May 31, 2007

Chancellor James Moeser
103 South Building, CB #9100
Carolina Campus

Dear Chancellor Moeser:

The following is our report of the Licensing Labor Code Advisory Committee’s activities and recommendations for the 2006-2007 Academic Year.

Executive Summary and Recommendations

The Licensing Labor Code Advisory Committee (LLCAC) is committed to continual improvement, hence, where possible, we encourage licensees not only to live up to but even to go beyond the current provisions of the University’s Labor Code. As a member of both the Fair Labor Association (FLA) and the Worker Rights Consortium (WRC), the University works with these organizations and should strive to be a national leader in improving labor conditions.

The Licensing Labor Code Advisory Committee appears to have reached consensus on the following recommendations:

1. Retain membership in both the Fair Labor Association and the Worker Rights Consortium.
2. Develop a procedure that will incorporate compliance capacity (i.e. the capacity of a licensee to comply with the existing UNC Code) as a criterion for selecting and renewing licensees.
3. Maintain the LLCAC’s ability to recommend sanctions against licensees who do not live up the terms of the UNC Code.
4. Support the efforts of Professor John Pickles and other UNC faculty and students to research these complex issues and organize a symposium to discuss them.

The Licensing Labor Code Advisory Committee appears to have reached near consensus on the following recommendations:

1. The University should continue its participant observation of the Designated Suppliers Program (DSP) Working Group.

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The Licensing Labor Code Advisory Committee is Co-Chaired by James Peacock and Derek Lochbaum. Other members include Dick Baddour, Altha Cravey, Patrick Conway, Jack Evans, Don Hornstein, Shirley Ort, John Pickles, Dwayne Pinkney, Dennis Arnold, David Cook, and Melanie Stratton.
2. UNC should participate in the Pilot Study of Fair Labor Association’s Enhanced Licensee Program\textsuperscript{2}.

Other items were suggested but not fully discussed, including two, additional questions: (1) What can we learn from parallels between labor issues in factories of licensees and those on our own campus, and (2) should we explore ways to go beyond FLA and DSP proposals, such as creating a UNC “fair wage” product-line?

**Background**

On May, 8, 2006, the LLCAC provided you with a report and recommendations regarding the Designated Suppliers Program (DSP) proposed by Unites Students Against Sweatshops (USAS). On May 15, 2006, you accepted our report, endorsed our proposed statement, and requested that Derek Lochbaum, Director of Trademarks and Licensing, complete several actions items\textsuperscript{3}. All items were completed.

Derek was further instructed to continue the University’s membership in the Fair Labor Association and the Worker Rights Consortium and participate in any dialogue that could lead to improving to our existing Code. Since our last report, the University has maintained its membership in both organizations and Derek has been active in discussions with key stakeholders.

On September 29, 2006, the DSP Working Group – a group comprised of representatives of 34 universities that have publicly articulated support for the DSP and expressed a commitment to moving the program to implementation, as well as, student representatives from USAS -- announced changes to the Designated Suppliers Program\textsuperscript{4}. You forwarded the revised DSP to the LLCAC for review on October 9, 2007.

In October of 2006, The Fair Labor Association released a Working Draft of FLA 3.0\textsuperscript{5}. FLA 3.0 leverages FLA’s multi-stakeholder partnerships to develop capacity for compliance at the factory level. It is an integrated approach to sustainable compliance that pools constituent resources, increases collaboration, focuses on the identification and remediation of root causes of non-compliance, creates opportunities for local stakeholders to play an integral role in identifying priority compliance issues, provides remedial and capacity building services, and assesses progress made by suppliers. A draft of this program was forward to the LLCAC on November 11, 2006 for our review.

\textsuperscript{2} FLA Enhanced Licensee Program materials located in Appendix I.
\textsuperscript{3} Action items: (1) Contact licensees in writing to solicit their capacity and willingness, in the immediate or near-term, to begin sourcing UNC logo apparel from factories that go beyond our current code. (2) Ask the FLA to show cause with respect to broadly achieved sustainable measurements of its ability to monitor and verify implementation of our labor code in the current market. (3) Ask the WRC to show cause of its administrative ability to implement the DSP as well as to continue simultaneously its work of complaint investigation at non-designated factories.
\textsuperscript{4} Revised Designated Suppliers Program materials located in Appendix II.
\textsuperscript{5} FLA 3.0 materials located in Appendix III.
Work of the Committee

The LLCAC met nine times, approximately once a month, during the 2006-2007 Academic Year. As a way to further our discussions, we invited several experts and stakeholders to meet with the Committee. The following individuals, as well as Committee members, participated in Committee meetings:

- October 23, 2006: Auret van Heerden, President and CEO of the Fair Labor Association.
- January 8, 2007: Peter Coclanis, Associate Provost for International Affairs.
- February 8, 2007: Richard “Pete” Andrews, Distinguished Term Professor of Public Policy and former Co-Chair of the LLCAC.
- February 22, 2007: Joe Bozich, CEO of Knights Apparel, and Bill Howard, President and CEO of the Cotton Exchange.

In January 2007, the UNC Supply Chain Program and the Carolina Asia Center invited HeeWon Khym, NGO and Labor Union Coordinator for the Fair Labor Association, to campus to discuss FLA 3.0. Some members of the Committee attended the presentation.

In February 2007, in collaboration with Professor John Pickles, Caitlin Morris, Director of Integration and Collaboration, and Stephani Kobayashi Stevenson, Manager, Stakeholder Partnerships, from Nike, met with a group of UNC faculty and staff, including several LLCAC members and both Co-Chairs, to discuss possible cooperative research endeavors. Such research could provide data, analysis and future educational programming for students and faculty.

Derek Lochbaum has traveled extensively and participated in numerous calls to gain more information for the Committee to review. He has attended approximately a dozen, out-of-town meetings in the past year where possible improvements to our existing code have been discussed. These meetings were hosted by the WRC, the FLA, the DSP Working Group, and the International Collegiate Licensing Association. In November, he also visited Nike World Headquarter in Beaverton, OR to gain a better understanding of the company’s complex supply chain. Derek will travel to the Dominican Republic with the Fair Labor Association this June.

With the above activities and steady flow of documents, reports, and other communication from interested stakeholders, we believe the Committee has received much information concerning the topics we have been considering for two, full academic years. However, we also understand that this discussion deals with very complex issues, with wide varying opinions, and the dialogue continues to evolve.
Discussion of Recommendations

Near the end of the academic year, the Co-Chairs circulated six proposed recommendations for the Committee's review. Based on comments received by email and at the Committee's final meeting on May 11, 2007, the Committee appears to have reached consensus on four of the recommendations and largely agreed upon other two.

The Six Proposed Recommendations:

1. *Retain membership in both the FLA and the WRC.*
   In the evaluation process, UNC has always sought input from all interested parties. The Committee believes that these two major organizations continue to complement, and routinely work with, one another to investigate and remediate issues at factories around the world. As you stated in your letter, dated May 15, 2006, “[w]e need to benefit from the continued dialogue and efforts underway in both organizations, as well as among licensees and other interested parties, to improve the current system and working conditions for employees in factories producing goods for the collegiate market.”

2. *Develop a procedure that will incorporate compliance capacity as a criterion for selecting and renewing licensees.*
   This concept (i.e. the capacity of a licensee to comply with the existing Code) has been discussed extensively among Licensing Directors on the national level, including many major licensing programs. Evaluating such capacity provides an opportunity for a university to play a larger role in the true enforcement of the Code. Such a procedure may lead to changes in our current licensee base (e.g. some applicants without the necessary capacity may not be accepted for licensure). However, prevention may be a better approach than attempting cures. Participation in the FLA’s Enhanced Licensee Program will provide data and resources to help develop this procedure.

3. *Maintain the LLCAC’s ability to recommend sanctions against licensees who do not live up the terms of the UNC code.*
   Over the years, the LLCAC has recommended the suspension and/or termination of contracts when licensees did not live up to the terms of our Code. Based on Committee recommendations, Chancellors have acted to suspend and terminate licensees. Although such actions have happened rarely, and the Committee would prefer to work with licensees to improve conditions rather than to terminate, this sanctioning power is necessary for the enforcement of the Code.

4. *Support the efforts of Professor John Pickles and other UNC faculty and students to research these complex issues and organize a symposium to discuss them.*
   As previously mentioned, representatives from Nike met with a group of faculty and staff to discuss research and educational opportunities at UNC. John Pickles.

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*Derek Lochbaum, Don Honstein, David Cook and Dennis Arnold were unable to attend the last LLCAC meeting on May 11, 2007.*
who also chairs the Supply Chain group under the Center for Global Initiatives (formerly UCIS) is coordinating this partnership with Nike. Beyond the research and possible future educational programming that may result, a Symposium could bring together stakeholders -- licensees, monitors, organizations, retailers, students, institutions, etc. -- to explore more fully and neutrally issues that lie behind the practices and regulations associated with our Code.

5. The University should continue its participant observation of the DSP Working Group.
The LLCAC remains divided on the question of support for the DSP proposal. Some members advocate the University joining the DSP Working Group and others do not. In order to join the Working Group, a University must commit to the DSP proposal in principle and then work toward its implementation. UNC has not made such a commitment. Therefore, Derek Lochbaum has attended meetings of the DSP Working Group as a participant observer.

Revisions were made to the DSP proposal by the DSP Working Group after meeting with licensees in July 2006. Some of the same questions and concerns regarding the DSP cited in last year’s Committee report still exist and remain unresolved with the revised DSP. During this past year, the Committee received a wide array of information and opinions, both in person and via written materials, regarding the revised program’s economic, legal and logistical probabilities and impact. In January 2007, the DSP Working Group asked the United States Department of Justice (DOJ) for a Business Letter of Review. The DOJ has yet to issue the report.

Because a University is asked to commit to the implementation of the DSP prior to such a plan being fully developed and with many unanswered questions still remaining, the Committee did not recommend joining the DSP Working Group. However, we acknowledge useful analysis is derived from debate and discussion. Therefore, the LLCAC recommended Derek continuing to serve as a “participant observer” at Working Group meetings.

6. UNC should participate in the Pilot Study of Fair Labor Association’s Enhanced Licensee Program.
The FLA reports that interactions among universities, licensees and the FLA have revealed gaps in the capacity of licensees to comply with university Codes of Conduct. The FLA has upgraded its program for licensees in response to these findings, to provide new and diverse resources to both universities and licensees seeking to improve compliance with labor standards. A group of universities will pilot the enhanced program, beginning in summer 2007. The program focuses on assessment of licensees’ compliance capacity (at the level of the university and the FLA), and enhancing compliance competency through capacity building, trainings for licensees and licensors, compliance audits, and consultation with multiple stakeholders.
The FLA pilot study does not require commitment “in principle” to a program but simply participation in a study, which will explore and test approaches in specific situations. Data collected during this pilot study will assist in completing Recommendation #2, “Develop a procedure that will incorporate compliance capacity as a criterion for selecting and renewing licensees.” This study may also show ways to improve labor conditions and ways not to operate. Therefore, the LLCAC recommended joining this Pilot Study.

Also, James Peacock has been Co-Chair of the LLCAC since his appointment by Chancellor Bill McCoy. He has submitted a letter of resignation, hence a new Co-Chair should be appointed soon. The LLCAC committee has been invited to suggest candidates to Derek Lochbaum. He will pass on any suggestions but we understand you will make the appointment.

We would welcome the opportunity to further discuss the Committee’s work during the past year with you directly. We thank you for your support of the Committee.

