sections of most codes in that it places strict limits on mandatory overtime and requires that all overtime be compensated at a premium rate.

Compensation

The section on compensation is stronger than the corresponding sections in corporate codes and in the FLA and CLC codes, which require payment of the legal minimum wage or the prevailing wage, whichever is greater. We have added a requirement that the wage must also be "at least sufficient to meet the worker's basic needs."

Some members of the Committee view this wording as equivalent to a call for a living wage, citing the anti-sweatshop policy issued last March, which included the statement "We believe that, as a matter of human rights and human dignity, workers engaged in the production of licensed goods should receive wages that meet at least their basic needs. This concept has been sometimes referred to as a 'living wage.'"

The majority of us prefer not to use the term "living wage" in this way because we believe that the term has come to mean a wage that is assessed solely on the basis of the needs of a worker and her family, without regard to whether the jobs in question are sustainable at that wage. We fear that mandating a living wage that provides for the needs of an average family without taking into account the economic conditions of local labor markets will result in a loss of jobs for workers in the poorest developing countries, an outcome that we regard as very undesirable.

Standardization of Codes

A single factory is very likely to produce several lines of apparel, some of which is university licensed apparel and some of which is not. Because of this pattern, multiple codes of conduct will be both burdensome to factory managers and confusing for workers. It may prove difficult to develop a code that eliminates these problems, but efforts should be made to standardize codes as much as possible, particularly among universities.

We recommend that the University of Michigan work with other universities to develop common wording for a code of conduct that can be used by as many universities as possible. Responsibility for this should be assigned to the Standing Committee on Labor Standards and Human Rights.

Examining New Information

The Bureau of International Labor Affairs of the Department of Labor recently released its long-awaited study "Wages, Benefits, Poverty Line, and Meeting Workers' Needs in the Apparel and Footwear Industries of Selected Countries." Our Committee has not had the opportunity to examine this report, but it appears to contain much valuable and detailed information on minimum wages, prevailing wages and poverty levels in three dozen countries. In addition, the results of the Independent Universities Initiative, in which the University of Michigan has joined with Harvard, Notre Dame, Ohio State and the University of California, will be available this fall.

We recommend that the Standing Committee on Labor Standards and Human Rights be charged with refining the compensation standard in the code in light of information contained in these and other reports.

Living Wage Studies

Notre Dame is taking the lead in organizing a set of living wage studies in countries that produce university licensed apparel.

Because of our continuing interest in refining our compensation standard, we recommend that the University of Michigan participate in this project as it develops.

Compliance

The Committee examined a variety of ways in which we might ensure compliance with our code of conduct. We have recommended that each licensee be responsible for internal monitoring and be prepared to share the details of their monitoring procedures with us. When it comes to other efforts at ensuring compliance, most of the Committee does not see an option that we regard as entirely satisfactory. We believe that compliance is most likely to be fostered in an environment that is characterized by transparency and by competition among monitoring agents, for these conditions provide the necessary information and incentives for compliance to be taken seriously. Unfortunately, such arrangements are unavailable at this time. After consideration of the full range of options currently available to us, we believe that our compliance efforts are likely to be served best by affiliation with one or more organizations that bring universities together to work jointly on this issue. Such organizations allow universities the greatest opportunity to coordinate their efforts to curtail sweatshops; they also hold the greatest promise of being accountable to the university community. The two available alternatives are the Workers Rights Consortium and the Fair Labor Association.

The Workers Rights Consortium. The University of Michigan has joined the WRC on a provisional basis. The WRC, which has been developed by the United Students Against Sweatshops, puts its principal energies into the independent verification of worker complaints and leaves decisions concerning sanctions up to its university members. The number of universities affiliated with the WRC is still small, which raises concerns about its sustainability, but WRC's ranks have grown in recent weeks.

We recommend that the University send a delegation to the inaugural meeting of the WRC in NYC on April 7 that is committed to making the WRC a viable organization and to generating serious discussion of concerns that the Committee has expressed about the WRC. We recommend that this delegation include at least two members of the Advisory Committee, including one of the student members. We also recommend that the delegation meet with our Advisory Committee upon their return to discuss the progress made at this initial meeting. (Note: This was accomplished.)

Our background document provides details on our concerns, the most prominent of which focus on:

- The adversarial approach the WRC takes toward licensees;
- The independence and credibility of the process for investigating complaints against licensees;

- The governance structure of the WRC.

We recommend that the Standing Committee on Labor Standards and Human Rights be assigned responsibility for monitoring the development of the WRC and for reporting to the President on the extent to which it develops into an effective component of our anti-sweatshop policy.

The Fair Labor Association. The other major organization that is coordinating the anti-sweatshop efforts of universities is the Fair Labor Association. An outgrowth of the Apparel Industry Partnership fostered by the Clinton Administration, the FLA has attracted ten major apparel firms, a handful of non-governmental organizations (NGOs) and over 130 universities as members. Its efforts are focused primarily on a system of external monitoring of apparel factories, which will be used to certify apparel firms as being in compliance (or not) with the codes of conduct adopted by members. **We have discussed U-M affiliation with the FLA at some length and have been unable to reach a consensus as a Committee. We therefore make no recommendation concerning affiliation with the FLA.** Among the members of the Committee, five favor affiliation with the FLA at this time and five do not. Those in favor of affiliation believe that many of the weaknesses of the FLA can be addressed directly through our contracts with licensees and that the FLA offers significant opportunities to work with other universities on matters of common interest. They also see productive synergies in memberships in both the WRC and the FLA. Those opposed to affiliation believe that the FLA is too much under the control of apparel companies to be a force for genuine progress and/or that the University's interests would be best served at this time by focusing our time and resources on ensuring that the WRC succeeds so that it can provide a strong alternative to and check upon the FLA. Because of our division over this matter, we have provided details in our background document about the pros and cons of affiliation with the FLA in the hope that this will be useful to those within the University who will make a final determination on this matter. Should the University decide to join the FLA, we recommend that it be active in the University Advisory Council of the FLA in working to encourage universities to agree on a stronger code than the current FLA code, to increase the independence and credibility of the FLA monitoring structure, and to bring greater transparency to the monitoring process.

Non-Apparel Items

The majority of the royalties collected on U-M licensed goods come from apparel, but a large proportion of our licensees do not sell apparel. Because the concerns about sweatshop labor that put this issue on the University's agenda focused on apparel production, we have devoted most of our attention to this segment of the market and we believe it appropriate that apparel be the central focus in the next several years of the University's efforts to curtail sweatshop labor. It is important, however, that our code of conduct and our expectations for licensees apply equally to all of our licensees.

Code of Conduct for University of Michigan Licensees
(Recommended by the Advisory Committee)

on Labor Standards and Human Rights)

Forced Labor. Licensees shall not use (or purchase materials that are produced using) any form of forced labor, whether in the form of prison labor, indentured labor, bonded labor or otherwise.

Child Labor. Licensees shall not employ any person at an age younger than 15 (or 14, where, consistent with International Labor Organization practices for developing countries, the law of the country of manufacture allows such exception). Where the age for completing compulsory education is higher than the standard for the minimum age of employment stated above, the higher age for completing compulsory education shall apply to this section. Licensees agree to consult with governmental, human rights and non-governmental organizations, and to take reasonable steps to minimize the negative impact on children released from employment as a result of implementation or enforcement of the Code.

Harassment or Abuse. Every employee shall be treated with dignity and respect. No employee shall be subject to any physical, sexual, psychological or verbal harassment or abuse. Licensees will not use or tolerate any form of corporal punishment.

Nondiscrimination. No person shall be subject to any discrimination in employment, including hiring, salary, benefits, advancement, discipline, termination or retirement, on the basis of gender, race, marital status, religion, age, disability, sexual orientation, nationality, political opinion or social or ethnic origin.

Health and Safety. Licensees shall provide a safe and healthy working environment to prevent accidents and injury to health, including reproductive health, arising out of, linked with or occurring in the course of work or as a result of the operation of Licensee facilities.

Women's Rights. Women's rights are implicit in the previous sections of this Code of Conduct. In addition, licensees shall abide by the following conditions:

- Female workers shall have the same work opportunities as men, without restriction on the types of jobs or special limits on hours of work;
- Licensees shall not use criteria related to marital or reproductive status (for example, pregnancy tests, the use of contraception, fertility status) as conditions of employment;
- New mothers shall be entitled to leaves of absence (with the right to return to work) for childbirth and recovery from childbirth.

Freedom of Association and Collective Bargaining. Licensees shall recognize and respect the right of employees to freedom of association and collective bargaining. No employee shall be subject to harassment, intimidation or retaliation for her/his efforts to freely associate or bargain collectively.

Compensation. Licensees recognize that wages are the principal means of meeting the basic needs of employees and their families, and therefore commit themselves to a wage goal that enables employees to satisfy these needs. Licensees shall ensure that wages and benefits for a standard working week meet at least legal minimum standards and industry averages, whichever is greater, and are at least sufficient to meet the workers' basic needs. Compensation standards will be adjusted periodically based on experience and increased knowledge concerning local labor markets and living conditions.

Hours of Work and Overtime. Licensees shall comply with applicable laws and industry standards on working hours. In any event, personnel shall not, on a regular basis, be required to work in excess of 48 hours per week and shall be provided with at least one day off in every seven-day period. Mandatory overtime shall be limited to extraordinary and short-term business circumstances and the policy concerning mandatory overtime shall be explained to employees before they are hired. Regular working hours plus mandatory overtime shall not exceed 60 hours per week. All overtime shall be remunerated at a premium rate.

March 29, 2000

Introduction

Our Committee was appointed to help the University of Michigan develop a policy that addresses widespread concerns about the use of sweatshop labor in apparel factories producing goods bearing the UM logo. These concerns are among many that have arisen in the wake of the increasing globalization of the economy. Developing countries have competed to attract both domestic and foreign investment in their efforts to improve living standards through export-oriented development strategies. Firms in developed countries have increasingly organized themselves to take advantage of lower production costs in developing countries. And the system of international trade now organized through the WTO has worked to lower barriers to international trade in ways that promote the goals of both developing and developed countries. As events at the WTO meeting in Seattle last December made clear, however, the textbook argument that trade liberalization is good for everyone is not universally embraced.

It is not surprising to find the apparel industry at the center of disputes about the impact of globalization. Because its production requires modest capital investments and relies on relatively unskilled labor, apparel has traditionally been one of the initial sectors to develop when a nation attempts build an active manufacturing sector. Apparel production has been shifting from developed to developing countries for decades, and the pace has quickened in recent years. For example, US apparel imports have risen from \$20 billion in 1990 to over \$50 billion in 1999. This activity has meant thousands of new factories and millions of new jobs in developing countries. The growth of apparel exports from developing countries has meant lower prices for consumers, increased economic independence for workers (most of them women), and economic growth for the countries involved. It has also given rise to concerns about the treatment of workers, whose wages and working conditions strike many observers in more affluent countries as exploitative, and to a widely held view that there is an imbalance in the distribution of the benefits of trade liberalization within and among nations. This imbalance is fed, some believe, by a “race to the bottom” that is driven by apparel firms seeking lower costs of manufacturing and acquiesced to by national leaders who, faced with tight budget constraints and eager to boost employment and economic growth, appear to tolerate violations of workers’ rights.