Sincerely,

Derek Lochbaum  
Director of Trademarks and Licensing  
Co-Chair, Licensing Labor Code Advisory Committee

James Peacock  
Kenan Professor of Anthropology  
Co-Chair, Licensing Labor Code Advisory Committee

Cc: Licensing Labor Code Advisory Committee Members
Appendix I

Fair Labor Association Enhanced Licensee Program Materials

1. Enhancing Compliance of Collegiate Licensees with University Codes of Conduct (May 2007)
2. Enhanced Licensee Program and Associated Pilot FAQs (May 2007)
Interactions among universities, licensees and the Fair Labor Association (FLA) have revealed significant gaps in the capacity of licensees to comply with university codes of conduct. The FLA has upgraded its program for licensees in response to these findings, to provide new and diverse resources to both universities and licensees seeking to improve compliance with labor standards.

A group of universities will pilot the Enhanced Licensee Program starting in the fall of 2007. The program, described below, focuses on assessment of licensees’ compliance capacity (at the level of the university and the FLA), and enhancing compliance competency through capacity building, trainings for licensees and licensors, compliance audits, and consultation with multiple stakeholders.

Other documents available separately regarding this program include an FAQ document and a draft timeline which will continually be updated as the program moves forward.

1. Assess Licensee Compliance Capacity

Universities that wish to take a more active role in conducting due diligence on their licensees’ compliance performance will direct licensees to a web-based FLA portal at the time of initiating or renewing a licensing agreement. Licensees will be required to complete a self-assessment of their compliance capacity on the portal. The self-assessment will generate an analysis of compliance capacity gaps, which can subsequently be emailed to the licensee and to their university or licensing agent, if they request this information. The analysis will also outline steps for further action expected from the licensee. Licensor universities and FLA staff will have access to the assessment and gap analysis of their licensees through the portal site.

Self-assessment questions will ask, among others, information on the extent to which the company has a social responsibility/labor compliance program, the number of staff responsible for labor compliance, frequency of visits by company staff to factories, and the role of labor compliance in the company’s selection of suppliers. The purpose of the self-assessment is to get information about the current status of licensees’ labor compliance. Some of the questions in the self-assessment relate to issues such as the company’s current social responsibility program, the number of staff assigned to labor compliance tasks/initiatives, and frequency of staff visits to factories.

Universities will have access to information collected from the assessment and gap analysis of their licensees in making licensing decisions. The FLA will hold licensor trainings beginning in Fall 2007 for university administrators. The trainings will include a foundation course on the FLA program, and will cover compliance issues in general as well as an overview of the specific tools used in the enhanced licensee program.
2. Increase Licensee Compliance Performance over Time

Following the gap analysis and with the support of the FLA, licensees will develop an implementation plan to improve their compliance performance over time. Because a number of the licensees are likely to begin at a relatively low level of compliance, the methodology will focus on training and capacity building. Regional, in-person trainings will take place in summer 2007, to reintroduce licensees to the FLA and its labor compliance standards, and will cover such subjects as the university program, the FLA Code of Conduct, licensee obligations and strategies to build compliance programs. Initial training will focus on the FLA Code of Conduct and obligations of FLA companies, including:

- adopting and communicating a code;
- training internal staff on compliance;
- conducting internal monitoring;
- collecting and managing compliance information; and
- remediating noncompliances.

Subsequent trainings will focus on specific code elements. Additional training tools also will be available through the portal site.

Licensees will report on progress against key performance indicators (KPIs) through the portal site. Universities will have access to these reports, and will continue to play a role in encouraging their licensees to make measurable progress toward compliance goals.

3. Ensure Licensee Understanding of Company Obligations

In the implementation plan, a licensee could choose to meet obligations through one or a combination of the approaches described below:

1. Bring the factory or factories from which it sources into compliance with the FLA Workplace Code of Conduct and meet obligations of FLA-affiliated companies. This would apply to both owned/operated factories and contract factories. Licensees that choose this approach must provide a detailed plan for achieving compliance over a three-year period, must conduct internal monitoring of an appropriate sample, and must remediate any noncompliances; or

2. Source from “compliance-ready factories” already subject to the compliance programs of FLA-accredited companies and/or whose compliance readiness has been tested through one of the FLA’s due diligence processes. (For the criteria used to develop this list, please see Appendix 1.) The FLA does not guarantee that these factories are necessarily compliant with university codes of conduct, rather that the systems are in place for these factories to identify compliance issues and address them in a timely fashion. Licensees that choose this approach must also provide a detailed plan for achieving compliance over a three-year period. In this case, however, monitoring and remediation responsibilities could be shared with other FLA companies.
Licensor universities and FLA staff will have access to the relevant reports through the portal; aggregate results will be publicly reported in the FLA annual report.

4. Conduct Due Diligence

The FLA will select a sample of licensees each year for in-depth due diligence, to verify the progress made according to compliance requirements that will be established by the FLA Board. To that end, capacity building visits will begin in fall 2007. These visits will not be in the form of traditional audits. Rather, they will be designed to provide more of an opportunity for the FLA and licensees to jointly assess existing compliance infrastructure, and for the FLA to provide guidance on steps to build a sustainable compliance program and help licensees remediate any issues found at the facility visited.

5. Consult with Constituencies

The FLA will establish an advisory committee in May 2007, to discuss all aspects of licensee participation and to advise on implementation issues as well as to discuss greater licensing issues. Participation in the advisory committee is open to all FLA constituents. In particular, the advisory committee should include representatives of universities, licensees (particularly small licensees), and the NGO and trade union communities.

Next Steps:

1. The FLA would like to receive names of licensors and licensees interested in participating in either the pilot or the advisory committee by May 31st.

2. Licensee trainings are scheduled for summer 2007 (please consult the separate timeline). Licensees interested in participating are encouraged to indicate their interest to the FLA as soon as possible. Attendance will be limited to 30 participants per training session, to ensure licensees derive maximum benefit.

The FLA is interested in hearing from licensors who may be interested in helping host licensee or licensor trainings in the coming months.
Enhanced Licensee Program and Pilot
Program Timeline
2007 – 2008

*Please refer to the Enhanced Licensee Program Summary and FAQ documents for program description and details.*

### 2007

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<tr>
<th>Date</th>
<th>Event Description</th>
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<tr>
<td>Spring</td>
<td>Re-registration of Category C Licensees on the FLA Web site</td>
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<tr>
<td>March 25</td>
<td>UAC Annual Meeting, Orlando, FL</td>
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<tr>
<td>March 25</td>
<td>Enhanced Program introduced to universities and licensees</td>
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<tr>
<td>April 30</td>
<td>Conference call with universities to discuss program</td>
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<tr>
<td>May 21</td>
<td>Conference call with licensees to discuss program</td>
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<tr>
<td>May 31 (rolling)</td>
<td>Licenseors and licensees to indicate their interest in participating in the Enhanced Licensee Program pilot and/or advisory committee.</td>
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<tr>
<td>July 18 - 19</td>
<td>Licensee Training at Notre Dame*</td>
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<td>August 22 – 23</td>
<td>Licensee Training at the University of Maryland*</td>
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<tr>
<td>Summer 2007</td>
<td>Testing of online self-assessment tool and FLA portal</td>
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<td>Summer 2007</td>
<td>Development of online resource material including Licensee Toolbox</td>
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<td>Summer 2007</td>
<td>Additional licensee trainings at locations to be determined throughout summer/fall 2007**</td>
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<tr>
<td>September 2007</td>
<td>Official commencement of pilot</td>
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<tr>
<td>October 2007</td>
<td>Licensor training organized around FLA Board Meeting in Washington, DC</td>
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<tr>
<td>Winter 2007</td>
<td>Ongoing assessment, training and capacity building activities</td>
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### 2008

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<th>Date</th>
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<tr>
<td>March 2008</td>
<td>Report on the pilot program at UAC Annual meeting</td>
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*Licensee trainings are limited to 30 licensees.

**Venues are sought for both licensor and licensee trainings; please contact the FLA with suggestions.*
This purpose of this document is to answer questions about the Enhanced Licensee Program being piloted this summer by FLA-affiliated universities and licensees. This document builds on presentations made at the UAC meeting held on March 25, 2007, and incorporates answers to questions received during the Q&A session at the meeting and during a follow-up conference call on April 30.

This document is organized into two sections:
A. Category C Licensees and the Enhanced Licensee Program
B. The Enhanced Licensee Program Pilot

For a full description of the Enhanced Licensee Program or a timeline for program roll-out, please refer to the Enhanced Licensee Program Summary or the Program Timeline.

A. Category C Licensees and the Enhanced Licensee Program

1. Who are Category C licensees?

The FLA's Category C licensees are companies with total annual gross revenues of $5 - $50 million or those with revenues under $5 million that source overseas. This revenue range incorporates a Board-mandated upward change in the lower revenue limit for the category from $1 million to $5 million for companies not manufacturing overseas. An online re-registration process has been underway for Category Cs since the end of February to reconfirm proper licensee categories based on this new lower limit, and to obtain current contact information from licensees.

For a complete description of the FLA's Licensee program, including detailed information on categories, please visit our Web site at: http://www.fairlabor.org/all/licensees/about.html.

2. What is the Enhanced Licensee Program?

The Enhanced Licensee program consists of a set of online and offline tools and systems that will be made available to all licensees, with an initial focus on Category C licensees, to ensure that they fulfill their FLA and university code of conduct requirements. Another objective of the Enhanced Program is to enable the FLA to provide support to companies and universities through licensee and licensor training sessions and capacity building visits. Through the licensee online self-assessments and capacity building visits, the FLA will assess and help improve the current capacity of licensees to enforce labor standards in the factories that supply their products.

3. What is the role of universities (licensors) in the implementation of the Enhanced Licensee Program?

The role of the universities and colleges is to encourage their licensees to fulfill their code of conduct obligations and participate in the Enhanced Program, starting with completion of the licensee online self-assessment. The self-assessment will help licensees arrive at an understanding of their current compliance status, and provide help in building a compliance implementation plan to improve on deficient areas. Licensors are encouraged to attend training workshops specifically designed for them as well as to encourage licensees to attend the appropriate training sessions.
4. **What does the FLA hope to achieve from this program?**

With respect to licensees, the FLA intends to enhance their awareness, build or strengthen existing compliance programs, and expand FLA oversight and review of licensee compliance efforts.

With respect to licensors (universities), the FLA hopes to improve their understanding of the FLA and its work, the tools available as part of the Enhanced Licensee Program, and labor compliance issues in general.

5. **Why is there a need for an Enhanced Licensee Program?**

At the outset, the FLA focused its efforts on integrating licensees into the FLA system, starting with Category A and followed by Category B licensees. During that time, some visits, interviews and conversations were conducted with Category C licensees to better understand the diversity, resources and compliance awareness of this group, and to examine how the FLA needed to modify its internal structure and systems to support the compliance efforts of this large and diverse group. Accordingly, the FLA developed its internal structure and enhanced the systems required to support the Category C licensees and integrate them into the FLA program.

6. **What is the expected roll-out date for the Enhanced Licensee Program?**

We expect to roll out a pilot of the Enhanced Program in **September 2007**. Before that date, the FLA will begin testing the online self-assessment tool and conducting a series of training workshops for licensees and licensors as well as relationship building and awareness raising visits.

7. **When can universities and licensees expect to see results from the implementation of the program?**

Beginning **Fall 2007**, licensors will be able to access information on how their licensees place on a compliance spectrum (and areas in which further work needs to be done). This information will be generated through the licensees’ self-assessment.

8. **Does the online portal have the capacity to handle a large number of participants?**

Yes. It is being designed with capacity to handle all licensees. It will also be used for other FLA programs and tools such as those associated with FLA 3.0.

9. **What is the advisory committee and what is the deadline to sign up?**

An **advisory committee** of licensors and licensees will be established to discuss ongoing questions relating to the implementation of the Enhanced Program and other issues pertinent to University and Licensee affiliates. Please let the FLA know if you are interested in being part of this committee.

Licensees and licensees should indicate their interest in joining the pilot and/or advisory committee to the FLA (see contact information at the end of this document) by **Thursday, May 31, 2007**.
10. Is there anything I can do (as a licensor, licensee or licensing agent) to help with the roll-out of this program and the pilot?

Yes! In addition to signing up for the pilot, the FLA could use your help through one or more of the following ways:

1. Joining the advisory committee
2. Hosting or co-hosting a licensee or licensor training
3. Testing the online tool this summer, before wider distribution this fall
4. Contributing to our trainings by providing a short (5-10 minutes) video clip on your experience with enhancing labor compliance (importance and benefits)
5. Spreading the word about this program to your licensees and other licensors. Some schools and licensing agents may wish to include information about the program in their licensing renewal contracts. You are free to use the information we have provided on this program (Enhanced Program Summary and FAQs document) for this purpose.

11. If a university or licensee does not participate in the pilot program, will they become integrated into the Enhanced Program in subsequent years?

Yes. The objective of the pilot is to ensure that implementation challenges are ironed out. At the end of the pilot, the FLA’s intention is to expand the Enhanced Licensee Program to all Category C Licensees. In the meantime, C Licensees not participating in the pilot will continue to participate in our regular C Licensee program. Our Category C Licensees are a large and diverse group, and our objective is to significantly improve awareness and enhance labor compliance with this group.

B. The Enhanced Licensee Program Pilot

1. What is the pilot program and what is its objective?

The objective of the pilot is to test the Enhanced Licensee Program with a limited number of licensors and licensees, and to use the experiences derived from implementation of the pilot to fine-tune the Enhanced Licensee Program. The pilot will give all participants an opportunity to test the online tools of the Enhanced Program, including the online self-assessment, training modules and online toolkit.

A key objective of the pilot is to ensure that the Enhanced Program works for as many of our licensors and licensees as possible. Since this online-offline system of monitoring labor compliance strategies for small licensees is a new approach to labor compliance, the feedback provided by the pilot and through the advisory committee will help the FLA in making any adjustments or enhancements needed to maximize the program’s effectiveness.

2. Who can sign up for the pilot program?

Any FLA-affiliated licensor or licensee who is interested in the program and would like to learn more about it can sign up for the pilot. Interested licensors and licensees should contact the FLA. Contact information is provided at the end of this document.

3. How long will the pilot last?

The pilot is expected to run for one year.
4. Is there a minimum/maximum number of universities and licensees that can participate in the pilot?

No. We seek broad representation from a diversity of constituents (licensors and licensees of a variety of sizes), so that this program is effective for the widest possible range of participants.

5. Can licensees sign up for the pilot throughout the year?

Yes. While we anticipate having a majority of licensees signed up by the start of the school year, we recognize that licensing is a fluid process and will accept licensees throughout the year.

6. What is the role of universities (licensors) in the pilot program?

Licensors should encourage their licensees to participate by informing them about the pilot and associated training workshops and referring them to the online tools when they become available. Licensors are encouraged to provide feedback to the FLA throughout the process both directly and via the advisory committee.

7. When will the online self-assessment be available for licensees to complete?

We expect to begin the initial testing of the tool in the summer of 2007, with the assistance of some licensees and licensors. The final version of the tool will be available for access in Fall 2007. We welcome any universities and licensees who would like to pre-test the tool over the summer prior to the official launch of the pilot.

At the training sessions for licensees this summer, we will help them to complete written samples of the assessment tool to enable licensees to gauge their current state of compliance and to start building programs.

8. Where will the trainings be conducted?

The FLA will provide 3 training sessions for licensees over the next several months in locations convenient to licensees.

Two trainings are confirmed thus far:

1. Notre Dame on July 18-19
2. University of Maryland on August 22-23

Please contact the Licensee Program Manager for more information.

We are interested in partnering with FLA-affiliated universities or licensing agents to host these trainings and welcome suggestions on possible locations. Information on licensor training will be provided soon.

9. How will the FLA manage training for a large number of licensees?

Three licensee trainings, specifically designed for the Enhanced Licensee Program, are scheduled to take place this summer and early fall. These trainings will also be made available online. We anticipate additional trainings throughout the year, including sessions focused on specific code elements. Over the last six months, we have increased communication with licensees and will continue to do so, in order to provide further information and answer questions that may arise.
10. What is the process after a licensee signs up for the pilot?

Licensees and licensors will be informed once the online self-assessment tool becomes ready for use, which we anticipate will happen by Fall 2007.

For more information:

Universities and colleges interested in participating in the pilot or in need of more information should contact the University Liaison and Communications Associate, Heeral Coleman, at hcoleman@fairlabor.org.

Licensees interested in signing up for the pilot or in need of more information should contact the Licensee Program Manager, Christine Briscoe, at cbriscoe@fairlabor.org.

For a list of universities affiliated with the FLA please visit: http://www.fairlabor.org/all/colleges/list.html

For a list of companies affiliated with the FLA please visit: http://www.fairlabor.org/all/companies/index.html

* * *
Appendix II

Revised Designated Suppliers Program Materials

1. DSP Working Group Letter (September 29, 2006)
2. The Designated Suppliers Program – Revised (September 2006)
3. Summary of Modifications to the DSP (September 29, 2006)
The Designated Suppliers Program (DSP) Working Group has been meeting since March of this year. As you know, the Working Group is comprised of representatives of universities that have publicly articulated support for the DSP and expressed a commitment to work together to move the program forward. The Working Group also includes student representatives from United Students Against Sweatshops and is staffed by the Worker Rights Consortium.

A central goal of the Working Group has been to identify key stakeholder concerns about the DSP and to develop ways to address these concerns in order to enhance the effectiveness of the program. Our efforts have included six face-to-face meetings, including a special day-long forum with more than forty licensees at Georgetown University, as well as several conference calls and numerous other discussions. Licensees and other key stakeholders have been an important part of the conversation.

The Working Group is pleased to announce that we have made very significant progress and that a new version of the DSP is ready for consideration by institutions of higher education. The revised program includes major modifications that speak directly to the concerns that universities, both inside and outside of the Working Group, have expressed about the program.

The changes are outlined in the two attached documents. The first document, titled "Summary of Modifications to the Designated Suppliers Program," describes each policy change from the original DSP proposal (and identifies the stakeholders' concerns that each change is designed to address). The second document, titled "Designated Suppliers Program-Revised," is a re-statement of the DSP, reflecting these modifications.

While there is still work ahead of us, we believe that we now have, in this modified DSP, a program that will advance our common goal: ensuring that apparel bearing our trademarks is produced under humane working conditions. We invite other universities with an interest in the DSP to review the changes we have made and consider supporting this revised program and joining the Working Group. For further information on this document and the work of the DSP Working Group, please contact Jim Wilkerson of Duke University, Chair of the Working Group, at jim.wilkerson@duke.edu.

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The Designated Suppliers Program – Revised

Program Overview

The Designated Suppliers Program is a system for protecting the rights of the workers who sew university logo apparel.

Under the Designated Suppliers Program, university licensees are required to source most university logo apparel from supplier factories that have been determined by universities, through independent verification, to be in compliance with their obligation to respect the rights of their employees – including the right to organize and bargain collectively and the right to be paid a living wage. In order to make it possible for factories to achieve and maintain compliance, licensees are required to meet several obligations to their suppliers. Licensees are required to pay a price to suppliers commensurate with the actual cost of producing under applicable labor standards, including payment of a living wage; they are required to maintain long-term relationships with suppliers; and they are required to ensure that each supplier factory participating in the program receives sufficient orders so that the majority of the factory’s production is for the collegiate market. Licensees may bring any factory they choose into the program, provided the factory can demonstrate compliance with the program’s labor standards. The program is phased in over a three year period.

Scope of Application

The DSP applies to the university logo apparel production of licensee companies (small licensees with collegiate apparel sales below a certain threshold are exempt).

The DSP applies only to apparel and textile products (e.g. clothing, headgear, backpacks, towels, etc.); the program does not apply to any other university licensed product.

The DSP applies only to those production facilities where products are sewn and/or assembled. If embroidery and/or other embellishments are performed in the facility where the apparel item is sewn or assembled, then those processes are also covered by the DSP; otherwise, they are not.

Implementation Schedule

The DSP will be implemented in phases. After an initial grace period, the sourcing requirement will begin at 25% of each licensee’s collegiate production and will increase annually until phase-in is complete, according to the following schedule:

- Grace Period (6 months): No sourcing requirement
- 1st Program Year: 25% of each licensee’s collegiate apparel must be sourced from DSP factories

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1 This document delineates the Designated Suppliers Program; it explains the program’s labor standards, enforcement mechanisms, and administrative and dispute resolution procedures. The document reflects modifications to the program made by the Designated Suppliers Program Working Group in September 2006.

2 The specific threshold is to be determined.
• 2rd Program Year: 50% of each licensee's collegiate apparel must be sourced from DSP factories
• 3rd Program Year (and subsequent years): 75% of each licensee's collegiate apparel must be sourced from DSP factories

The purpose of the grace period, and of the graduated phase-in of the program, is to ensure that licensees can comply with the sourcing requirement without violating any existing contractual obligations and, in general, to make the transition to the DSP less burdensome for all parties. The graduated phase-in also allows universities to evaluate the DSP, based on real-world experience, before it is fully implemented and to make any adjustments in the program that are necessary.

Workplace Standards and Factory Obligations

In order to qualify as a designated supplier, a factory must meet the following criteria:

• The factory must demonstrate compliance with internationally recognized labor standards as embodied in university codes of conduct.

• The factory must demonstrate that it pays employees a living wage.

• The factory must demonstrate respect for workers' associational rights. This may be demonstrated by the presence in the factory of a representative labor union (or other representative employee body) or, in the absence of such representation, the factory will be determined to be in compliance if it has taken the steps necessary to ensure that workers can make a free choice about unionization, without fear of reprisal.

In addition, factories may not subcontract collegiate production to non-DSP factories and may not use contract labor as a means to circumvent the program's worker rights standards.

Licensee Obligations

Licensees covered by the DSP have the following obligations:

• **Sourcing requirement:** Each licensee is required to source a set percentage of university logo goods from designated supplier factories (see the section on the DSP implementation schedule on pages 1-2 for the specific sourcing requirement for each year of the program).

• **Fair price standard:** Licensees are required to pay each DSP factory a price for its products sufficient to enable the factory to produce under the applicable labor standards (including the factory's obligation to pay a living wage and, where a union or worker representative body is present, to bargain collectively).

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3 For purposes of measuring compliance with the freedom of association standard, a "representative employee body" must be an organization that was established without management interference, that democratically elects its leaders, and that is able to carry out the essential functions of a union, including collective bargaining.

4 It should be noted that the sourcing requirement applies only to products bearing the names and logos of universities that have adopted the DSP. The percentage is measured in terms of the dollar value of the licensee's applicable production, at factory price.
- **Majority collegiate production requirement**: Licensees are required to place enough business in each of their DSP factories so that more than 50% of the factory’s total output in a given year is for the collegiate market. If a DSP factory is used by more than one licensee, the combined total of the licensees’ orders must exceed this 50% threshold.\(^5\)

- **Long-term production agreements**: Licensees are required to enter into a long-term production agreement with each of their DSP supplier factories. The contract must be no less than three years in length and must commit the licensee to a minimum volume of orders each year (either by itself or in combination with other licensees using the facility) so that the majority collegiate production requirement is met. Licensees have the right to place escape or “out” clauses in these contracts, which protect licensees by allowing them to terminate the contract before its expiration in the event that the factory fails to meet labor or production standards (despite good faith efforts by the licensee to help the factory achieve compliance).\(^6\)

These long-term contracts, which are essential to ensure a reasonable degree of economic security for factories and job security for workers, are not intended to substitute for individual contracts for specific orders of apparel. They need not contain any volume or production deadlines specific to any individual order, or any specific prices. The contracts must simply commit the licensee to A) provide a minimum volume of business over the contract term, and B) negotiate a fair price for each order that is ultimately placed.