The University of Michigan has over 500 licensees that sell goods bearing the UM logo. The range of goods produced by these licensees is broad, but the majority of the royalties earned by the University come from the sales of apparel. The Code of Conduct we have developed is intended to apply to all UM licensees, but we have focused the Committee’s work on the apparel industry and recommend that the University’s efforts to monitor compliance with the Code in the next few years focus on apparel production, both in the US and abroad. We focus entirely in the discussion to follow on the production of university licensed apparel.

The State of Our Knowledge

We do not know enough about the nature and extent of violations of the basic rights contained in our code to make fine-grained distinctions on many of issues before us. There is a dearth of systematic evidence about wages and working conditions in apparel factories generally, and even less is known about the conditions in factories that are heavily involved in the production of goods bearing university logos. As the University of Michigan and other universities proceed to develop their codes of conduct and compliance mechanisms, it is critical that they do so on the basis of solid evidence about working and living conditions in locations where our licensed goods are produced and about the likely impact of our policies.

Currently we know too little to make some of these important judgments with any degree of certainty, but various efforts are underway to gather and disseminate information on these matters. The Department of Labor has just issued its long-awaited study of wages in the global apparel industry but the committee has not yet had an opportunity to examine it closely.¹ The University of Michigan has joined with Harvard, Notre Dame, Ohio State and the University of California to sponsor a study of labor markets and working conditions in seven countries that are prominent producers of university licensed apparel. The project is being carried out by Business for Social Responsibility, which is being assisted by PricewaterhouseCoopers (PwC) and two representatives of the nongovernmental sector, The Investor Responsibility Research Center (IRRC), and Dara O'Rourke, and independent analyst who has been active in the anti-sweatshop movement. The study will consist of visits to seven countries (China, El Salvador, Korea, Mexico, Pakistan, Thailand, and the U.S.). Study team members will meet with a wide range of stakeholders in each country and PwC will carry out two monitoring visits in factories utilized by major licensees of the five universities. On half of these visits, PwC will be accompanied by at least one of the nongovernmental representatives. We expect that a final report from this project, consisting of country reports and detailed monitoring reports, will be available in late summer.

There are a number of pilot projects underway that involve factory monitoring; other projects are aimed at capacity-building in the non-governmental sector so that community groups can play a role in factory monitoring. In addition, Notre Dame is taking the lead in organizing a series of living wage studies in producing countries that will provide badly needed information about wage levels and costs of living and provide experience with developing a framework for estimating a living wage. We recommend that the University continue to be involved in collaborative efforts of this kind, since they are crucial to developing and implementing effective labor rights policies.

¹ Wages, Benefits, Poverty Line, and Meeting Workers' Need in the Apparel and Footwear Industries of Selected Countries. U.S. Department of Labor, Bureau of International Labor Affairs, February 2000.

The Goals of the University's Anti-Sweatshop Policy

The appropriate response to the charge to our Committee depends importantly on the University's goals in implementing a code. The Anti-Sweatshop/Human Rights Policy issued by President Bollinger in March 1999 acknowledges a number of important commitments and values that are shared by members of the Committee. These include commitments to

- ethical and legal business practices;
- humane and fair treatment of workers who produce licensed goods;
- the principle that workers engaged in the production of licensed goods should receive wages that meet at least their basic needs;
- ensuring that women workers receive fair treatment and are free from coercion and exploitation.

These commitments point us toward a code of conduct that sets high standards for manufacturers and that brings about genuine improvements in the lives of workers. But there are other significant commitments that the Committee believes need to be considered as well. Members believe that the development of manufacturing sectors that emphasize export production is a good thing in developing countries and that this development should be strongly encouraged, consistent with the protection of basic rights. Such development offers poor countries the best chance to develop their economies, to participate in the global economy and to improve the lives of their citizens. We therefore believe that significant benefits arise from the fact that UM licensed apparel is produced in developing countries, and have no desire to curtail this practice.

There is a tension, however, between contributing to the economic development of poor countries and having a code of conduct with the highest possible standards. It is undeniable that an important component of the competitive advantage of the poorest developing nations is the willingness of their citizens to work long hours for low pay. A code with a very high wage standard may make it impossible for the poorest nations of the world to be competitive in the market for university licensed apparel. Most of the members of the committee believe that reducing employment in the poorest countries could be an undesirable, if unintended, consequence of our code, and one that we should avoid if possible. Our goal is not just to assure ourselves that UM licensed apparel is produced under humane conditions that honor basic rights, but to have the production of this apparel contribute to improvements in the lives of workers in developing countries. A policy that leaves the poorest developing countries unable to participate in this process fails to address this part of our goal.

These considerations lie behind the distinction we draw in our code of conduct between standards that address core labor rights as defined in the principal international conventions and a second set of standards that address wages, hours and overtime. We believe that it is essential to include in the code a strong set of standards concerning core labor rights and that these standards should apply to all countries. We believe that standards concerning wages, hours and overtime should be developed by considering both the needs of apparel workers and the sustainability of the jobs in question. We express a commitment to improving wages when evidence gives us confidence that it can

be done without significant job loss, but we urge caution about imposing wage standards that will significantly affect the competitiveness of poor countries.

A Conceptual Framework to Guide Analysis

Our belief that the right response to sweatshop labor depends significantly on the consequences for workers in developing countries means that it is vital to have a conceptual framework that permits us to anticipate consequences of alternative proposals for codes and compliance mechanisms.

The dominant paradigm for understanding these matters is international trade theory from economics. According to this view of the world's economy, supply and demand are the basic determinants of economic outcomes, competitive markets do the best job of allocating resources, wages reflect productivity, and comparative advantage is the key factor in determining trade patterns among nations. The basic story is that in the absence of trade, different national endowments of labor, land and capital and different levels of productivity of these basic economic inputs will generate different prices and returns to the factors of production. International trade responds to these differing prices. It enables nations to specialize in economic activities in which they enjoy a comparative advantage relative to other nations. Nations thus export goods and services for which they enjoy a comparative advantage and import those for which they do not. The resulting patterns of trade allow all nations to be better off than they would in the absence of trade. Because apparel production is relatively labor intensive and capital un-intensive, it has been a traditional stepping stone for countries seeking to build their economies.

Many economists associate labor standards with the inefficient allocation of resources and with protectionist motives. More importantly, they argue that such efforts are likely to backfire when it comes to helping workers in developing countries because they will set in motion forces that will result in diminished employment opportunities in producing nations. We discuss these matters in some detail in Appendix One, which examines the logic of the economic argument and looks for ways in which a code of conduct can indeed better the lives of workers. We believe that there is a case for a strong code of conduct but we also believe that code advocates must consider the employment consequences of a code and in doing so engage the reasoning of the standard economic model.

As we note in Appendix One, labor standards need not always be associated with the inefficient allocation of resources. A nondiscrimination standard should increase the efficiency of resource allocation, and basic health and safety standards and non-harassment standards may well increase the productivity of workers through decreased absenteeism and turnover and through improved worker-management relations. Other standards, such as prohibitions on forced labor and child labor, reflect internationally recognized norms that take precedence over concerns about efficiency. In other cases, there may be reason to believe that a labor standard can be implemented without significant job losses. Appendix One discusses these different cases, but we lack the kind of evidence we would need to assert with confidence that our code of conduct will not negatively affect employment opportunities to a significant extent.

The Apparel Industry

In addition to having a conceptual framework to guide analysis, it is important to look at the global apparel industry as it actually operates. There are some important institutional details that affect the prospects of codes of conduct and alternative methods of ensuring compliance with them.

The apparel industry is very decentralized—production takes place in tens of thousands of factories in scores of countries around the world. The “supply chain”—from raw materials to intermediate components to final product—has become increasingly complex in the last decade. In this country, responsibility for design, marketing and distribution of the final product lies with the corporations whose brand names we recognize, but arrangements for production are usually handled by middlemen who specialize in arranging reliable, low-cost production in factories that are usually owned by yet another set of economic agents. Some of our licensees have regular, long-term relationships with factories that permit them to monitor conditions in the factories and that allow them to influence these conditions. At the other extreme there are licensees that buy from middlemen goods that are finished except for the application of a logo through silk-screening or embroidery. Licensees like this may not know in advance where the product will be produced and are unlikely to have any relationship at all or even much knowledge about the factories in which the apparel is produced. As a result they also have much less ability to influence directly the conditions in these factories, although they can, by including compliance with a code of conduct in their specifications to the middleman, influence where their goods come from and the conditions under which they are produced. The variation and complexity of the supply chains that are used to produce UM licensed apparel are such that any “one size fits all” solution is bound to be inadequate, and we must keep this in mind as we develop effective ways to monitor compliance with our code of conduct.

Supply chain management has become an increasingly vital part of success in the global economy. The diffusion of responsibility for production to middlemen and to independent factory owners provides apparel companies with the ability to focus their resources on design and marketing and the competition among developing countries for manufacturing jobs has driven down the costs of production. Whether intended or not, this decentralization and diffusion of responsibility throughout complex supply chains has also diffused responsibilities for abuses of worker rights, environmental impacts, and other downsides of globalization. An apparel company that relies on middlemen not only reaps the benefits of lower costs of production, but also gains “plausible deniability” concerning the conditions under which the goods are produced. This particular aspect of the current supply chains is a significant barrier that must be addressed if codes of conduct are going to have a positive impact on workers. And it is not a barrier that occurs only overseas. The “surprise” expressed by apparel companies when sweatshops are uncovered in the US no doubt includes some feigned reactions, but a company might very well succeed in the business without knowing detailed information about production facilities.

Another important feature of the apparel industry is that most factories produce for more than one apparel company. Most factories that produce university licensed goods also produce apparel of other kinds, so that on a given day a factory is likely to produce apparel that will appear under the label of several apparel companies, most of which are not university licensees. This pattern of production makes it easier for particular apparel companies to avoid direct responsibility for working conditions. It also makes the existence of multiple codes and multiple compliance mechanisms a genuine challenge for factory owners and monitors alike. Apparel companies and major retailers of apparel have been slow to address concerns about sweatshops. The degree to which production of university licensed apparel and other types of apparel are intertwined at the factory level presents a significant challenge for our anti-sweatshop efforts.

The Multifibre Arrangement

All of this is made even more complicated in the apparel industry by the Multifibre Arrangement (MFA), which heavily regulates apparel production through a complex and ever-changing set of quotas for production of various kinds. The MFA, put in place more than 25 years ago by North American and European nations fearful of losing apparel jobs to developing countries, has limited free trade in the apparel industry and has created a powerful role for middlemen in the apparel industry. Quota management—knowing which countries have available quotas for particular types of garments made from particular types of fabric and being able to place orders in these countries before others use up the available quota—is a key ingredient in producing apparel on deadline at low cost. The MFA has introduced huge distortions in the worldwide production of apparel. For instance, a recent article in Fortune noted that the island of Macau, with a population of 437,000, has the same quota for shirt production, as does China, with a population more than 2500 times as large.² The power of MFA quotas is illustrated by producers from other countries building factories in Macao, even though they have had to bring in foreign labor to operate them. While this is an extreme example, there can be no doubt concerning the influence of MFA quotas on the shape of the global apparel industry.

The inefficient allocation of resources caused by the MFA means higher prices for consumers and lost opportunities for workers in countries with low quotas. It is possible that the “quota rents” earned by those who manage quotas account for a higher percentage of the retail price of apparel than either the profits of apparel firms or the royalties universities receive on university licensed apparel. These effects are important since under the WTO the MFA is to be phased out by 2005. So far, only a very limited phase-out has occurred, and it is not certain that the politics surrounding the WTO will not result in further delays. But if the MFA quota system is indeed phased out completely by 2005 and the role of the quota middlemen is eliminated or greatly reduced, the resulting efficiency gains may make it possible to raise workers’ wages *and* to lower prices to consumers, which would lead to higher sales and an associated growth of jobs.

If the MFA quota system is phased out, the landscape of worldwide apparel production is likely to change radically under a free trade regime. There is every reason to expect that

² Andrew Tanzer, “The Great Quota Hustle,” Fortune, March 6, 2000.

production will shift in very large amounts to China, India, and Bangladesh, nations with low MFA quotas and millions of workers willing to work long hours for what appear to us to be extremely low wages. These changes will put great pressure on the apparel industries in many other developing countries, including, importantly, those in Central America, which have relatively high labor costs relative to many Asian countries. This prospect makes even more imperative efforts to ensure that the rights of apparel workers are respected around the world, but it also means an intensification of the economic forces that make it difficult to secure these rights under the current economic regime. We must keep in mind this potential sea change in the nature of the global apparel industry as we implement and monitor our code of conduct.

The University of Michigan Code of Conduct

Our Committee has examined a wide variety of codes of conduct and has developed specific wording for a code that we believe the University should adopt and implement with its licensees. We provide commentary on its specific standards below.

We recommend that the code be distributed this summer to all UM licensees and that they be required as a condition of their license renewal to agree (1) to comply with the code, (2) to ensure that firms with which they do business in producing UM licensed goods comply with the code, and (3) to be prepared to document the system of internal monitoring they use to ensure compliance.

As mentioned earlier, a single apparel factory is very likely to produce several lines of apparel, only some of which is university licensed apparel. Because of this pattern, multiple codes of conduct will be both burdensome to factory managers and confusing for workers. It may prove difficult to develop a code that eliminates these problems, but efforts should be made to standardize codes as much as possible, particularly among universities. We recommend that the University of Michigan work with other universities to develop common wording for a code of conduct that can be used by as many universities as possible.

International Labor Standards and the UM Code of Conduct

Codes of conduct that address working conditions here and around the world typically contain two types of standards—those that address basic worker rights as defined in international conventions and those that address wages, hours, and overtime. We believe this distinction is important, and that it is appropriate to assign a higher priority to the first set of standards. First, these core labor standards are more firmly grounded in international conventions that address human rights and workers' rights. Second, their observance provides a foundation of worker security and control, which in turn increases the likelihood that workers will be able to organize and bargain for solutions to many of the conflicts that characterize the manufacturing sectors in developing countries. Third, we believe that enforcing these rights for all workers is likely to affect employment opportunities less than standards that address wages and hours of work, since the burdens they impose on producers are likely to be smaller and relatively equal.

Core Labor Rights

The International Labor Organization (ILO) is a UN agency that promotes internationally recognized human and labor rights. It formulates international labor standards in the form of conventions that set minimum standards concerning freedom of association, the right to organize, collective bargaining, abolition of child and forced labor, equality of opportunity and treatment, and other conditions across the spectrum of work related issues. The ILO's Governing Body has identified seven ILO Conventions as being fundamental to the rights of human beings at work, regardless of the level of development of individual member states. These rights are a precondition for all the others in that they provide for the necessary foundation for workers to strive freely for the improvement of individual and collective conditions of work. These conventions are:

Freedom of association

No. 87: Freedom of Association and Protection of the Right to Organize Convention (1948)

No. 98: Right to Organize and Collective Bargaining Convention (1949)

The abolition of forced labour

No. 29: Forced Labour Convention (1930)

No. 105: Abolition of Forced Labour Convention (1957)

Equality

No. 111: Discrimination (Employment and Occupation) Convention (1958)

No. 100: Equal Remuneration Convention (1951)

The elimination of child labour

No. 138: Minimum Age Convention (1973)

Additional support for these basic rights can be found in other international agreements, including the Universal Declaration of Human Rights, the International Covenant on

Economic, Social, and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Rights of the Child.

Taken together, these basic rights form the foundation for ethical employment practices. They are guaranteed to all workers by the international covenants just listed, and they have the support of organized labor around the world, including labor leaders in developing countries. Despite, unlike the U.S., being signatories to many of these conventions, governments of developing countries are often not aggressive in enforcing them, because they fear the implementation of such standards will adversely affect their country's competitive advantage and hinder economic development by reducing international trade, and also because they lack the resources for enforcement. Our view is that these standards protect basic human rights and that it is inappropriate to seek a competitive advantage that is rooted in the violation of such basic rights. Strong codes of conduct that protect these basic rights and their strict enforcement in *all* producing countries offers protection to nations that fear suffering the consequences of taking these rights more seriously than other countries with which they compete.

These core labor standards appear in some form in almost all codes of conduct that have been proposed for the apparel industry. In selecting wording for the UM code, we consulted with a variety of other codes, including those put forward by the Collegiate Licensing Company (CLC), the Workers Rights Consortium (WRC), the Fair Labor Association (FLA), the Worldwide Responsible Apparel Production (WRAP) program of the American Apparel Manufacturers Association, SA8000, and a number of corporate codes. In general, the WRC, FLA, and SA8000 codes are stronger than the others just mentioned, and the wording we recommend usually bears strong resemblance to one of these codes. We note below important comparisons between the wording we recommend and the wording found in other codes.

Forced Labor. This standard is grounded in ILO Conventions 29 and 105. The wording we recommend is:

Licensees shall not use (or purchase materials that are produced using) any form of forced labor, whether in the form of prison labor, indentured labor, bonded labor, or otherwise.

This wording is intended to make it clear that the prohibition on forced labor extends throughout the supply chain. Codes differ very little on this matter. Two practices that bear watching in this area are noted in the SA8000 code of conduct, which requires that "personnel shall not be required to lodge "deposits" or identity papers upon commencing employment with the company." Both of these practices have been reported in the apparel industry, and each has important elements of indentured or bonded labor associated with it.

Child Labor. This standard is grounded in ILO Convention 138. The wording we recommend, which is identical to that in the CLC and WRC codes, is:

Licensees shall not employ any person at an age younger than 15 (or 14, where, consistent with International Labor Organization practices for developing countries, the law of the country of manufacture allows such exception). Where the age for completing compulsory education is higher than the standard for the minimum age of employment stated above, the higher age for completing compulsory education shall apply to this section. Licensees agree to consult with governmental, human rights and nongovernmental organizations, and to take reasonable steps to minimize the negative impact on children released from employment as a result of implementation or enforcement of the Code.

This standard includes a commitment to attend to the negative consequences of bringing an abrupt end to the employment of children. We believe this is an important matter, and regard the FLA standard as deficient for this reason.

Harassment or Abuse. The wording we recommend is identical to that in the WRC code:

Every employee shall be treated with dignity and respect. No employee shall be subject to any physical, sexual, psychological or verbal harassment or abuse. Licensees will not use or tolerate any form of corporal punishment.

Nondiscrimination. This standard is grounded in ILO Conventions 100 and 111. With the exception of marital status, which we have added, the wording we recommend is standard across the CLC, WRC, and FLA codes:

No person shall be subject to any discrimination in employment, including hiring, salary, benefits, advancement, discipline, termination or retirement, on the basis of gender, race, marital status, religion, age, disability, sexual orientation, nationality, political opinion, or social or ethnic origin.

Health and Safety. With the exception of the addition of wording addressing reproductive health, the language we recommend is identical to that in the CLC and FLA codes:

Licensees shall provide a safe and healthy working environment to prevent accidents and injury to health, including reproductive health, arising out of, linked with, or occurring in the course of work or as a result of the operation of Licensee facilities.

The WRC standard on health and safety contains very specific references to OSHA requirements. The members of the Committee believe that this level of detail belongs in an implementing document rather than in the code of conduct itself. We have not looked into the details of implementation so we are not taking a stand on this or other ways of putting the health and safety standard into practice.

Women's Rights. The charge to our Committee asked us to pay special attention to women's rights. Most codes do not contain a separate section that addresses women's rights. Given that the majority of apparel workers are women, we believe it is important that these rights be explicitly recognized. Only the WRC code does so at this point. In some

cases, we believe it most appropriate to include wording that protects women in other standards, since the concerns involved affect all workers, not just women. Thus the inclusion of “marital status” in the nondiscrimination standard and “reproductive health” in the health and safety standard. But we have included a separate standard on women’s rights to make explicit our concern about certain practices.

Women's rights are implicit in the previous sections of this Code of Conduct. In addition, licensees shall abide by the following conditions:

- *Female workers shall have the same work opportunities as men, without restriction on the types of jobs or special limits on hours of work.*
- *Licensees shall not use criteria related to marital or reproductive status (for example, pregnancy tests, the use of contraception, fertility status) as conditions of employment.*
- *New mothers shall be entitled to leaves of absence (with the right to return to work) for childbirth and recovery from childbirth*

We considered adding to this last statement “. . .and to reasonable workplace accommodations for breastfeeding.” Breastfeeding is vital to good infant health, and we believe that making reasonable accommodations for mothers to continue breastfeeding after returning to work is very important for both mother and child. Some members of the Committee felt that this was too detailed a commitment to include in our code, so we have not included it, but all of us regard it as an important consideration in an industry that employs so many women who are also mothers. As one indication that this consideration is taken seriously in developing countries, we note that Guatemalan law provides for one hour of released time each day for 300 days for breastfeeding after a mother gives birth.