**Enforcement Mechanisms**

The obligations of licensees and DSP factories are enforced either through independent verification by the Worker Rights Consortium or through arbitration between licensees and factories.

**Factory compliance with the labor standards is verified through compliance assessments conducted by the WRC.** Compliance assessments are conducted 1) at the time of a factory’s initial application for DSP status, and 2) on an ongoing basis, in response to worker complaints and in the form of spot inspections. In the case of findings of non-compliance, the factory is given an opportunity to correct the violations identified. Failure to correct the violations results in the loss of DSP status (or denial of DSP status if the non-compliance is discovered in the context of a factory’s initial application). WRC compliance decisions may be appealed (see page 5).

**Licensee compliance with the fair price standard is enforced through binding arbitration between the licensee and the factory.** The price standard is incorporated into the long-term production agreement between the parties. When a dispute arises (because the factory and licensee cannot agree on whether the price for a particular order is sufficient to enable the factory to meet its labor rights obligations), either party may trigger arbitration, which is conducted by an arbitrator chosen by both parties and whose decisions are binding. Failure by a licensee or factory to comply with an arbitrator’s decision is considered a serious code violation and is reported to universities and the public.

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\(^5\) Orders from a non-collegiate buyer that is willing to abide by the DSP’s labor and fair price standards will be counted as collegiate production for the purpose of measuring compliance with this standard.

\(^6\) For additional information concerning long-term production agreements, see page 9.
Licensee compliance with the sourcing requirement is enforced by the WRC at the end of each program year. Data is supplied by each licensee, enumerating that year’s collegiate production at each of its supplier factories (including both DSP and non-DSP factories). The WRC reviews each licensee’s data and calculates the percentage of the licensee’s total production that was sourced from the DSP facilities. On this basis, the WRC determines whether the licensee has met the percentage sourcing requirement applicable to that program year (i.e. 25%, 50% or 75%). Failure by the licensee to fulfill the sourcing requirement is considered a serious code violation and is reported to universities and the public.

Licensee compliance with the majority production requirement is enforced by the WRC at the end of each program year. Data is supplied by each factory covering all of its production for the year in question and this data is assessed to determine whether a majority of this production was for the collegiate market, as required. If a majority of a factory’s production was not for the collegiate market in a given year, orders placed by licensees at that factory, in that year, will not be counted as DSP orders for the purpose of measuring the licensees’ compliance with the sourcing requirement.

Sanctions for non-compliance: For a factory, non-compliance with the labor standards results in the loss of DSP status. For a licensee, non-compliance with any of its obligations is reported by the WRC to universities and the public. Each university then determines the appropriate sanction under the terms of that university’s licensing contract with the licensee. The WRC may recommend a particular sanction, but does not itself have the power to sanction licensees.

Transparency Requirements

Fair and effective enforcement of the DSP requires transparency on the part of both licensees and factories. The transparency obligations of the respective parties are as follows:

Suppliers: University enforcement agents must be granted access to each DSP factory – to factory grounds and buildings; to managers, supervisors and workers for the purpose of interviews; and to such documents and records as are needed to assess labor rights compliance (the confidentiality of proprietary information is respected). The enforcement agent will accommodate the factory’s production schedule, but the factory must not otherwise restrict this access. The factory must also disclose, on an annual basis, and more frequently if so requested, the production data necessary to determine whether the factory is producing a majority of its goods for the collegiate market.

Licensees: Licensees must disclose the production volume data necessary to assess compliance with the sourcing requirement, including the annual volume of production at every sewing and assembly facility used to produce collegiate goods.

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A production order placed by a licensee at a DSP factory is not counted toward that licensee’s fulfillment of the sourcing requirement if any of the following circumstances arise: 1) the factory does not achieve DSP status within 90 days after production begins on the order. 2) The factory has DSP status when the order is placed, but loses its status due to labor rights violations before the order is completed and shipped. 3) It is determined at the end of the program year that the factory did not produce a majority of its goods for the collegiate market, in which case no orders produced at the factory during that program year are counted. In the case of the majority collegiate production requirement, exemptions may be granted in situations where a licensee can demonstrate that the factory fell below the majority production requirement as a result of circumstances that the licensee could neither anticipate nor control.
In addition, in the context of an arbitration, both parties are required to provide any data requested by the arbitrator.

Information disclosed in the arbitration process as well as proprietary financial information disclosed by a factory or a licensee in the context of a labor rights assessment will be held in confidence.

**Public Reporting:** Reports of all factory assessments conducted by the WRC are public and will include a detailed review of the evidentiary basis of all findings (except where such disclosure would compromise the confidentiality of individual worker interviews). WRC findings with respect to licensee compliance with the sourcing and majority production requirements are also publicly reported (proprietary financial information is not disclosed). The WRC will maintain a public list of all DSP factories and the licensees that have contracts with each factory.

**Appeals Process for Compliance Disputes**

If a licensee and/or factory believes the WRC has incorrectly found a factory to be in violation of DSP labor standards, the licensee (on behalf of the factory) may file an appeal with the DSP appeals panel. The appeals panel will consider all complaints and conduct a full review of those it determines, based on initial consideration by one or more members of the panel, to be substantially grounded in credible evidence.

After accepting an appeal, the panel examines the WRC's report, any additional documentary evidence supplied by the WRC, and all documentary evidence supplied by the licensee. Representatives of the licensee and the WRC appear together before the panel to present arguments and each party may pose questions to the other. Based on the documentary evidence and the presentations of the two parties, the panel makes a determination as to whether the WRC findings were or were not accurate. (The review process is not a repeat of the compliance assessment process itself and the appeals panel does not carry out its own investigation of the factory.) If the panel determines the WRC findings to have been inaccurate, the factory is deemed to be in compliance with DSP standards. Any subsequent WRC assessments of the facility in question are automatically reviewed by the appeals panel for a period of two years.

The appeals panel is comprised of individuals with demonstrated expertise in worker rights, international labor law, and relevant investigative procedures. The panel members are chosen through a multi-stakeholder process in which all parties involved in the DSP and collegiate apparel production (factory owners, licensees, unions, NGOs, universities and their enforcement agents) play a role. Panel members must be free of all financial conflicts of interest (e.g. they may not be employed by apparel corporations or unions involved in the apparel industry).

Appeals are limited to those based on evidence of 1) factual error by the WRC, including omission of relevant evidence, misinterpretation of factory records or other documentary evidence, misinterpretation of applicable labor law, etc., or 2) failure by the WRC to abide by the DSP's rules with respect to the resolution of instances of non-compliance (e.g. granting factories an opportunity to remediate).
Factory Selection Process

The identification and qualification of designated supplier factories will proceed as follows:

Licensee Selection of Candidate Factories: Licensees will select candidate designated supplier factories — these are factories that licensees are confident can meet the program’s labor standards and at which they intend to place orders. Any stakeholder (universities, unions, NGOs, factory owners, etc.) may recommend a facility to licensees as a potential candidate factory, but licensees decide which factories, from their own supply chains and/or from recommendations made by other parties, they wish to bring into the program. Upon selection of a candidate factory, the licensee must provide public notice that the factory has been selected.

Consultation and Remediation: Once a candidate factory has been selected, the licensee is responsible for working with that factory to address any outstanding compliance issues. The WRC also consults with the management of each candidate factory to ensure that managers fully understand their obligations under the program. When requested by the factory and licensee, the WRC will assist with the development and execution of a remediation program. The WRC will advise licensees of any concerns about a candidate factory’s commitment to, or ability to abide by, the program’s labor standards; however, the licensee makes its own determination in each case as to whether to proceed and seek designated supplier status for the facility.

Compliance Assessment and Designation: Beginning 90 days after announcing the selection of a candidate factory, a licensee may request that the factory be considered for DSP status and that a full compliance assessment be conducted by the WRC. Prior to this request being made, the factory must have in place a long-term production agreement with one or more licensees sufficient to ensure that a majority of the factory’s productive capacity will be devoted to collegiate apparel. The WRC will complete the assessment within 60 days after the request is submitted. If the factory is determined to be in compliance with the labor standards, designated supplier status is granted. If areas of non-compliance are identified, the WRC recommends remedial action and grants the factory a reasonable period of time to complete remediation (the amount of time allowed is at the discretion of the WRC and depends on the nature of the outstanding compliance issues). The factory is then re-assessed and DSP status is granted or denied. If DSP status is denied, the factory is not eligible to reapply for DSP status for a period of one year.

Timing of Factory Selection: The timing of factory selection is up to each licensee. A licensee may select a new candidate factory at any time, provided that the licensee is ready to commit to placing enough business at that factory so that the majority collegiate production requirement will be met.

Factories Where University Codes Have Helped Workers Achieve Major Labor Rights Improvements: There have been a small number of factories that have achieved and maintained substantial labor rights improvements due in significant part to intervention under university codes of conduct, undertaken in response to worker complaints. Because of the long-standing relationship of many universities with these facilities, and because of the principle that demonstrated compliance should be rewarded, it is important to ensure that these factories are supported as universities transition to the DSP. For this reason, in the first year of the DSP, any licensee that used one of these factories for collegiate production at any time between June 30, 2001 and July 1, 2006 is required to contract with that factory as one of its DSP facilities, provided the factory

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8 The specific time periods referenced in this section are not final and may be adjusted by the Designated Suppliers Program Working Group prior to implementation of the DSP.
wishes to participate in the DSP and is able to meet the labor standards. Licensees with small supply chains are exempt from this requirement, in order to ensure that the requirement does not unreasonably restrict licensees’ sourcing options. Only licensees that have twenty or more collegiate production facilities as of July 1, 2006 are subject to this requirement. The list of factories to which this provision applies, as determined by the WRC, is as follows:

- BJ&B (Dominican Republic)
- Lian Thai (Thailand)
- Mexmode (Mexico)
- PT Dada (Indonesia)
- PT Kolon Langgeng (Indonesia)

**Determination of the Living Wage Standard and Appeals Procedure**

Under the DSP, factories are obligated to pay a living wage for full-time work – exclusive of overtime, non-cash benefits, and any bonuses that do not automatically accrue to workers. The specific living wage level for a given country or region is determined by local experts, identified by the WRC. These experts construct a culturally appropriate market basket of goods and services, for each country or region, sufficient to support a family of average size, and then determine the price for each of these goods and services in local markets. At the time of program implementation, an initial set of baseline studies will be conducted, in order to guide factories and unions. After this, additional living wage analyses – specific to a particular factory, location and time – will be conducted, as needed, to address worker complaints that a factory has violated the standard.

If a licensee, a factory or a union believes that the wage standard determined through this process is factually wrong, an appeal may be filed with an expert panel. The panel functions in the same manner as the appeals panel for labor rights compliance issues (see page 5) and is established through a multi-stakeholder process. In order to be considered valid by the panel, an appeal must be based on concrete evidence that the local experts erred in one or more respects in defining the components of the market basket and/or in determining the proper local market price for a particular good or service. Decisions of the panel are final and binding on all parties.

The living wage is the minimum wage that DSP factories are required to pay. Payment of the living wage does not absolve factories of the obligation to bargain in good faith over wages and other issues with any duly constituted union or other representative employee body. The purpose of the living wage standard is to ensure decent wages for workers and to prevent DSP factories from being undercut competitively by factories paying unfairly low wages. It is not intended to substitute for collective bargaining as the ultimate wage-setting mechanism.