Freedom of Association and Collective Bargaining. This standard is grounded in ILO Conventions 87 and 98. The wording we recommend is stronger (because of our second sentence) than that found in the CLC and FLA codes. It is not as strong as the corresponding section of the WRC code, but we believe our wording captures the content of the ILO conventions.

Licensees shall recognize and respect the right of employees to freedom of association and collective bargaining. No employee shall be subject to harassment, intimidation or retaliation for her/his efforts to freely associate or bargain collectively.

Standards Concerning Wages, Hours of Work, and Overtime

The other standards included in our recommended code refer to wages, hours of work, and overtime. Standards addressing these matters appear in almost all codes of conduct, but one encounters much wider variation in them than in the other standards noted above. There is no international consensus on wage standards comparable to the ILO core labor rights, so we cannot refer to internationally agreed upon norms concerning these matters. In addition, conditions concerning wages, hours, and overtime are much more likely to be sensitive to the economic forces of local labor markets, with the result that employment levels will be affected more by standards concerning these factors than by standards

concerning the core labor rights. The standards we recommend concerning hours, overtime and compensation are generally more demanding than those in the CLC and FLA codes and less demanding than those in the WRC code.

Hours of Work and Overtime. The standard we recommend is:

Licensees shall comply with applicable laws and industry standards on working hours. In any event, personnel shall not, on a regular basis, be required to work in excess of 48 hours per week and shall be provided with at least one day off in every seven-day period. Mandatory overtime shall be limited to extraordinary and short-term business circumstances and the policy concerning mandatory overtime shall be explained to employees before they are hired. Regular working hours plus mandatory overtime shall not exceed 60 hours per week. All overtime shall be remunerated at a premium rate.

This wording permits limited mandatory overtime, in recognition of the claims of factory owners that on occasion it is necessary to meet production deadlines, but it limits mandatory overtime in terms of both hours and frequency. The standard requires premium pay for all overtime (by which we mean a rate in excess of the regular hourly wage), which we believe provides appropriate incentives for both workers and employers. Finally, the standard does not place restrictions on voluntary overtime. Many employees desire to work overtime in order to supplement their regular pay, and we see no reason to restrict these opportunities.

Compensation. The most contentious issue in the debate about eliminating sweatshop labor has been the call for inclusion of a “living wage” requirement in codes of conduct. Advocated strongly by activists, resisted equally strongly by others, the living wage issue turned out to be one about which our committee was unable to reach consensus. To be specific, we have been unable to agree upon whether to use the term living wage in our recommended standard. We are unanimous in our support for the following wording; we disagree about whether to call the commitment in this standard a living wage requirement. The wording we recommend is:

Licensees recognize that wages are the principal means of meeting the basic needs of employees and their families, and therefore commit themselves to a wage goal that enables employees to satisfy these needs. Licensees shall ensure that wages and benefits for a standard working week meet at least legal minimum standards and industry averages, whichever is greater, and are at least sufficient to meet the worker's basic needs. Compensation standards will be adjusted periodically based on experience and increased knowledge concerning local labor markets and living conditions.

Some members view this wording as equivalent to a call for a living wage, citing the statement from the University's March 1999 Anti-Sweatshop Policy, in which the President wrote: "We believe that, as a matter of human rights and human dignity, workers engaged in the production of licensed goods should receive wages that meet at least their basic needs. This concept has been sometimes referred to as a 'living wage.'"

The distinction that we believe is critical in this discussion is whether a living wage is assessed solely on the basis of the needs of workers and their families or whether the nature of the local employment market is taken into account as well. It is this distinction that underlies our disagreements. Those of us who prefer not to use the term living wage in connection with the compensation standard do so because we believe that the term is most closely associated with the needs-only definition. Such a definition received widespread support at the Living Wage Symposium at the University of Wisconsin last November and it is the definition used by the most prominent advocate of a living wage, the Center for Reflection, Education and Action (CREA).

Although all of us on the Committee are committed to improving compensation for workers who produce UM licensed apparel, many of us fear that a living wage requirement based solely on workers' needs may result in relatively large wage increases that cannot be sustained, with a resultant loss of jobs for workers in the poorest developing countries. We believe it is unwise to endorse a right to a living wage if economic conditions cannot sustain such a wage, since the standard will not benefit the workers in that community in the long run. Because the term living wage is associated to a large extent with the needs-only definition, most members of the Committee believe we should not use the term living wage in our compensation standard.

Given the competitive nature of the global apparel industry, and the dynamism that has and will continue to characterize production location decisions, we believe that a more cautious approach to wages is appropriate. However, we are not ruling out a living wage requirement in the future. Given our present knowledge, we do not favor such a requirement, but as we learn more about the labor markets and wages and living conditions in countries where UM licensed apparel is made, we may wish to strengthen the recommended wage language. We have included a longer discussion of issues concerning the living wage concept in Appendix Two. Two members of our Committee believe that our focus on the needs-only definition of a living wage in our discussion is unfair to the range of views held by living wage advocates. Their views on this matter are presented in Appendix Three.

The Committee considered a variety of other compensation standards in its deliberations. A number of codes, including those of the CLC and the FLA, require firms to pay the legal minimum wage or the prevailing industry wage, whichever is greater. We regard this standard as inadequate. Although many nations have minimum wage standards, there is reason to doubt that they reflect the wages needed to meet basic family needs. Minimum wages are the outcome of political decisions, and desires to keep wages low to attract investment may play as big a part in these decisions as the needs of workers. In addition, minimum wages are not updated regularly and the real value of the minimum wage is frequently eroded by inflation.

The Committee also felt that "prevailing wage" was an inadequate standard. In the apparel industry, the prevailing wage is seldom the outcome of collective bargaining and is likely to reflect the very weak bargaining position of workers. Suppression of union organizing, widespread poverty, high levels of unemployment and easy mobility of

capital are likely to combine to produce a prevailing wage level that is below what one might think of as the “fair” wage that would result from genuine collective bargaining.

For these reasons, we added the “basic needs” requirement to our compensation standard. We also considered wording that would require that workers producing UM licensed goods be paid wages that would place them in the upper 20% of workers in the local apparel industry. For a number of reasons, including a dearth of evidence about actual wage levels and complications we discuss below concerning implementing a wage standard in a factory that produces for many apparel firms, we opted against such a specific wage standard.

Our general inclination is to push for wage increases when they will not significantly impact job opportunities, including those in poor countries. As we learn more about the actual wages in factories producing UM licensed goods and the labor markets in which these jobs exist, we may want to raise our standard for wages. To reflect this, we have included the final statement in our recommended standard: *Compensation standards will be adjusted periodically based on experience and increased knowledge concerning local labor markets and living conditions.*

The members of the Committee worked hard to achieve consensus on standards in the code of conduct, and in most cases we have succeeded. A number of our recommended standards, including the compensation standard, are more demanding than the corresponding sections of other codes, including those of the CLC and FLA, and we believe it is important for the University to take a leading role in implementing a strong code. We have worked to balance a commitment to a code that will provide a strong foundation of workers rights and our concerns that a commitment to a substantial wage increase for apparel workers will threaten the sustainability of jobs, particularly in poor countries.

Standardization of Codes of Conduct

We believe that the language we have recommended for the UM code of conduct best captures the commitments that UM and its licensees should make to ensure core workers rights. However, we also recognize that there are many advantages to a code that can be adopted by a large number of universities. Such a code will make it easier to educate workers about their rights and easier for them to pursue their rights. It will also minimize burdens on factories associated with multiple codes, which will remove one possible source of resistance to codes by factory owners. We therefore recommend that the University work with other leading universities to develop common wording for our codes of conduct.

Ensuring Compliance with Our Code of Conduct

We have explored a variety of options for ensuring compliance with our code of conduct, including affiliations with organizations that focus on the apparel industry (the FLA, the WRC, WRAP), an organization that certifies factory compliance with its code in any industry (SA8000), and independent monitoring agencies (e.g., Verite, PwC, KPMG). Most of the committee believes that none of the current options is fully adequate to the challenges of ensuring widespread compliance with our code. Almost all of these organizations are in the early phases of their monitoring operations and there is not a sufficient track record yet to allow judgments about what is working and what is not. Our goal in assembling a compliance strategy should be to obtain information concerning compliance with the code that is reliable, independent, and credible to the broadest possible range of stakeholders.

Before we turn to a discussion of the options before us, we want to mention a framework for thinking about ensuring compliance that we find particularly attractive. The framework is presented in a paper by Charles Sabel, Dara O'Rourke, and Archon Fung entitled "Ratcheting Labor Standards: Regulation for Continuous Improvement in the Global Workplace."³ The monitoring structure they present is not currently an option that is available for use, although the authors may seek funding for such a structure. We summarize it here because we found it to provide the most useful intellectual structure for thinking about the challenge of ensuring compliance, and it will be useful to have it in mind for the discussion that follows.

The authors contrast their ratcheting labor standards (RLS) with fixed-rule regimes and voluntary codes of conduct. A fixed-rule regime, like the code we recommend, specifies a code and monitors compliance with it. Changes are made from time to time in light of experience, but incentives to improve performance beyond the standards in the code are weak. Voluntary codes, on the other hand, may be weak, compliance may be shortchanged, and even when the codes bring improvements, they do so in a piecemeal fashion. RLS, on the other hand, attempts to combine the two regimes to arrive at a dynamic monitoring structure that relies on competition among firms and among monitors to steadily ratchet up codes of conduct and compliance with them. The structure would work as follows in the apparel industry. Each licensee would be required to adopt a code of conduct and to participate in a monitoring program. The licensee would select a monitor from among those who offer these services. The monitoring reports would be made public and the monitor would rank the firms it monitors in terms of degree of compliance with a code of conduct. There would also be another organization that is key to the structure—a "supermonitor" that would "monitor the monitors." It would review the monitoring reports and rank monitors in terms of the seriousness with which they perform their function. Within this structure, firms would, out of concern for their brand identities and the opinions of consumers, compete with one another to earn high rankings or at least to avoid low rankings. Monitors would compete with one another to acquire contracts from apparel firms, but they would also have to

³ Charles Sabel is at the Columbia Law School, Dara O'Rourke is at the Department of Urban Studies and Planning at MIT, and Archon Fung is at the Kennedy School of Government at Harvard.

compete with one another to earn high rankings from the supermonitor. Universities could amplify these incentives by requiring their licensees to select monitors with proven records of seriousness, or by rationing their licenses and using rankings by monitors and choices of monitors as criteria in awarding licenses.

The driving forces in the RLS structure are transparency and competition. The structure is designed to achieve continuous improvement in both the conditions in factories and monitoring practices. Although it is not an option that we can subscribe to at this point to address our monitoring needs, the RLS framework provides a useful benchmark for comparing the options we do face. In particular, its supermonitor plays an important role that is not present in any of the current options, so we need to keep in mind how we will monitor monitors as we move forward over the next few years. Until this important function is provided by an organization external to the University of Michigan it will be necessary for a Standing Committee on Labor Standards and Human Rights within the University to shoulder these responsibilities.