**Program Evaluation**

Universities will evaluate the impact of the DSP as it is implemented; the most fruitful period for review will be at the end of the first program year, when it will be possible to assess, at least to some degree, every major issue of interest: impact on workers and labor rights in DSP factories; the efficiency, fairness and efficacy of the program’s administrative and enforcement procedures; the

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9 Sample living wage calculations, and a more detailed explication of the methodology involved, are available at: http://www.workersrights.org/LivingWageEstimates.pdf
initial impact of the program on licensee-retailer relationships, retail sales, and licensing revenue; etc. Evaluation will continue, with emphasis on the end of each program year. After full implementation, one of the major issues universities will address is the desirability of increasing the sourcing requirement beyond 75%.

Further Explanation of Key Standards and Procedures

Freedom of Association

The DSP’s freedom of association standard is based on the standard developed by the Joint Initiative on Corporate Accountability (JO-IN) — a joint project involving the Fair Labor Association, Social Accountability International and the WRC, among other groups – with the assistance of the International Textile, Leather and Garment Workers Federation and the International Confederation of Free Trade Unions. The JO-IN standard is stronger than those in most other codes of conduct in that it requires factories to adopt a positive attitude toward unionization and addresses issues of factory access for union representatives. As elaborated in the DSP, the standard requires factories to take concrete steps to ensure that the environment within the factory is conducive to genuine freedom of choice, including steps to undo any existing damage — whether resulting from past actions by the factory or perceptions on the part of workforce based on the broader experience of workers in that country or region.

Under this standard, a factory’s participation in the DSP requires demonstrable respect for the right to organize and bargain collectively, as evidenced by the presence of a legitimate trade union (or other representative employee body) and/or proactive steps by management necessary to ensure that workers can freely exercise these rights without fear of retaliation. These steps shall include:

1. Communicating to the workforce the factory’s openness to workers’ exercise of their associational rights, its commitment to refrain from any punitive action against workers for the exercise of their right to unionize and bargain, and its commitment to recognize and commence good faith negotiations with any duly constituted worker body, without unreasonable delay.
2. Granting free access to the worksite for union representatives to carry out their organizing and representational functions, without unreasonable restriction and in the context of a formal neutrality or recognition agreement where a union so requests.
3. Ensuring that there is no effort by management and/or supervisory employees, through word or action, coercive or otherwise, to influence any worker’s decision about unionization or participation in union activities (with the exception of communicating the factory’s openness to unionization and its commitment to abiding by the standards outlined herein).
4. Fulfilling — as soon as any legitimate, representative union or worker body is duly constituted — management’s commitment to grant recognition and to bargain in good faith.
5. Permitting access to the factory to labor rights experts and representatives of NGOs and trade unions to conduct a program of worker rights education, overseen by the WRC.
These activities must be carried out in a manner consistent with compliance benchmarks, which will be developed by the WRC in consultation with relevant stakeholders, prior to program implementation.

**Long-Term Production Agreements**

In addition to the fair price standard and the commitment by the licensee to provide a minimum volume of orders, the long-term production agreements between licensees and designated supplier factories include the following:

1) Escape clauses, to protect the licensee in the event that the factory fails to fulfill its obligations, with respect to product quality, delivery schedules and related production matters; in the event that the factory loses its DSP status; or in the event that the licensee suffers a reversal of fortune so severe as to preclude its fulfillment of its commitment to place orders (for example, the licensee's loss of its university licenses or the collapse of demand for the product made by the factory). The escape clauses are intended to ensure fairness to the licensee, but they may not be used as a pretext for severing a contract.

2) An arbitration clause that commits both parties to binding arbitration, by an arbitrator chosen by the two parties, in the event that they cannot resolve a dispute over the price standard or one of the above mentioned escape clauses.

3) A non-renewal clause, requiring the licensee, if it decides not to renew the agreement at the time of expiration, to offer the factory a one-time, one-year extension of the contract, under the same terms, but at a reduced volume of production (no less than half of the annual volume called for in the original contract). The purpose of this clause is to ensure that factories that lose their DSP business can effect an orderly transition back to the non-collegiate market, with substantially less disruption for workers than would otherwise occur.

**The Arbitration Process**

Arbitration may be triggered, in the case of a dispute over the fair price standard or one of the escape clauses in a production agreement, by either party. The arbitration process, once triggered, proceeds as follows:

- The two sides meet, without delay, and choose a neutral arbitrator, who may be any individual with the requisite knowledge and capacity for objectivity (to assist with the selection process, a list of recommended arbitrators will be developed by the WRC through consultation with all relevant stakeholders). The arbitrator chosen must also be willing to conduct the arbitration in a timely fashion, initiating the arbitration in no more than ten days and resolving it within ten days after initiation.

- The arbitration is paid for by the two parties, with the licensee covering the majority of the cost.

- The two parties are required to provide the arbitrator with any documentation or other information requested and otherwise to participate in the process with dispatch and in good faith. The information provided will be kept confidential.
The arbitrator, based on his or her expertise and good judgment, interprets the fair price standard (and/or the relevant out clause) in the context of the particular dispute under consideration. The arbitrator may at his or her discretion consult with the WRC on the question of the intent of the price standard.

The WRC has the right to observe the arbitration process. The WRC may provide input to the arbitrator concerning its views and analysis of the dispute. The arbitrator may consider the WRC’s input at his or her discretion.

Based on all of the information and input the arbitrator chooses to consider, he or she reaches a determination and issues an order to the parties (which may, for example, state the price that will be paid by the licensee and accepted by the factory for the specific order in dispute). The arbitrator’s decision is binding and may not be appealed. Failure by either party to implement the arbitrator’s order in a timely fashion is, in the case of the licensee, considered a serious code violation. In the case of the factory, non-compliance results in revocation of DSP status.

The arbitrator issues a public report on the arbitration, providing a general summary of the dispute and his or her decision; the report is provided to universities by the WRC. This report does not include any specific pricing information or other proprietary data.

If the WRC identifies evidence that the fair price standard is being violated, but no arbitration has been triggered (which may occur in some instances because of fear on the part of the factory that demanding arbitration could harm its business relationship with the licensee), the WRC has the authority to convene a mandatory meeting, involving the licensee, the factory and the WRC, to discuss the potential violation. The contents of the meeting are confidential, but the parties are obligated to provide such information to the WRC as is necessary to inform the discussion. If the meeting does not result in the triggering of arbitration, or in a voluntary agreement to modify the price (the WRC will not have the power to impose any change in price), the WRC will institute a regime of stepped-up inspections of the factory’s labor practices. The inspections will take place on a schedule to be determined by the WRC, and will focus on those areas of code compliance most likely to be affected by a violation of the fair price standard. This inspection regime will continue for one year. If labor rights violations are found at the factory, and if the WRC concludes that inadequate prices were a significant factor in causing these violations, this will be considered a code violation on the part of the licensee and will be reported to universities.

The WRC will report periodically to universities on whether the arbitration mechanism is functioning adequately as a means of ensuring fair prices.
Summary of Modifications to the Designated Suppliers Program  
September 29, 2006

The following summarizes modifications that the Designated Suppliers Program (DSP) Working Group has made to the DSP. These modifications are designed to address key concerns that have been raised about the program and to enhance its effectiveness and administrative efficiency.

Freedom of Association/Union Requirement

_The problem:_ Objections have been raised to the union requirement on the grounds that 1) it will unfairly exclude factories that respect associational rights but where workers have freely chosen not to unionize; 2) it will in effect require workers to join unions.

_Original plan:_ In order to qualify for the DSP, there must be a union or other representative employee body in the factory.

_New approach:_ DSP factories are not required to have a union or other representative employee body. In order to qualify for the DSP, a factory that does not have a union may demonstrate compliance by taking the steps necessary to ensure that workers at the factory can freely exercise their associational rights.

_Additional details:_ Factories will be required not just to respect associational rights in a passive manner, but to take proactive steps to create an environment in the factory within which workers can make a genuinely free choice about unionization. These steps include communicating clearly to workers the factory's willingness to bargain in good faith with any duly constituted union and maintaining scrupulous neutrality with respect to workers' choice about unionization - making no attempt to influence this choice, whether through coercion or persuasion, and training all supervisors and managers to ensure that this obligation is understood and followed.

Advantages of this approach:

1) Addresses the concern that the DSP would exclude a factory where management respects the right of workers to unionize but where workers have nonetheless freely chosen not to do so.

2) Includes stringent requirements to ensure that factory managers take the steps necessary to undo the effects of any past anti-union coercion.

1 These changes are reflected in the Working Group's revised program overview, titled “Designated Suppliers Program – Revised”.

Enforcement of the Fair Price Standard

*The problem:* Objections have been raised to the idea of the WRC determining what is and is not a fair price.

*Original plan:* In the event of a dispute as to whether the price offered by the licensee meets the standard, a complaint is made to the WRC and the WRC investigates and determines whether the price is fair.

*New approach:* In the event of a dispute, the matter will be resolved through binding arbitration between the licensee and the factory, with the two parties choosing a neutral arbitrator possessing the requisite expertise. The arbitrator's decision will be binding on both parties. The WRC will have the ability to observe and provide input to the arbitrator, but will not have decision-making power.

*Additional details:* Either side may trigger arbitration. The cost of the process (compensation, travel and other expenses for the arbitrator) will be borne by the two parties, with the licensee covering the majority of the costs. The arbitrator will be selected jointly by the factory and licensee. To assist with the selection process, the WRC will provide a list of qualified arbitrators, but licensees and factories will not be required to select an arbitrator from this list. In all cases, the arbitrator will issue a brief public report on the outcome, which will not include any proprietary data from either party or any specific price information. The WRC will ensure that such reports are issued and made available to universities.

The WRC will have the right to observe arbitrations, review documentation, and provide input to the arbitrator – which the arbitrator may consider at his or her discretion. The WRC will also report periodically to universities on whether the arbitration process is functioning effectively.

*Advantages of this approach:*

1) The power to determine whether a price is fair no longer resides with the WRC. This will make licensees more comfortable. It reduces the WRC's administrative and enforcement burden. It addresses the concern that the WRC has too much overall power in the enforcement of the DSP.

2) The cost associated with the arbitration process will give both the licensee and the factory an incentive to settle disputes without arbitration.

3) Allowing the WRC to observe ensures that universities have a window into the process and will be informed, in a timely fashion, if the process is failing to ensure adequate prices. Allowing the WRC to provide input to the arbitrator ensures that the worker rights implications of the price dispute are given consideration.
Disputes Concerning Compliance Assessments

The problem: The concern has been raised that the DSP implementation plan does not provide any recourse for licensees if they believe the WRC has mistakenly or unfairly deemed a factory not to be in compliance with the labor standards.

Original plan: The WRC is the sole authority on compliance matters.

New approach: Licensees and factories may appeal a WRC compliance decision to an expert appeals panel.

Additional details: The panel will be comprised of independent labor rights experts, chosen through a multi-stakeholder process in which licensees will participate. In order to access the appeals process, the licensees will have to demonstrate to the panel that they possess substantial evidence that the WRC’s decision was erroneous. Panel members will be free of any financial conflict of interest (i.e. they will be individuals who are not employed by an apparel brand, a factory, a union, etc.).

Advantages of this approach:

1) The appeals process will reassure licensees about the fairness of the program.
2) The process will ensure that if factual errors are committed in the compliance assessment process, there will be a means to correct them.
3) The process will increase the overall transparency of DSP enforcement.

Obligations of Small Licensees

The problem: The concern has been raised that the DSP might prove very burdensome to small licensees (and to licensees who sell highly specialized apparel products).

Original plan: The DSP applies to all apparel licensees, regardless of their size or specific product types.

New approach: The DSP will apply only to licensees whose annual wholesale sales of university logo goods are in excess of a specific dollar amount, as reported by the Collegiate Licensing Company and the Licensing Resource Group. Small licensees will thereby be exempted from the program. In addition, exemptions will be granted to licensees that can demonstrate that the majority of their university logo apparel production consists of products so highly specialized that they cannot be produced alongside other, more common apparel products, and are not sufficient in volume to constitute the majority of any factory’s production.