Dimensions of the Compliance Problem

There are a number of dimensions to the task of ensuring compliance with our code of conduct. No option presently before us satisfies all of our needs, and some of them may be satisfied by none of the options. But we believe that a combination of options (affiliations with organizations, collaborative efforts with other universities, independent actions, a Standing Committee within UM) will allow us to move forward effectively to ensure compliance. Among the dimensions of the compliance process that we have discussed are:

Monitoring. The critical issues that arise in the selection of a monitoring process are:

- Who does the monitoring? The options include the major accounting/auditing firms (e.g., PwC), independent firms that specialize in monitoring (e.g., Verite), credible and accountable NGOs, or some combination of these options. We believe that an effective monitoring structure will frequently require that several organizations, with different areas of expertise, work together as a team to audit payroll and employment records and to gain the confidence of workers and community members so that frank and open discussions about working conditions are possible.
- Who selects the monitor? Under the FLA, apparel companies select their own monitors from the list of accredited monitoring agents. Many critics of the FLA object to this feature because they question whether it can lead to independent judgments, particularly when the monitoring agent works for the company on other contracts (e.g., financial auditing).
- How often are factories monitored? What percentage of factories is monitored in a given year? These concerns address the comprehensiveness of the monitoring process. For the most part this is a matter of cost on the one hand vs. comprehensive information on the other.
- Who selects the factories to be monitored? What is the balance of unannounced vs. announced monitoring visits?
- Who has access to the reports of monitoring visits?

Complaint investigation. Responding to complaints filed by workers is another way of checking compliance with the code of conduct. The WRC places complaint investigation at the center of its structure, while the FLA provides for it but subordinates it to regular factory monitoring. An emphasis on complaint investigation has several important virtues:

- It focuses resources on factories where problems are likely to exist
- It allows workers to play a key role in mobilizing the compliance structure.

Reliance on complaint investigation as the primary method of ensuring compliance has its downside, however:

- It places little direct attention on “fire prevention.” Employers may not have sufficient incentive to install comprehensive “fire prevention” systems if all they are subject to is a small risk of a “fire alarm” going off.
- It requires procedures for reporting and investigating complaints that are reliable, independent, and effective
- It depends upon extensive public outreach and education so that workers know that a system exists that can receive complaints and act responsibly.
- It is subject to “false alarms.” Some complaints may be fraudulent or unwarranted. If the proportion of “false alarms” proves to be substantial, that will detract further from the effectiveness of this strategy.

It may also be the case that complaints will be received not from factories in greatest violation of the code, but from factories where workers are better informed, better organized, and least afraid for their jobs because the owner has implemented much of the code (i.e., that the better rather than the worst factories will be the source of complaints).

Transparency of the compliance process. In light of the high levels of distrust that characterize the debate about sweatshops, this is a key feature of any compliance process. At present the amount of suspicion of the motives of the protagonists in this debate is palpable, and progress in dispelling this distrust is likely to require prior agreement that a particular process appears fair and independent as well as agreement to make evidence available for many parties to examine. None of the compliance options currently before us has, in our view, successfully confronted this important challenge. Bringing greater transparency to the compliance process should be one of our highest priorities as we continue to work on this issue. The University’s public disclosure policy is an important first step, but many challenges remain to achieving this important goal.

Worker Education. A key element of any compliance strategy must be to inform workers about their rights under a code of conduct and about how they can communicate information about violations to an appropriate contact person or organization. Such efforts should include the posting of codes in a prominent place where workers congregate and distribution of the code to community organizations. The process of ensuring that workers are adequately informed will be helped greatly if the number of codes and compliance structures that apply in a given factory is kept small.

Certification of Factories/Firms. Some monitoring agencies intend to certify compliance with codes and allow this certification to be used when firms market their products. The FLA will certify at the firm level, while others (SA8000, WRAP) intend to certify at the factory level. Critics of certification argue that it is inappropriate to certify an entire company as being in compliance because the performance of a small fraction of a firm's factories/contractors is not a sufficiently reliable indicator of the firm's overall performance with respect to the code. Members of our committee are divided in their views about the severity of this concern. Some hold this view, while others view certification as a way to bring consumer sentiment to bear in significant ways, since evidence of certification can be made available at the point of sale. Certification at the factory level rather than the firm level is more attractive because it will be more reliable, but the investment in resources to accomplish this would be considerable.

Coordination with other colleges and universities. It is critical that colleges and universities that are developing codes of conduct and monitoring strategies begin to coordinate their efforts and arrive at some common answers to the common questions confronting them. The wide array of codes and a patchwork pattern of compliance strategies will make it difficult for workers to be appropriately informed and will add unnecessary administrative burdens on licensees. The University of Michigan should, in the next year, work with other universities, in or out of whatever organizations we affiliate with, to bring about significant standardization of our strategies to combat sweatshop labor in the production of our licensed goods.

Organizational affiliations. There are a number of options available to the University of Michigan to join with others in our anti-sweatshop efforts. The two most prominent are the Fair Labor Association (FLA) and the Workers Rights Consortium (WRC). Another effort, WRAP, has been organized by the apparel industry. We believe that the University should join at least one of these organizations. They offer the best opportunity to coordinate our anti-sweatshop efforts with other universities as well as important economies of scale that permit compliance efforts to be cost-effective. In addition, they hold out the prospect of accountability to the university community, which is an important consideration.

We regard WRAP as being deficient in several areas and not a viable option for the UM as a solution to the sweatshop problem. We believe that the FLA is stronger than WRAP in many important respects and weaker in none, so a decision concerning affiliation with the FLA is the important one. The University has decided to join the WRC on a provisional basis and will be sending representatives to the inaugural conference of the WRC on April 7. We discuss below our thinking about the WRC and some of the considerations that we believe must be addressed if the WRC is to evolve into a strong component of our anti-sweatshop policy. The University has thus far opted not to join the FLA. We discuss below our evaluation of the FLA and report our Committee's split views on whether affiliation with the FLA at this time is a good idea.

The Workers Rights Consortium

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

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

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

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

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

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

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

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

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

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

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

The Fair Labor Association

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

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

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

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

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

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

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

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

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

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

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

Follow-Up Responsibilities

There will be a continuing need for members of the UM community to be involved in efforts to ensure that UM licensed apparel is produced in conformance with our code of conduct. These responsibilities will entail a significant investment of resources and of time. Some of them can be delegated to staff members in the Department of Intercollegiate Athletics or the Office of the General Counsel, but many should be entrusted to a committee with broad representation from the UM community.

We recommend that a Standing Committee on Labor Standards and Human Rights be appointed to continue the work begun by our Advisory Committee. The membership of the Committee should include the Director of Trademarks and Licensing, students, faculty and staff, most of whom should be appointed for staggered two-year terms to provide continuity. The Committee should report to the central administration. Its responsibilities should include:

- refining our code and compliance strategies in light of new information and experience.
- monitoring the development of the WRC and reporting to the President on the extent to which it develops into an effective component of our anti-sweatshop policy
- reviewing the results of this year's disclosure experience and making recommendations to the Director of Trademarks and Licensing concerning improvements in the disclosure process that can be implemented by January 2001
- evaluating on a continuing basis information flowing from the disclosure, monitoring and complaint investigation processes in which we will be involved
- making decisions concerning specific instances of non-compliance with or violations of our anti-sweatshop policies
- ensuring effective communication with the Department of Intercollegiate Athletics, so that the revenue implications of our policies are thoroughly considered and so that strong relationships with licensees are maintained
- coordinating efforts to develop common wording for a code of conduct that can be used by as many universities as possible

To the extent possible, this effort should be supported by the research capabilities of the University. Although the Committee does not have specific recommendations concerning how to integrate this effort into the University, we believe that ongoing attention to international labor issues can provide an important focus for research, teaching, and service within the University.

Non-Apparel Items Produced by UM Licensees

The majority of the royalties collected on UM licensed goods come from apparel, but a large proportion of our licensees do not sell apparel. Because the concerns about sweatshop labor that put this issue on the University's agenda focused on apparel production, we have devoted most of our attention to this segment of the market and we believe it appropriate that apparel be the central focus in the next several years of the University's efforts to curtail sweatshop labor. It is important, however, that our code of conduct and our expectations for licensees apply equally to all of our licensees.

We recommend that a research assistant be assigned responsibility for examining the factory disclosure information and preparing a report on the geographical patterns of distribution of production of non-apparel items. We recommend that the Standing Committee on Labor Standards and Human Rights discuss this report and consider whether steps should be taken to address issues related to the code of conduct that concern the production of licensed non-apparel items.

Appendix One

The Economic Arguments

This appendix examines some of the economic arguments associated with the implementation of a code of conduct. Absent special circumstances, the conventional wisdom in economics predicts that the following chain of events will occur:

1. stricter labor standards → an increase in production costs
2. increased production costs → increased prices for consumers
3. higher prices for consumers → lower sales of the goods in question
4. lower sales → fewer jobs producing these goods.

The lessons of the standard economic model are often summed up in such maxims as “bad jobs are better than no jobs at all” and “there is no such thing as a free lunch.” The apparent harshness of such judgments suggests that the “dismal science” is aptly named, but if we care about the consequences of our codes of conduct on workers, we should take seriously the cautions economists advance unless we have reason to believe their counsel is misguided.

On the other hand, many non-economists, and not a few economists, are inclined to believe that codes of conduct can indeed improve the lives of workers. They reach this conclusion either by rejecting the dominant paradigm entirely or, more often, by finding some room for progress in a more complex account of one of the links in the chain of events given above. We summarize some of the principal arguments in this Appendix.

1. Stricter Standards Are Inefficient and Increase Production Costs

The inefficiency claim leveled against labor standards can be leveled against any interference with unfettered markets, including child labor laws, minimum wages laws, health and safety standards, and other regulations that are standard features of developed economies, features that we as citizens of these countries have decided are essential to advancing other important social values. Also, not all labor standards promote inefficiency—it need not always be the case that “stricter standards lead to higher production costs.” A nondiscrimination standard should increase the efficiency of resource allocation, and basic health and safety standards and non-harassment standards may well increase the productivity of workers through decreased absenteeism and turnover and through improved worker-management relations. The charge that labor standards are inefficient is therefore neither always true nor dispositive when it is, since other important values may be advanced in the bargain. In particular, when the values in question have the status of universal rights, the argument that they trump efficiency considerations is compelling.

Protectionist Motives

Several serious questions arise when citizens of one country introduce codes of conduct that regulate labor markets in another, as we propose to do with our code. The first concerns the possibility of protectionist motives being the driving force behind the code. Many leaders of developing countries oppose compulsory foreign codes of conduct because they fear the codes will make their countries less competitive in the world economy, interfere with their abilities to develop their export industries, and hamper their broader efforts at development. The history of trade legislation in this country is rife with protectionism, and despite the spirit of globalization that has characterized public discourse in recent years, it remains true that for many industry and worker groups a policy of liberalization for others and protectionism for themselves is the preferred policy alternative. In recommending that UM adopt a strong code of conduct for factories producing our licensed goods, we reject protectionist motives for the code, relying instead on the prospects the code holds for improving the lives of the workers in developing countries.

Paternalism

Another important question arises when one country adopts a code that regulates labor markets in other countries. If a code of conduct does indeed render a country unable to compete successfully in the international economy, the motives behind the code are of less importance to that country than the effects on its workers and development. Thus it is not sufficient just to forswear protectionist motives in adopting a code—we must think seriously about its impact and be as confident as we can be that the overall impact of the code for workers will be positive. The risk here is not protectionism, but unjustified paternalism. It is one thing for a nation to choose its own regulations, balancing the associated costs and benefits in the process, or for workers themselves to resolve particular tradeoffs through collective bargaining. These are the preferred routes to improvements in workers' lives, and the reason that all serious codes of conduct include standards concerning freedom of association and collective bargaining. But the existence of sweatshop conditions is a sign to many observers that these preferred routes are not working as they should. And many believe that there are universal rights at stake in this matter, rights that transcend decisions made at the national or local level. We believe it is appropriate and even imperative that UM develop a strong code so that those in the UM community, those who buy apparel with our logo, and, most importantly, the workers themselves can be assured that goods bearing our logo are not being produced under sweatshop conditions.

When an outsider (another nation or an institution within it, like UM) implements a code of conduct, it needs to be keenly aware of its impact on workers. One way to think about the appropriate content of a code is to consider what standards workers might bargain for if they enjoyed full bargaining rights or what regulations citizens might choose through the democratic process were one to be in place. As democracies increasingly replace authoritarian and totalitarian governments around the world, the argument in favor of external codes of conduct as a counter to anti-democratic political regimes has weakened

(but not disappeared). Increasingly, wages and working conditions are being determined by market, not political, forces. In many developing countries, low levels of unionization, combined with high levels of unemployment and poverty and weak market demand for labor, leave workers in a weak bargaining position. (At the same time, we note that low levels of unionization alone, such as exist in the U.S., are not necessarily indicators of weak worker bargaining power (e.g., if there is a strong labor market demand and worker mobility).

Because of our concern for the impact of our code on workers, we must carefully consider the case in which a strong code leads to a shift in jobs from one developing country to another (or to more new jobs opening up in a different country than would have been the case in the absence of the code). All indications are that people in developing countries—workers, business leaders, and political leaders alike—do not want to see current jobs disappear or to see opportunities to create new jobs thwarted. Apparel jobs in these countries, even jobs whose conditions lead us to view them as sweatshop jobs, are usually better-than-average jobs. They may lag behind other jobs in the manufacturing sector in terms of wages and working conditions, but they are jobs that workers want to see improved, not driven away. Members of our Committee believe that a code that presents significant barriers to the growth of manufacturing jobs in the world's poorest countries is not consistent with the values underlying UM's policy—because it is not consistent with the outcomes citizens and workers would choose for themselves if they enjoyed the full range of civil and workers' rights. Thus, if our code were to tilt the competition against the poorest countries and if compliance with our code would reduce job opportunities in these countries, that consideration should play an important part in our deliberations.

2. Stricter Standards Lead to Higher Prices

In addition to arguing that standards need not promote inefficiency (and therefore higher prices), some argue that there are other ways to keep higher production costs from leading to higher prices. Critics of the power of multinational corporations often advocate that the higher costs (which they say needn't be that much because of the relatively low percentage of the retail price of goods attributable to factory labor) be covered from corporate profits. Even if profits along the supply chain were large in comparison with the cost of wage increases, it will be difficult in a market economy to bring about this redistribution from the owners of capital to those who work in the factories. Economists point to the difficulty of doing this, noting that the return on investment in the apparel industry is not that high to begin with and that lower returns will lead investors to move their funds to more profitable alternatives.

It is important to note that another source of funds to offset whatever retail price increases are brought about by stricter labor costs is the royalties collected by Michigan and other universities. Universities could buffer price increases, at least temporarily, by decreasing their royalty rate in return for licensees' agreement to implement wage increases.

3. Stricter Standards Lead to Lower Sales

The next link in the economist's chain is "higher prices lead to lower sales." In the absence of special conditions, the general point is true. Two special conditions are worth noting, however, one that might produce a result that contradicts the general rule and one that would be associated with a weakened effect of a price increase.

- If consumers prefer to purchase goods that are produced under humane conditions and are willing to pay a premium to purchase them, then production of university licensed apparel under a strong code might lead to an increase in demand sufficient to offset the effect on demand of a higher price. Some cite as an analogy the willingness of some consumers to purchase organic food at higher prices once they can be assured of its quality. At present, evidence for such an effect with university licensed apparel is not available, and a strong labeling system would probably be necessary for such an outcome to occur.
- The second condition relies on an assumption that demand for university licensed apparel is relatively inelastic. Many observers believe this to be the case. The logic here is that consumers have a strong "brand" preference—a consumer who sets out to purchase a UM sweatshirt is unlikely to purchase an MSU sweatshirt or an NFL sweatshirt or a Tommy Hilfiger sweatshirt simply because of a small price differential. This price inelasticity of demand for UM goods must be distinguished from other factors that affect demand for UM goods, such as general shifts by consumers from UM licensed goods to goods with other logos (NFL, popular designers) or goods with no logos at all, and shifts from UM goods to goods from another university as on-the-field athletic records wax and wane. There is no strong empirical evidence concerning the inelasticity of demand for university licensed goods, but the strong brand loyalty, which is assumed to hold for most consumers of UM licensed goods, would produce this effect. If this is the case, then higher prices will lead to lower sales (and fewer jobs), but the effect will be small.

Under these conditions, we can expect important gains for workers at the cost of some number of jobs. Whether this is, on balance, a good outcome for workers will depend on the magnitude of the job losses. At present we know too little to forecast this outcome with confidence.

This argument about inelastic demand is restricted to goods for which a strong brand loyalty exists. This is much more likely to be true of university licensed apparel than of apparel in general, where price is frequently the most important factor influencing consumer choice. This difference is important when it comes to the question of whether our efforts to eliminate sweatshops should focus on university licensed apparel or on apparel in general.

4. Stricter Standards Lead to Fewer Jobs

Proponents of a living wage in the apparel industry point to evidence about the employment effects of increases in the minimum wage in the US and of adoption of living wage ordinances by dozens of American cities as indications that the causal links in the standard economic argument are faulty.

Economic theory, at least in its simplest form, tells us that higher wages will mean fewer jobs, but recent evidence from the US indicates that minimum wage increases in the US are usually not accompanied by significant job losses. Indeed, sometimes there is no loss of jobs at all. An increase in the minimum wage will not cause job loss if the minimum is set below the market wage, as is the case in much of the U.S. This may or may not be true in developing countries. Also, job losses will be avoided if the demand for labor grows more rapidly than the minimum wage.

One needs to be appropriately cautious about generalizing the U.S. experience to the global apparel industry. The minimum wage increases in the U.S. have been smaller than the wage increases that would likely be required to provide a living wage in apparel factories. In addition, many of the jobs cannot be easily moved elsewhere.

Similar caution is warranted concerning the experience of American cities with living wage ordinances, which do not seem to generate appreciable job loss. City governments covered by living wage ordinances aren't subject to the discipline of the market in the usual sense, and here, too, many of the jobs cannot be shifted elsewhere.

Multinational Corporations and Market Power

Critiques of the standard economic model from outside of neoclassical tradition doubt that apparel firms (or even local factories) operate in competitive markets that give them little influence over market outcomes. Proponents of this view usually emphasize the power of multinational corporations and argue that power relationships rather than supply and demand establish the basic shape of the global economy.

On this view, the major corporations in the apparel industry (Nike, Adidas, etc.) have the ability to improve the wages and working conditions of their workers if they choose to do so, but they will not do so voluntarily. Proponents argue that universities have significant leverage over factory wages and working conditions through their agreements with their licensees and that universities can bring about real progress simply by adopting strong codes of conduct and imposing them on their licensees and other firms in the supply chain.

This set of views lacks the well-developed analytical structure of the dominant paradigm in economics. Features of this approach as it has been applied to apparel production include references to large profits that can be tapped to fund stricter standards, the fact that production labor is a very small percentage of the retail price of most apparel, the inelastic demand for licensed apparel, and deep skepticism concerning the links in the causal chain noted above that rely on outcomes determined by supply and demand. For most of the members of the Committee, this approach to thinking about sweatshop labor does not provide an adequate foundation for forecasting the effects of alternative anti-sweatshop policies.

Appendix Two

The Living Wage Debate

In this Appendix, we summarize our thinking concerning the viability and wisdom of having a living wage requirement in our code of conduct. When we use the term living wage in this Appendix, we are referring to the definition that relies solely on an assessment of the needs of workers and their families, without reference to the sustainability of such a wage in the local labor market under consideration. On one hand, such a definition is appropriate, for it focuses our attention on what it takes to enable an average family to meet its needs and plan for the future. As such it embodies a goal for family incomes that can be embraced by nearly everyone. On the other hand, because it is insensitive to local economic conditions (except as they are reflected in the prices of basic goods and services), such a definition of a living wage fails to engage the question of whether this wage level can be sustained in the local economy when factory owners have the option of moving elsewhere.

The needs-only definition of a living wage is not necessarily the only way to formulate a living wage, but it is certainly the most prominent in the current debate. It is also the only one for which a detailed methodology has been developed. Advocates who acknowledge that the impact of wage levels on employment is an important consideration in determining a living wage have not yet developed an adequate methodology for balancing this factor against the family needs standard. Two members of our Committee believe that our focus on the needs-only definition of a living wage in our discussion is unfair to the range of views held by living wage advocates. Their views on this matter are presented in Appendix Three. In this Appendix, we focus on our concerns about the needs-only definition.

Wage Increases and Job Losses: In Theory

Could we require a living wage without a significant loss of jobs? The answer to this seems to be: “in theory, probably” but certain assumptions need to hold for this to be true. The argument has two principal parts. First, factory labor is a small part of the retail price of apparel, usually under 10%, and in many cases under 5%. Whatever wage increase is required to achieve a living wage would translate into a much smaller percentage increase in the retail price. The shorter the supply chain (the fewer the parties who mark up the price as it moves through the supply chain), the smaller the likely percentage increase in the retail price. Second, if demand for UM apparel is relatively price inelastic (as many believe to be the case), then a modest price increase will lead to only a small decrease in sales. If consumers attach value to buying apparel produced by workers earning a living wage, demand might even increase. If this is how the market works, then the decline in employment relative to the increase in wages will be muted by both of these effects. The impact on jobs might therefore be, at worst, small. Of course, the effects will depend on the magnitude of the wage increase, but there might be room for more than a modest wage increase before the job loss effect became significant.