Additional details: In order for the Working Group to determine the best cut-off point for this small licensee exemption, additional consultation is needed with CLC and LRG to determine the level of sales of different licensees. The goal is to ensure that licensees that
have neither the production volume necessary to influence any factory substantially, nor the financial resources to participate actively in the compliance process, are exempted. If the sales of a licensee that is initially exempt subsequently exceed the threshold, the licensee will lose its exemption.

Advantages of this approach:

1) Exempts from the DSP small and local licensees that do not have the resources to be active participants in the implementation and enforcement of the DSP.
2) Simplifies the administration of the program by exempting a large number of companies without substantially reducing the impact of the DSP (because small licensees, while numerous, account for only a small percentage of collegiate apparel sales).
3) Does not expose larger licensees to unfair competition from exempted licensees, because, as noted, any licensee whose sales rise above the cut-off will lose its exemption.
4) Small licensees will still be obligated to comply with existing university codes of conduct and enforcement programs.

Factory Selection Process

*The problem:* The concern has been raised that the DSP’s multi-stage factory selection process is too restrictive and cumbersome for licensees.

*Original plan:* Licensees, factories themselves, universities, and worker advocates are invited to nominate factories. Nominated factories, or the licensees on their behalf, must then provide the WRC with substantial documentation of the factory’s labor rights performance. From this large pool of nominees, the WRC first eliminates facially unqualified candidates based on a review of the application data. The WRC then conducts initial compliance assessments at all remaining facilities and, based on these initial assessments, further narrows the pool of nominees to a list of “candidate” designated suppliers – factories the WRC believes have the capacity to meet the program’s standards. From this list of candidate factories, licensees then select those they intend to use for DSP production. Following these selections, a remediation plan is developed for each factory, addressing outstanding compliance issues. When remediation efforts are complete, a full assessment is conducted by the WRC, covering all issues except living wage, and, if the factory is deemed to be in compliance, “provisional” designated supplier status is granted. Full designated supplier status is granted when both the union at the factory, and factory management, have reported that they have agreed to a contract including wage levels consistent with the DSP’s living wage standard.

*New approach:* Licensees select the candidate factories, without any pre-screening process. Licensees are free to choose any facility they intend to use for DSP production and which they believe can meet the program’s standards. The WRC consults with each selected factory to ensure that management is fully aware of its obligations under the
DSP. The licensee works with the factory to address any outstanding compliance issues; the WRC assists as requested. At a time of the licensee's and/or factory’s choosing, but no later than six months into the first program year, the WRC conducts a full compliance assessment, covering all code standards and provisions of the DSP. Designated supplier status is granted to the factory if it is determined to be in compliance.

Additional provision: There have been a small number of factories that have achieved and maintained substantial labor rights improvements, due in significant part to intervention under university codes of conduct, undertaken in response to worker complaints. Because of the long-standing relationship between many universities and these facilities, and because of the principle that demonstrated compliance should be rewarded, it is important to ensure that these factories are supported as universities transition to the DSP. For this reason, in the first year of the DSP, any licensee that used one of these factories for collegiate production at any time between June 30, 2001 and July 1, 2006 will be required to contract with that factory as one of its DSP facilities, provided the factory wishes to participate in the DSP and is able to meet the labor standards. Licensees with small supply chains will be exempted from this requirement, in order to ensure that the requirement does not unreasonably restrict licensees’ sourcing options. Only licensees that have twenty or more collegiate production facilities (prior to the implementation of the DSP) will be subject to this requirement. The list of factories to which this provision will apply, as determined by the WRC, is as follows:

BJ&B (Dominican Republic)
Lian Thai (Thailand)
Mexmode (Mexico)
PT Dada (Indonesia)
PT Kolon Langgeng (Indonesia)

Advantages of this approach:

1) The factories preferred by licensees are not required to undergo an extensive pre-screening process before they can become candidate designated suppliers. This increases the freedom of licensees to choose whichever factories they wish and streamlines the selection process.

2) It is not necessary under this approach for the WRC to assess a long list of nominated factories and application materials, and conduct multiple initial reviews, in order to identify the candidate factories. This stage is removed. Only those factories that licensees identify, and actually intend to use for DSP production, will be assessed. This means that far fewer factories will need to be reviewed.

3) Because the WRC is no longer providing a list of candidate factories from which licensees must choose, the WRC is not responsible for ensuring that the available factories are capable of meeting licensees’ production needs. Licensees will be free to select factories that meet their production needs.

4) The additional provision concerning the five factories named above will ensure that the removal of the union requirement, which would have made these factories
a logical option for licensees, does not result in these factories being excluded from the program. At the same time, it is a narrowly-drawn provision that will have only a modest impact on a small number of licensees.

Two-Thirds Requirement

The problem: Licensees have stated that some collegiate products are so seasonal (in terms of sales and therefore production) that it is difficult or impossible for a factory to devote two-thirds of its annual production to these products – that this would leave a factory idle much of the year and overtaxed during production peaks. Licensees have also stated that this requirement unduly limits their flexibility in making production decisions.

Original plan: In order to qualify for the DSP, two-thirds of a factory’s production must be for the university market and/or for other buyers willing to honor the DSP’s labor and price standards.

New approach: In order to qualify for the DSP, a majority of a factory’s production (i.e. 50% plus one) must be for the university market and/or for other buyers willing to honor the DSP’s labor and price standards. In addition, licensees can obtain an exemption from the DSP if they can demonstrate that the majority of their university logo production is of a product or products subject to such extreme seasonal sales fluctuations that it is not feasible for a factory to devote the majority of its annual production to such a product or products.

Advantages of this approach:

1) Increases the freedom of maneuver of both factories and licensees.
2) Reduces the production scheduling challenges for factories and licensees created by the seasonality of some products.

Length of Licensee-Supplier Relationships

The problem: The concern has been raised within the Working Group that the problem of licensees jumping between factories could still continue, even when the DSP is in place, because licensees could still jump from year-to-year from one DSP factory to another.

Original plan: The DSP assumes long-term relationships between licensees and suppliers, but contains no specific mechanism to ensure that this goal is achieved.

New approach: A licensee will be required to have a long-term contract with each DSP factory it selects.

Additional details: The contract, which will be for a minimum of three years, will not include specific orders, products, or prices; it will only commit the licensee to place at
least enough orders at the factory, each year of the contract, to fill a specific percentage of the factory’s production capacity (at least 50%, unless multiple licensees are using the facility). The contract, which the licensee and the factory will negotiate, will incorporate the fair price standard and will also include “out” clauses – allowing the licensee to withdraw from the contract if the factory fails to meet agreed upon quality standards (despite a good faith effort on the part of the licensee to help correct the problem); if the licensee loses its university license (or suffers some other setback that prevents the licensee from continuing to purchase the relevant products), or if the factory loses its DSP status. Any dispute between the licensee and the factory – over the fairness of the price for an order, or over an effort by the licensee to exercise one of the “out” clauses – will be resolved through binding arbitration (by a neutral arbitrator selected by the two parties).

If the licensee decides not to renew its contract with a factory and to leave at the end of the three-year term, the licensee will be required to offer the factory a transition year: a renewal of the contract, under the same terms, for one year, but at a reduced level of order volume (50% of the level stipulated in the expiring contract). The purpose of this mechanism is to give the factory the ability to make an orderly transition back to the non-university market. (Concern has been expressed within the Working Group that there is a risk of DSP factories losing business when their three year contracts expire, that the greatest risk will be borne by unionized factories with higher cost structures, and that this could have the effect of undermining associational rights. The Working Group intends to discuss this issue further.)

Advantages of this approach:

1) The stability of the system is greatly enhanced; licensees are prevented from jumping between factories year to year.
2) This makes the program significantly more attractive from the factory perspective and will therefore increase the incentive of factory managers both to enter the program and to maintain compliance with the labor standards on an ongoing basis.
3) An up-front commitment of long-term orders will reassure factories, for whom the DSP will be a very new concept, that the promise of stable orders at fair prices is a serious one. This will reduce the chance that factories will hedge their bets, particularly on the issue of associational rights – dragging their feet on full compliance while waiting to see whether stable orders really materialize.
4) The longer time horizon will make it easier for the factory to schedule production efficiently, reducing any complications that may be created by the move to majority collegiate production (e.g. seasonality of production).
5) Job security for workers will be increased, an essential goal of the DSP.
6) Licensees will still be able to leave a factory in the event of major quality (or other production) problems or adverse business circumstances that preclude the continuation of orders.
Living wage

The problem: The concern has been raised that granting the WRC sole authority to determine living wage levels places too much power in the hands of one organization.

Original plan: The specific living wage level for a given location is determined by local experts, identified by the WRC, who construct a culturally appropriate market basket of goods and services and determine the price for each of these goods and services in local markets. There is no process for appeal if the accuracy of the WRC’s determination is disputed.

New approach: If a licensee, a factory, or a union believes that a wage level determined by the WRC is inaccurate, an appeal may be made to an expert panel.

Additional details: Appeals will be heard by an international panel of experts, chosen though a multi-stakeholder process (as with appeals of compliance decisions). Decisions of the panel will be final and binding on all parties.

Advantages of this approach:

1) The appeals process will reassure licensees about the fairness of the program.
2) The process will ensure that if factual errors are committed in the calculation of living wages, there will be a mechanism to correct the error.

Note on legal issues: A Business Review Letter will be requested from Department of Justice, to ensure that the DSP, in its modified form, is consistent with U.S. Anti-Trust law.
Appendix III

FLA 3.0 Materials

1. FLA 3.0 Working Draft (October 2006)
2. FLA 3.0 Summary – Toward Sustainable Compliance (May 2007)
FLA 3.0

Working Draft

October 2006
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Background

The development of FLA 3.0 began with the conclusion that we have all reached—namely that monitoring is not an effective way of bringing about sustainable change at any level of the supply chain. There are a number of reasons for this, but the bottom line is that monitoring, even well done, can only identify the compliance issues that need to be addressed. The real work takes place on either side of the monitoring event. Monitoring needs to be preceded by a series of code implementation activities and followed by sustainable remediation.

Consistently we find that managers and workers have too little understanding of the code to achieve sustainable compliance. Secondly, we see the same compliance issues cropping up year after year, indicating that the remedial measures have not succeeded in eliminating the causes of the problems. Thirdly, we have not managed to root the compliance efforts in the workings of the supplier facilities, and in general it continues to require external resources to keep it alive. Finally, it has been very difficult for companies to engage local stakeholders in a meaningful way and that lack of involvement reduces the likelihood of sustainable compliance. None of these four challenges can be addressed through monitoring alone and additional monitoring would arguably compound the problems by tying up scarce human and financial resources at the company and supplier levels. We need more systematic development approach that builds capacity at the supplier level.

FLA 3.0 aims to do just that; it is an integrated approach to sustainable compliance that (i) pools constituent resources and increases collaboration at the company level; (ii) focuses on the identification and remediation of root causes of persistent and serious non-compliances so that a more systematic approach can be applied at the supplier level; and (iii) creates opportunities for local stakeholders to play an integral role in identifying priority compliance issues, providing remedial and capacity building services, and assessing progress made by suppliers.

The FLA Soccer Project and Sustainable Compliance Project have helped to pilot aspects of the 3.0 methodology and have allowed the FLA to: (i) test the appropriateness of assessment tools and methodologies at both the management and worker levels; (ii) test the effectiveness of capacity building material, particularly focused on grievance procedures and hours of work, and the responses of suppliers to the material; (iii) assess the skills and interests of local stakeholders; (iv) sound-out the readiness of suppliers and local compliance officers to engage in a collaborative sustainable compliance approach.