However, it is inevitable that a requirement that raises wages by different amounts in different labor markets, as a living wage requirement would do, is going to set in motion forces that will affect the distribution of jobs across these markets, with markets that face the smallest wage changes doing better than those that must absorb larger wage increases. This means that while it may be possible to increase wages without a significant decline in total employment in the university licensed apparel sector, there is strong reason to believe that jobs will be shifted among producing countries, with some countries seeing their number of apparel jobs decline. The magnitude of the decline in employment and change in the distribution of jobs among countries will depend on the price elasticity of demand for the goods in question, on the ability of owners to pass along cost increases in the form of higher prices, and on the variation in mandated wage increases across affected countries. At present, we have little empirical evidence about any of these matters. As we wait for evidence to develop in light of universities' experience with implementing codes of conduct, our concern for the jobs of workers in the poorest countries leads us to recommend that we move forward with caution.

Wage Increases and Job Losses: In Practice

The paragraph above included the modifier “in theory” in its judgment about the impact of a living wage requirement. What about in practice? Several new elements enter the picture. For licensees that have their own factories or that have well-integrated supply chains over which they have significant influence, a living wage requirement ought to work in practice as well as in theory if they care enough about the profits associated with our license. And the more universities that insist on it, the better the chances they will go along. For licensees that utilize a supply chain with independent factories, however, and this is very likely the modal case, it will depend on whether the licensee can find middlemen and local factory owners who find it worthwhile to go along with the living wage arrangement. There are reasons to think they will resist doing so.

Incorporation of a living wage into the local factory owner's costs of production may wipe out his profits. For him, the relevant cost figure is not labor costs as a percentage of the retail price of a garment, but labor costs as a percentage of his “out the door” cost of producing the garment, which will be much greater than 10%. Given the degree of competitiveness in the industry, it is highly unlikely that a factory owner's profit margin is several times his labor costs, so a large wage increase may render his factory unprofitable if he can't pass the cost increase up the supply chain. Whether he can do that or not remains to be seen. This is one of the places where it may prove more difficult in practice to achieve something that appears feasible in theory.

But even if he can pass along the increased costs, another important matter arises. Most factories that produce university licensed apparel also produce apparel for other customers, including many in the non-university sector of the industry. It will be extremely awkward for workers making university apparel to be paid a higher wage than workers producing other apparel (when the work is virtually identical), or for a worker to make more during the hours in which she produces university apparel than during the

hours in which she produces for other customers of the factory. Pressures arising from both workers and management are likely to lead to wage standardization within a factory.

Several outcomes are possible if wage standardization is the norm. The factory owner could raise all wages to the living wage. But this is likely to be accompanied by non-university apparel production being shifted elsewhere to avoid the living wage requirement. The willingness of universities to use the leverage of their trademarks to induce licensees to comply with codes of conduct has no parallel in the non-university segment of the apparel industry. Neither apparel firms nor major retailers seem prepared to trade off the bottom line against improvements in wages and working conditions, so there is every reason to expect resistance to across-the-board wage increases. Even if other apparel firms don't shift production elsewhere, the cost increase associated with a living wage is very likely to result in declining sales of these other goods and in fewer jobs producing them. For if the demand for the other goods is not as price inelastic as the demand for university licensed apparel, which is almost certainly the case, then the imposition of a living wage will result in decreased sales. In this case employment in the factory will decline, but those remaining employed will receive higher wages. Is this a good tradeoff? It's difficult to tell, but it seems like one that the workers themselves ought to make, not us.

However workers feel about it, this is a prospect that will have little appeal for the factory owner, since profits will decline in any case. He may pre-empt any judgment by workers by getting out of the production of university licensed apparel entirely, thus avoiding the living wage requirement. Unless the university apparel is a large part of his business, this may well be the more attractive option. There is good reason to be concerned by "cut and run" tactics in response to the imposition of a code of conduct, and many anti-sweatshop advocates give careful consideration to ways in which licensees can be kept from engaging in this tactic. But it may well be the factory owner, not the licensee, who breaks the supply chain and gives up the licensee's business rather than implement the code across all of his production. Such behavior is much more difficult to counter, since universities have no direct links to or influence over these owners.

Would such an outcome mean that no university apparel would be produced? No, the likely outcome would be segregation of production. University apparel and other apparel would be produced in separate factories, with workers in the former receiving higher wages. If that happens, is there any reason to be concerned?

At one level, no. University licensed apparel would be produced in factories that pay living wages and honor basic workers rights, which is the goal of our efforts to curtail sweatshops. At another level, there may be reason for concern. First, such an outcome will do little for apparel workers in general, the vast majority of whom will continue to be involved in the production of non-university apparel. The existence of higher-wage apparel jobs will serve as a demonstration that it is possible for such jobs to exist, but in the absence of market conditions that make it possible generally, the benefits will be restricted to those few workers who are fortunate enough to get the higher-wage jobs.

If the wage differential is significant, there will be a tendency for various forms of corruption to grow up around these jobs—bribes to get the jobs, kickbacks to those controlling jobs, requests for sexual favors, etc. are likely to result when the demand for these jobs greatly exceeds their supply. When this occurs, the benefits we intended to be received by the workers will be diffused among other, less deserving actors in the local labor market.

Another, more troubling, outcome is that if university licensed apparel comes to be produced in separate factories that meet higher standards, it is likely to be produced in those countries where the differential between the prevailing wage and a living wage is smallest. It is there that the impact of the living wage on production costs and sales is likely to be minimized. If this is true, then licensed apparel is unlikely to be produced in the world's poorest countries, where jobs of any kind, but particularly entry-level manufacturing jobs, are so badly needed. Apparel production is often the entry-level sector for countries that are developing an export manufacturing sector, and barriers to their participation in apparel production may hamper broader development efforts. Many of us on the committee view the prospect that a strong wage standard would preclude production of UM licensed apparel in very poor countries as unattractive and believe that a wage standard that takes into account both the needs of workers and the economic conditions of the local labor market is therefore more appropriate.

Operationalizing a Living Wage

In addition to the more theoretical issues in the living wage debate there are important issues surrounding the operationalization of a living wage. The most common methodology used to define a living wage refers to the wage necessary to purchase (a proportional share of) a basic marketbasket of goods and services that are required by a worker and her or his family.

There are a variety of technical details concerning a living wage that need to be explored further before such a requirement can be implemented on a broad basis. The most cited work on living wages abroad is that of Ruth Rosenbaum at the Center for Reflection, Education and Action (CREA). CREA's marketbasket of goods and services includes: food, transportation, cooking fuel, rent, potable water, clothing, lighting, education, medical care, child care, a small amount of savings, and a category that includes items required by local cultural norms and customs. The most common version of the living wage begins by determining the funds needed to purchase the basic marketbasket of goods and services for the average family. This amount is divided by the average number of workers in a family, and that amount is in turn divided by the number of hours in the standard work week to determine the hourly, take-home living wage rate for the area under study.

One element of this definition that warrants deeper discussion is the definition of the average family. Can we arrive at a definition of the family that can be used in all countries, or do we accept local understandings of family? For instance, many workers in Asian apparel factories are unmarried young women who move from their home villages

to work in factories for several years, after which they move back home. Are they single workers for the purpose of defining a living wage or members of an extended family? Difference in average family size across countries (or regions of a country, if living wages are defined at the regional level) will translate into differences in the level of a living wage. These in turn will influence where jobs will be available.

The inclusion of savings in the living wage and the use of a standard workweek (without overtime) have similar effects. Overtime seems to be available in many apparel factories and workers frequently take advantage of this opportunity. The extent to which this is true is currently unknown, but the Independent Universities Initiative and other studies will provide some solid evidence on this in the next few months. Building savings into the basic wage rate, rather than leaving it to be covered by overtime work, raises the level of the living wage and therefore exacerbates the effect of wages on the distribution of jobs. Similarly, nations with a shorter standard workweek will find themselves, other things equal, with higher living wages, which will put them at a disadvantage in attracting and holding jobs.

Living Wages and the Distribution of Jobs

The larger the gap between the living wage and the prevailing wage, the greater the incentive for factory owners to consider relocation. A likely effect of a living wage requirement in the apparel industry would be a shift of jobs from countries that would require large wage increases to those that would require smaller increases. (We assume that where the living wage is below the prevailing industry wage or minimum wage, as it may be in some middle-income developing countries, the higher standard will continue to be adhered to.) Labor costs are, of course, not the only determinant of factory location decisions, and relocation might not occur quickly. But labor costs are one of the principal *variable* costs across labor markets, so there is good reason to believe that over time, as new factories are opened, this effect will make itself felt. Given what we know about wage levels and productivity in producing countries (which, once again, is not as much as we would like to), there is a good chance that a living wage requirement will favor the more advanced developing countries over the poorest developing countries. Most of us on the Committee believe this would be a very unfortunate outcome and our concern over this prospect is one of the reasons we believe that progress toward a living wage should be incremental rather than instant.

An Example: El Salvador

At the behest of the National Labor Committee, a group of students from the School of International and Public Affairs (SIPA) at Columbia University recently carried out a living wage study in El Salvador.⁴ The recent Department of Labor study also reports

⁴ Melissa Connor, Tara Gruzen, Larry Sacks, Jude Sunderland, Darcy Tromanhauser (Faculty Advisor: Shubham Chaunduri), "The Case for Corporate Responsibility: Paying a Living Wage to Maquila Workers in El Salvador." Program in Economic and Political Development, School of International and Public Affairs, Columbia University, May 14, 1999.

wage data from El Salvador. One can no doubt quarrel with the methodology of both studies on various grounds, but their results are instructive on a number of fronts.

The SIPA study used the following definition of a living wage: *A living wage is the take-home pay one adult person must earn during a legal work week to allow an average-sized family to meet its basic needs with dignity and save a certain portion [12.5%] for long-term planning and emergencies. Basic needs include food, housing, education, childcare, health care, clothing, energy, water, and transportation.*

The study reports that the minimum wage in El Salvador was 1260 colones per month (for a 44 hour work week) and that most workers receive this minimum monthly wage. The study utilizes several methods of estimating a living wage—the “middle” estimate is 4556 colones per months (for a family of 4.3, the average size in urban El Salvador). If these figures are correct, a living wage requirement would mandate a 260% increase in the wage rate. Using a living wage definition that relies on two workers per family (which probably overestimates the average number of workers per family), the living wage would still be 80% greater than the minimum/prevaling wage. These figures, if correct, tell us several important things. First, that prevailing wages in El Salvador are inadequate to meet the needs of the average family. Second, that a living wage requirement would entail very large wage increases and might very well threaten the sustainability of these jobs. The results of the study thus demonstrate very well the tension we see between implementing a strong code and sustaining the jobs we seek to improve.