This document is divided into four sections: 1) The first section describes the approach of FLA 3.0; 2) the second section outlines key deliverables from the projects and 3.0; 3) the third section proposes how 3.0 can be mainstreamed into the core work of the FLA and company compliance programs in 2007; and 4) the fourth section concludes with a discussion of next steps and calls for the revival of the 3.0 working group to review the pilot process and further develop a workplan for Companies and the FLA.
Outline of 3.0

Building Blocks of 3.0

FLA 3.0 consists of five main elements:
- Identification and prioritization of key compliance issues
- Needs assessment
- Capacity building
- Measurement of progress and impact assessment
- Public reporting and re-accreditation

The methodology foresees involvement by all constituents and stakeholders in the entire process - from the definition of compliance issues to implementation of capacity building to evaluation. Also foreseen is public reporting of progress/improvements and emerging best practices via the FLA website. These five elements are elaborated below.

I. Identification and prioritization of key compliance issues (Monitoring Matrix): A series of discussions will take place in the creation of each country level monitoring matrix (MM) to ensure that all FLA constituents and key stakeholders at the local level are involved. Each constituency will draft their own monitoring matrix and the results will be discussed at a multi-stakeholder forum. The final MM will be the result of a collective and collaborative decision-making process and will prioritize non-compliances, identify potential root-causes and define remedial strategies. Depending on the complexity, 1-3 priority issues will be selected as a focus for each country each year.

II. Needs assessment: Suppliers will be invited to complete self-assessment forms focusing on each priority issue. Company compliance staff will either conduct an in-depth review of the self-assessment material at the participating factory or, as determined, will conduct a full needs assessment. The objective of the assessments will be to identify capacity gaps in factory systems and capture baseline information about existing factory conditions. Companies will continue to be responsible for all FLA code elements and obligations in those factories but will place remediation priority on the collectively agreed upon compliance issues. Companies without compliance staff may contract their internal monitoring/assessments to third party services which the FLA can help identify. For worker interviews, the FLA recommends the use of local NGOs with knowledge of the worker communities and possessing strong interview skills. Foundation Courses on the material and methodology involved in 3.0 will be arranged, as needed, to prepare company compliance staff for 3.0.
III. **Capacity building:** Information from the assessments, coupled with that gathered from the monitoring matrix, will form the basis of the capacity building programs to address the priority issues. The implementation of the programs can be managed using a balanced scorecard. The FLA will make training materials and advisory services available through four means: (1) FLA staff (on an interim basis) and its consultants for collective trainings; (2) brand compliance staff trained by the FLA consultants; and (3) materials (sustainable compliance instructional materials or SCIMs) will be available for downloading from an FLA website; and 4) local service providers identified by the FLA and listed in service provider directories posted on the FLA website. All suppliers and FLA-affiliated companies may attend collective trainings. Factory specific capacity building needs, which are outliers, will need to be addressed by the company and factory on their own.

IV. **Measurement of progress and impact:** Each Sustainable Compliance Assessment Tool (SCAT) element has performance measures and benchmarks for known as Sustainable Compliance Indicators (SCIs). These will allow suppliers, buyers and the FLA to measure progress and to ascertain whether additional capacity building is required. The SCIs will be reported to the FLA and may be aggregated and reported publicly so as to show progress on particular code issues in a country or sector. These will be reported in such a way that the performance of individual factories will not be discernible. High performers could opt to be named and gain public recognition for their success. (Note: ideally, each supplier facility would have its sustainable compliance indicators publicly reported but in the present environment there is a high probability that this would encourage false reporting.)

*Independent External Assessments (IEAs):* IEAs using FLA accredited monitors or assessors will be conducted at 4% of the company's factory base. The IEAs will take the form of either an impact assessment or a traditional IEM. The breakdown of IEMs and IEAs, as well as the terms of IEM redirection, with 3.0 will be determined by the working group and a recommendation will be made to the board. Independent External Assessments will evaluate the impact of the capacity building efforts and changed factory systems. Unlike the regular progress reports, the independent external assessments will be published as narrative reports on the FLA website.

V. **Public Reporting and Accreditation:** Companies applying FLA 3.0 to their factories will continue to be subject to the same level of due diligence. Companies will continue to submit annual reports for public reporting which will describe their efforts, including successes and challenges in implementing the 3.0 methodology and any progress seen at the factory level. The FLA will collect and analyze aggregate information and report on progress in improving workplace conditions at a country or regional level, highlighting best practices which all companies can utilize. Additionally, the companies will continue to receive annual/periodic headquarter (and field office) visits to review internal compliance programs and actions taken to meet all FLA obligations. Re-accreditation will focus on the efforts of each company to implement the 3.0 methodology, including training internal
staff, conducting assessments, implementing remediation, measuring progress and impact, and engaging with civil society actors throughout the process. Reporting on 3.0 implementation is likely to be the Annual Public Report for 2007 for the Soccer Project participants and in 2008 for other companies applying the 3.0 methodology in 2007.

Key Deliverables:
As mentioned earlier, the Soccer and Sustainable Compliance Projects have allowed the FLA to develop and pilot tools, training material and methodologies that will be made available to all FLA constituents. A list of the key deliverables relating to each component of FLA 3.0 is provided below along with an update of when the deliverable will be completed and made available.

I. Monitoring Matrix Deliverables:
   a. Consultations with multiple stakeholders to discuss and define priority issues in the manufacturing countries
      o Status: Piloted in Soccer Project. Next round of multi-stakeholder forums to be organized in 2007
   b. Published monitoring matrices and a final report that summarizes the outcome of the multi-stakeholder forums and highlights priority issues, common root-causes, and remediation strategies.
      o Status: In process; to be available after first multi-stakeholder forums in '07
   c. Contact with potential service providers (identifying interested organizations and categorizing capacity, availability, roles, expertise and geographic location, and limitations).
      o Status: Relationship building with local stakeholders underway; service provider directory under development. Initially, the service providers on the directory may be unscreened. Any service provider can register and will be asked to provide information on services and, possibly, even references from past clients (the necessary disclaimers will be attached to the directory). Once the FLA has a developed a more sophisticated screening process, or has identified local partners to manage the service provider selection process and directory management, only FLA nominated service providers will be included in the directory.

II. Assessment, Capacity Building and Measurement Deliverables:
   a. The FLA will make available the following sustainable compliance tools:
      i. Sustainable Compliance Assessment Tools (SCAT) which can be used for factory self-assessments or company needs assessments and in-depth review.
      ii. Sustainable Compliance Instructional Modules (SCIMs) which can be used by factories, brands or service providers as guidance for how to build factory compliance systems related to each priority area.
iii. Sustainable Compliance Indicators (SCI) which are performance measures linked to each assessment tool which can be used to evaluate the conditions of the factories prior to any capacity building and to gauge progress, and eventually impact, over time.

- **Status**: For a list of SCAT, SCIM and SCI that have been developed or are under development, please see Appendix 1.

b. Partnerships and collaboration with well-established international and local institutes to help in the development of material, conduct assessments, or in the delivery of training/advisory services. An example of one such strategic partnership is the FLA partnership with the International Labour Organization-Working Improvements in Small Enterprises (ILO-WISE) programme that is being tested through the Soccer Project (for both Hours of Work and Productivity Improvement). ILO-WISE has technical expertise, training resources and participatory approaches that can be used and adapted for use in FLA 3.0. The FLA and the ILO-WISE have already co-published a training manual for productivity improvement and conducted a joint-training on Hours of Work for the Soccer Project factories in China. We will also seek to work with civil society organizations in these countries to assist in the development and execution of worker interview/focus group methodologies and capacity building material and for training.

- **Status**: The training manuals for productivity improvement are ready in English and Chinese; the Thai version is being translated. For a list of trainings and partnerships being piloted through the Soccer Project and other FLA projects, please see Appendix 2.

c. FLA Sustainable Compliance Portal: The creation of a portal is a critical deliverable for 3.0 which will allow for the sharing of information among all constituents.

- This is a web-based site which will provide access to diagnostic, capacity building and measurement tools to companies, suppliers and associations, and service providers (some at a cost).
- Once the portal is operational, it will: (i) collect supplier self-assessments and outcomes of in-depth assessment; (ii) contain remediation plans with calendars; (iii) and measure progress by companies online.
- It will host a Service Provider Directory for each country

- **Status**: The FLA is working with IT and project consultants to develop a portal.

III. Independent External Assessments:

a. The FLA will develop criteria and a process for both the accreditation of monitors and assessors. The first assessors to be accredited in 2007.

b. The FLA will also design an impact assessment tool and methodology which will be used to train assessors.

**Mainstreaming FLA 3.0:**

This section proposes how FLA 3.0 can be mainstreamed into FLA core work and company compliance programs in 2007 through a discussion of: 1) what 3.0 means for accredited companies; and 2) the FLA resources that will be made
available to support 3.0; This document can form the basis of a plan to be further
developed through an FLA 3.0 working group and can be amended to incorporate
constituent concerns with operationalization, budget, and staffing. A proposed
timeline has been developed for the rest of 2006 and 2007 that tracks the
conclusion of the pilot projects, the integration of 3.0 into the rest of the FLA’s core
work and highlights the participation requirements of accredited companies. This
will be provided to the accredited companies and the 3.0 working group for further
discussion and development.

I. Company Participation in FLA 3.0
Beginning in 2007, FLA companies with accredited compliance programs will be
able to participate in FLA 3.0 in China and Thailand. It will be within the discretion
of the Executive Director to allow new company affiliates or companies still in their
initial implementation to participate at the FLA 3.0 level, provided they have
undertaken extensive code implementation work, including internal monitoring and
remediation, and have been subjected to FLA evaluation. The FLA will develop a
procedure through which the Executive Director would evaluate the readiness of
such companies and make a recommendation for pre-accreditation participation to
the Board.

FLA Company (PCs and Licensees) that are not accredited along with all FLA
constituents including NGO/Trade Unions, University constituents and suppliers,
will be invited to the multi-stakeholder fora and are encouraged to participate in
any discussions of the monitoring matrix development, prioritization of remediation
issues and collective trainings.

Civil society actors will be involved in the consultation, capacity building and
assessment phase in China and Thailand.

Company Obligations:
Companies participating in FLA 3.0 will continue to be subject to the Charter-
specified levels of assessment and transparency based on the eleven Obligations
of Companies used in the accreditation process. Companies will continue to build
their internal compliance programs to cover the same eleven obligations but
company compliance staff will concentrate on code implementation and
remediation of the prioritized compliance issues. Companies in shared facilities
will share resources to assess gaps and support remediation efforts, to the extent
allowed by laws and regulations regarding anti-trust activities. Companies will
continue to apply the FLA 2.0 model in other countries until 3.0 is introduced in
those countries.

The companies will continue to receive annual/periodic headquarter (and field
office) visits to review internal compliance programs and actions taken to meet all
FLA obligations. Independent external assessments, public reporting and
reaccreditation will continue to be based on the code of conduct and same
obligations of companies. Reporting will be more narrative and contextualized
however and greater emphasis will be placed on code implementation and the remediation of prioritized issues to gauge progress and impact.

Staffing and Budget Considerations
Some companies may need to build additional skill sets and new approaches into their teams. Companies must decide if they want to train existing staff, hire new staff, or contract-in the skills required to implement the FLA 3.0 methodology. The FLA will assist on a transitional basis by setting up Foundation Courses to train company compliance staff in 2006. The first Foundation Course was held in China in August of 2006 and subsequent courses will be held in 2007.

Budget considerations must also be made for both the FLA and Companies. As mentioned in the report from the Executive Director, considerable time this quarter has been spent setting up new systems to analyze and manage our budgets since Rut passed away. With this new system in place, we will focus on a budget review of FLA projects to identify any cost implications of 3.0 for the FLA and companies. This will be analyzed with the 3.0 working group for further discussion in February. Given that the assessment process may be lengthier and more in-depth, there may be a slight difference in cost from the IEMs; we will be able to provide those details as we identify assessors and schedule IEAs through the Soccer Project. Additionally, the FLA is examining different monitoring/assessor models which may impact the future costs of IEMs and possibly IEAs. We have short-listed a team of four monitors in China who will be trained to conduct both IEMs and IEAs.

II. FLA Resources for 3.0
The FLA also recognizes the need to modify its staffing structure and resources in order to implement FLA 3.0 along with the rest of the core program. We are currently identifying staffing requirements and how the roles of existing staff members can be redefined to create greater efficiency. Some of the staffing objectives proposed include the following:

- Fill unfilled positions in the Code Implementation and Monitoring Program
  - A Licensee Program Manager has been recruited
  - CVs for the Core Program Manager are being reviewed
  - Create a full-time administrator for the CIMP program and a part-time administrator for the university/communications program.
  - Create a coordinator level position to oversee FLA 3.0 and to integrate all of the sustainable compliance projects so that they are aligned with the 3.0 approach.

At a regional level, we have initiated the search for a second China coordinator. With two people in China, the work will be more evenly distributed between project work and stakeholder relations and FLA due diligence work. In parallel, we are identifying other regions where a second project coordinator is required. Simultaneously, we are analyzing the budget to identify resources for support staff in the regions to help with administrative work from scheduling trainings, tracking progress on 3.0 to coordination of the IEM process. Finally, as mentioned above, we have also short-listed 4 candidates for a China
monitoring team. We plan to train these monitors to do both IEMs and impact assessments.

The FLA has been working to plan the core work more efficiently. The database development project continues; not only are IEMs randomly selected from the database but the Category C licensee database is being integrated into it. We are working to automate the tracking charts so that they can be uploaded into a database and updated online. Moreover, we are also identifying bottlenecks and creating strategies to reduce them. One way to reduce bottlenecks is to prepare for the IEMs this quarter so that MSAs, factory lists, dues and access letters are received before 2007 and the start of the IEM process is not delayed. We also plan to stagger accreditation so that a manageable number of companies are brought to each board meeting. The combination of better planning and staffing will help in implementing 3.0.

III. Mainstreaming FLA 3.0: some considerations and a proposed timeline
Despite significant staff shortages, the FLA has sought to continue piloting 3.0 methodologies and to develop and test diagnostic and training material which will be revised and shared with all constituents. Important strides have been made but much more will be required before 3.0 can be fully mainstreamed.

The experience over the last year has highlighted the challenges of moving from discussions of an integrated development approach to putting such an approach into action. Aside from resource allocation, the pilot projects have shed light on other changes that are required in order to successfully implement 3.0. At both supplier meetings as well as during the Foundation Course in China, suppliers and brands were enthusiastic about the need for a new approach but raised concerns about how it would work if the factories continued to hide records or the monitors continued with a policing model. Both sides agreed that it would take time to change the nature of the current relationship and, in some cases, strengthen trust. Similarly, civil society organizations were interested and supportive of FLA 3.0 as it was discussed in the NGO/TU forums but were keen to see a meaningful role for stakeholders that would bring an end to the consultation fatigue that many of these organizations have experienced recently.

Additionally, the pilot projects have revealed the lack of capacity among suppliers to create policies and procedures and implement them. The training material needs to be very practical, culturally relevant, and a series of training/coaching may be needed before systems are implemented and functioning. It will therefore be necessary to spend significant time on developing a training of trainer model for suppliers (management and workers), brand compliance officers and local service providers so that the development of factory HR systems can be supported.

Finally, it is clear that the creation of strategic partnerships with organizations possessing expertise in the priority issues and knowledge of the local context is essential. The Hours of Work and Productivity Improvement Modules have been developed in partnership with ILO-WISE. The Hours of Work module was piloted in
September and, although the training highlighted what needed to be improved in the module, the FLA has drawn on the pooled resources to create capacity building material and can use such partnerships to build training capacity locally and make the material directly relevant. In forming such partnerships we also reduce the risk of reinventing the wheel if other organizations have expertise and are open to collaboration. We will therefore spend more time exploring existing resources in Thailand and China and working more closely with FLA constituents to improve the approach.

Given this, we propose to work with the 3.0 working group to review and contribute to a timeline and plan that takes into account the need to: 1) strengthen and change relationships between brands and suppliers and with local stakeholders; 2) map existing resources to identify where strategic partnerships in training and material development can be formed; 3) complete the pilot projects, including supplementary training and measuring and reporting impact; 4) integrate FLA 3.0 into the core work of both the FLA and company programs.
Appendix 1: SCAT, SCIM and SCI

The SCAT reflects the life cycle of a worker, from the point of entry into a factory to their resignation or termination, where non-compliances are likely to take place. The items in bold are completed: the first set of SCAT is drafted and is currently under revision; six SCIM have been completed and are being reviewed. SCI for hours of work and grievance procedures have been drafted.

<table>
<thead>
<tr>
<th>Sustainable Compliance Assessment Tool (SCAT) (Assessment of situations)</th>
<th>Sustainable Compliance Instructional Modules (SCIM) Capacity building (Attacking root causes)</th>
<th>Sustainable Compliance Indices (SCI) Measurement Methods/Code Compliance (Monitoring progress)</th>
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<td>Tool B/3: Other training</td>
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<td>Tool C/2: Hours</td>
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<td>Tool E/2: Engineering</td>
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<td>Tool E/4: Hygiene</td>
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<td>Tool F/3: Terms &amp; Conditions</td>
<td>Module F/3: Terms &amp; Conditions</td>
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<td>Tool H/4: Safety</td>
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<td>Tool H/5: Other</td>
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<td>Tool I/3: Other</td>
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<td>Tool J/2: Informal grievance handling</td>
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<td>Discipline</td>
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<td>Module K/1: Formal</td>
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<td>Code compliance promotion</td>
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<td>Tool L/2: Merit</td>
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<td>Termination</td>
<td>Tool M/1: With cause</td>
<td>Module M/1: With cause</td>
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<td>Tool M/2: Without cause</td>
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<td>Tool M/3: Downsizing</td>
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<td>Resignation</td>
<td>Tool N/1: Tool for resignation</td>
<td>Module N/1: Module for resignation</td>
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Appendix 2: Capacity Building Programs available and Pilot Partnerships

The below is a list of capacity building courses that have been made available to suppliers and will shortly be made available to brand compliance officers and service providers in the coming months. A timeline follows of activities that have taken place through the Soccer Project and reports on the capacity building programs provided are being posted on the website and will be completed shortly in the next quarter.

**Brand Level Capacity Building: FLA 3.0 Foundation Course**
- 2-part course for local brand compliance officers
- Delivered by international consultants working on FLA sustainable compliance projects, supported by FLA
- Objective is to familiarize compliance staff with 3.0 concept, tools and methodology
- First Foundation Course was a 5 day course offered in August 2006 for brand compliance teams. The trainers were Auret Van Heerden, Britta Klemmer and David Tagjman. The course design is being revised based on feedback from participants.

**Suppliers Capacity Building Programs:**

**Balance Scorecard Training:**
- 1-day course for owners and top management
- Delivered by Britta Klemmer (local training partners to be identified)
- Focus on strategic planning method integrating compliance and business objectives

**Guidelines of Good Practice:**
- 3-day course for top management and HR managers
- Delivered by Helena Perez (local trainers being trained—see below)
- Focus on hiring, firing, discipline and grievances

**Grievance Procedures**
- 3-day course for top management and HR managers
- Delivered by Helena Perez and local partners
- Focus on development of grievance policies and procedures

**Working time management:**
- 2-day course for managers involved in production scheduling and forecasting
- Delivered by ILO-WISE international trainer and FLA (local trainers to be identified)
- Based on joint FLA/ILO training material
- Focus on awareness between working time reduction and improved productivity

**Productivity improvement:**
- 3-day course for production managers
Delivered by ILO-WISE international trainer and FLA (local trainers to be identified)
- Based on the joint FLA/ILO training manual
- Focus on basic improvements at the factory floor

Service Provider Workshops and Training of Trainers:
Workshop held to further develop Worker Interview and Focus Group Discussion
Methodology:
- Methodology developed in partnership with Chinese NGO with expertise in worker interviews
  Chinese Partner (Timeline Consultancy)
- ½ day workshop with NGOs in Thailand to adapt material for Thai workers
  Thai Partners to be finalized

Training of Trainer Program for GGP:
- 2 day training of local service providers on FLA guideline of good practices
- Chinese trainees currently being identified
- Objective is to assess skill levels of local service providers and to gain feedback on modifications required in local Chinese context.
FLA 3.0 - Toward Sustainable Compliance

Innovation, corporate social responsibility, and holding companies and their factories accountable

Since its inception, the FLA has focused on monitoring factory compliance pursuant to its Workplace Code of Conduct. It has worked hard to ensure that companies affiliated with the FLA not only abide by that Code, but if and when violations are found, to work with their factories and ensure that those violations are quickly corrected. Our role has been to observe and evaluate the practices of our affiliate companies, hold them accountable to our Code of Conduct, and use their market power to improve the conditions of work for workers across the globe.

Now, nearly a decade later, the FLA continues to implement this approach successfully, but also seeks to strengthen and enhance it – to focus even more on means of sustainable compliance that will enhance our capacity to strengthen the behavior of factories. This year, for instance, FLA is introducing an enhanced “C” Licensee monitoring system, updated tracking charts to provide public disclosure of the independent external monitoring (IEM) audits that are conducted, and the development of a participating supplier membership.

Toward sustainable compliance

At the core of FLA’s work as it closes in on its second decade, is an exciting strategy that is both central to and an enhancement of the group’s mission. This new strategy builds on FLA’s experience in independent monitoring, and identification of behaviors in factories that do not comply with the FLA Workplace Code of Conduct.

It focuses increasingly on a more comprehensive and inclusive approach, putting even greater emphasis on collaboration among its stakeholders and the principle of sustainable compliance. Years of experience monitoring in hundreds of factories have showed us that monitoring alone is an inadequate tool to create sustainable change in working conditions. To do so, the thousands of factories that are used make it virtually impossible to continuously send monitors to each in order to catch noncompliances as they occur. But more significantly, external enforcement of compliance standards through company compliance programs is, at best, an interim measure. The real work takes place at the factory level.

Instead of repeatedly sending in external monitors to catch non-compliant behavior over and over again, the more sensible, progressive, and productive approach is to place our focus on determining why these noncompliances take place in the factory in the first place and building the internal capacity and due diligence necessary to prevent them. We need to support these factories in creating systems that integrate the voice of workers, prevent recurring problems, and establish a means through which to resolve future conflicts or disputes that may emerge in the future. This is where FLA 3.0, the third generation of FLA monitoring is based.
FLA 3.0 represents a shift in the FLA approach that has traditionally focused on brand accountability. Looking to the future, the role of the FLA, our member companies and other local actors, governments, labor groups and human rights advocates will seek to enable and ensure that the factory fulfills this objective. Make no mistake -- we will continue to evaluate brands but the emphasis will shift to one of building greater due diligence, accessibility and accountability of factories.

How FLA 3.0 works

FLA 3.0 leverages FLA’s multi-stakeholder partnerships to develop capacity for compliance at the factory level; it is an integrated approach to sustainable compliance that: pools constituent resources and increases collaboration focuses on the identification and remediation of root causes of persistent and serious non-compliances so that a more systematic approach can be applied at the supplier level creates opportunities for local stakeholders to play an integral role in identifying priority compliance issues, providing remedial and capacity building services, and assessing progress made by suppliers. In coalescing around these goals, this new system will emphasize and measure the progress and the impact of the program, something that our checklist questionnaires have never been able to capture. In this way we hope to both enhance the public reporting and increase the positive contribution to improving workers lives.