One gets a substantially different view of the situation from the Department of Labor study. It reports that the average apparel worker’s monthly wage was 1600 colones (in 1998). One estimate of the poverty level for an average urban family puts the figure at 2590 colones (in 1999). This calculation is based on “the cost of a basic food basket ... and other essential goods and services (housing, clothing, and other miscellaneous items such as health care, education, and transportation).” Another study puts it at 2620 colones. If these numbers are correct, the average family can reach the poverty line with 1.6 workers employed in apparel factories, which would suggest that an average family could reach the poverty line through employment in apparel factories.

These two studies contain significant disparities in estimates of both current wage levels and in living wage/poverty levels. Together, they illustrate the challenges we will face as we assess the relationships between wages and workers’ needs in the process of refining the compensation section of our code. For instance, one cannot tell from the studies whether the difference between the living wage estimate in the SIPA study and the poverty level estimates in the Department of Labor study reflects fundamental differences in the definitions used or different estimates of the costs of the basic needs that are included in the analyses.

Future Living Wage Studies

At the Living Wage Symposium at the University of Wisconsin last fall, a representative from The University of Notre Dame agreed to take the lead in organizing a consortium of universities to participate in a series of living wage studies in countries that are major producers of university licensed apparel. These studies will provide an opportunity to develop and refine the methodology for calculating a living wage and will provide vital information about the relative magnitudes of wage increases that would be associated with the imposition of a living wage requirement for university licensed apparel. At a minimum, these studies will provide important benchmarks and insights into the challenges posed by a living wage requirement. Beyond that, they may prove to be the critical first step in implementing a living wage requirement. **We strongly recommend that the University of Michigan participate in this consortium.**

Appendix Three

A Dissenting View Concerning the Discussion of a Living Wage

Although we are generally satisfied with the compensation language in the ACLS' code, we believe that the decision to exclude the term "living wage" from the code is problematic because it is based on a number of false assumptions about the motives of living wage proponents. In addition, while we agree with some of the basic analysis concerning the potential problems wage changes could pose for workers' jobs, we believe that the economic analysis concerning wage standards in this report is incomplete in some ways. A "living wage" as interpreted by SOLE, USAS, and most living wage proponents is a wage that meets the basic needs of workers and their families. The compensation standards created by the committee are largely consistent with this definition so in this sense we are satisfied. We believe, however, that the characterization of living wage proponents that is presented in this report is inaccurate. As part of its discussion of a living wage, the report states on page 23 that "The distinction that we believe is critical in this discussion is whether a living wage is assessed solely on the basis of the needs of workers and their families or whether the nature of the local employment market is taken into account as well. It is this distinction that underlies our disagreements. Those of us who prefer not to use the term living wage in connection with the compensation standard do so because we believe that the term is most often associated with the "needs only" definition." We take issue with the implication that living wage proponents do not care about job loss for workers. Students on campus who have worked very hard over the last two years to bring our concerns about labor abuses to the attention of the University community are of course very concerned the ability of workers to keep their jobs. We recognize how important these jobs are for countries with high poverty and unemployment rates. It is because of this concern that USAS has not called for consumer boycotts of abusive companies. The implication of the committee's statements is that activists are somehow less concerned about workers' jobs than the committee members. We take great offense to this.

We also believe that the Committee's characterization of the Wisconsin Living Wage Symposium places too much emphasis on the "needs only" definition of a living wage when it states on page 23: "Such a definition received widespread support at the Living Wage Symposium at the University of Wisconsin last November and it is the definition used by the most prominent advocate of a living wage, the Center for Reflection, Education and Action (CREA)." However, the report published by the University of Wisconsin after the Symposium devotes substantial discussion about the possible negative effects of a purely "consumption based" living wage standard. It raises many of the concerns that have been addressed in the committee's report including the possibility of labor shifts following an increase in wages among others. Following this discussion the report on the Living Wage Symposium concludes by stating "Given these concerns, we think it is necessary to combine a consideration of a consumption standard with an assessment of the local market conditions."

The decision to exclude the term “living wage” from the code as it was used in the original code that students lobbied for last year and the premise by which it was excluded is insulting to students and others who have fought for a strong code of conduct with good compensation standards over the last two years. It is also a violation of the agreement we made with this University last year after very long hours of negotiations over this very issue. Adding the original language concerning a living wage to the ACLS code would allow recognition of the fact that many of the committee members do not feel comfortable with the term without alienating the entire group of people who have raised these issues in the first place. In addition to these concerns, we feel that the economic analysis contained in the report is not entirely complete.

In Appendix One (The Economic Arguments), the report uses four cases of causes and effects to describe a very simple economic phenomenon— the scale effect. The scale effect means that higher marginal labor costs lead to a higher total price which creates a smaller amount of demand finally leading to a decrease in demand for labor. The overall scale effect or change in employment due to a change in marginal labor costs (in this case the paying of a living wage), is directly linked to the elasticity demand for the product. An inelastic demand for a product means that when the price of a good increases that there will only be a small decrease in demand for that product. Hence, the demand function would appear almost vertical. A vertical demand function means that if Nike raises the price of Air Jordan's from 50\$ to 90\$, which did happen in the 1980s, that the demand for the product would not fall significantly (the 1980s was a booming time for Air Jordan's and Nike). Lets take the case of a University of Michigan cap made in the Dominican Republic. The direct labor costs that went into the \$20 hat were only \$0.08. The factory or subcontractor normally sells the hat to the contractor in the region for about \$4.50. In this case, even if we doubled the wages of the workers who make these hats and passed off the entire increased marginal labor costs to the consumer, the total price would only rise by about eight cents. Consumers could hardly tell the difference between the \$20 cap and the \$20.08 cap.

But let's see what economists think about the effect of a price change of about one dollar per garment, which is probably far greater than anything we'd see in the collegiate market. Harvard University Economist Richard Freeman has studied the apparel and textile industries for a number of years. Freeman asserts in his 1998 paper entitled "What Role for Labor Standards in the Global Economy?" that the consumer is "willing to pay higher prices for the goods produced under better conditions," which indicates that consumers have incorporated labor standards into their preferences.

"One way to respond to the skeptics and find out if there really is a demand for labor standards is to ask consumers how much they value the labor conditions of the products they buy. In 1995 Marymount University's Center for Ethical concerns asked a sample of Americans 'if you were aware of a retailer that sold garments made in sweatshops, would you avoid shopping there.' Seventy-eight percent of respondents said they would. Eighty-four percent said they would be willing to pay \$1 more for a \$20 garment if they knew it was made in a legitimate shop. A 1997 CAFOD/MORI poll in the UK found that 92% of British

consumers believed that British firms should have minimum standards of labor conditions for their Third World Suppliers. In October 1998 I conducted a short pilot survey that expands upon these results. Mimicking the Marymount findings, around 80 percent of respondents said that they would not buy products made under poor conditions or that they were willing to pay more if they knew the items were made under good conditions...The results show that consumers are willing to pay a modest premium for products made under good conditions," Freeman states.

In the case of U-M apparel, Michigan fans are highly dedicated to U-M teams and we must look no further than Moe's Sports Shop after the Wolverines win a Big Ten title to realize that fans are pretty much willing to pay whatever it takes to don a U-M shirt, especially if it is a special Rose Bowl or championship shirt. An inelastic product demand is a very reasonable assumption, and based on this assumption we should not expect a significant fall in demand for U-M apparel due to small price increases. In fact, as we have seen in the past three years, when U-M teams perform poorly it is likely that apparel sales fall - this is the dominant explanation. The decline from \$5.7 million in royalties to \$3.3 million from 1997 to 1999 is a clear sign that demand is a function of the performance of U-M sports' teams. It is highly unlikely that if U-M fans are forced to pay 10 cents or even \$1 more for a hat or shirt that they will buy less apparel. Therefore, the scale effect that we can expect, as economists cited at the Living Wage Symposium in Madison, WI, is quite insignificant.

As far as the shifting of production from one country to another goes, the ACLS report has oversimplified the incentives for a company or contractor to shift production. We cannot tell today how much moving will take place, and in what directions — there are too many factors that determine where production will be allocated. Factors that the ACLS has left out include the probability of labor unrest, different risk factors associated with investing in a certain nation or labor market, supply shocks, hyperinflation, and many others. Manufacturers base their production allocation on many factors, and to say that there will be major shifts in production due to a shift only in wages is simplifying this model in an unrealistic manner.

One definite limit to shifting production from one region to the next is what four Harvard University researchers have called lean retailing. Demand fluctuates so quickly in the apparel industry today (especially in the collegiate market) that manufacturers such as Nike have to react to demand quickly and stock the retailers' shelves within less than a week. This requires manufacturers to produce in labor markets that are close to the consumer market. Thus, if Nike has to sell to US consumers, it must produce at least a portion of its goods in the United States, Mexico or Central America where it can quickly make and ship out garments to US retailers. A shipment of Rose Bowl T-shirts from China would take too long to get to market and U-M fans would buy hardly any.

The ACLS has ignored this major trend within the apparel industry in the 1990s, and as a result the report treats a company's production decision as a minimization of labor costs, which is only partly the case in this complex industry. The report claims that "if university licensed apparel comes to be produced in separate factories to meet higher

standards, it is likely to be produced in those countries where the differential between the prevailing wage and a living wage is smallest." First of all, we do not have an indication of exactly what the differentials will be between nations' prevailing and living wages, so it would be premature to say that all the jobs would go to the poorest nations or the developed nations. Secondly, and more importantly, this ACLS report does not take into account the fact that a company must meet the demand schedule and cost minimization is a very small component or maximizing profit when a rush order occurs.

We cannot say today, either as academics or activists, that "A likely effect of a living wage requirement in the apparel industry would be a shift of jobs from countries that would require large wage increases to those that would require smaller increases." This statement again ignores the major differences between nations, both in productivity and wages. If we're only looking to minimize labor costs and the wage in Indonesia is 16 cents and the wage in the Dominican Republic is 69 cents, even if we increased Indonesian workers wages to 30 cents and we increased the DR's workers' wages to 80 cents, a company would not want to move to the DR based on a higher wage increases in Indonesia. Labor costs would still be minimized by producing in Indonesia. However, we cannot assume that we know exactly what will happen to production based on these wage increases. Without a tight enforcement of the cut and run policy of the WRC, it is possible that shifts in regions and nations for production will occur, but the degree to which these shifts happen and in which direction is impossible for us to predict right now.

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