

President's Advisory Committee on  
Labor Standards and Human Rights<sup>1</sup>  
University of Michigan

Report to the President  
April 23, 2007

Executive Summary. The Advisory Committee's ongoing responsibilities are to review and monitor the code of conduct for licensees, to address complaints about licensees, and to advance understanding on campus of issues related to globalization and labor. During the 2006-07 academic year, the President also specifically requested that the committee focus on developing and implementing a process to promote more effective monitoring and enforcement of the University's code of conduct by our licensees. The President also charged the committee to monitor the development of the Designated Suppliers Program (DSP).

The committee met monthly during the year. It has assessed reports on alleged violations of codes of conduct by factories producing collegiate goods, held two campus forums on the DSP and one committee hearing on monitoring efforts by individual licensees. It has been represented at eight off-site meetings, six of which were DSP Working Group meetings. The committee also developed and implemented a pilot information and data collection process in order to understand the current approaches to monitoring by a sample of licensees.

In response to the President's charge this year, the committee makes three recommendations:

1. In order to strengthen adherence to the labor code of conduct, the committee recommends that the University change its licensing procedures to require that, as a condition for new licenses and renewals, licensees adequately document how they monitor the code of conduct in their facilities and those of their suppliers.
2. To implement this requirement more efficiently, the committee recommends that, if feasible, the University use the information system being developed by the FLA to collect information about the actions and capacity of licensees to monitor the code of conduct in their facilities and those of their suppliers.
3. Based its continuing review of the DSP, the majority of the committee does not believe that a change in the University's stance is warranted; the committee continues to recommend that the University not endorse this proposal.

---

<sup>1</sup> The 2006-07 committee is chaired by Lawrence S. Root. Committee members participating in the recommendation process and this report include: Kristen B. Ablauf, Greg Cohen, Aria Everts, Kevin M. Ferrell (Fall semester), Mary E. Gallagher, Marian Krzyzowski, Ana Quinones, Steven R. Ratner, Lisa Stowe (Winter semester), and Katherine Terrell. Ada A. Verloren is staff to the committee.

President's Advisory Committee on  
Labor Standards and Human Rights  
University of Michigan

Report to the President

The President's Advisory Committee on Labor Standards and Human Rights is charged with continuing review of the University's code of conduct, monitoring/addressing complaints about licensees, and engaging in education and research activities related to the underlying issues of globalization and labor. Additionally, this year, in response to its 2005-06 report, the President specifically charged the committee to develop ways to reinforce and strengthen adherence to our licensing code of conduct. The committee was also charged to continue to monitor developments in the Designated Supplier Program (DSP) and to engage with the WRC and other universities concerning this initiative.

Over the course of the academic year, the committee has met monthly. Communications have been received concerning code violations and, in some cases, code remediation concerning a number of factories: Gilden (Honduras); Paxar (Turkey); Hermosa (El Salvador); BJ&B (Dominican Republic); Rising Sun (Kenya); and Chong Won (Philippines). The committee wrote directly to one licensee concerning the situation at BJ&B and has lent its support to a WRC request for information on a related issue. Most of the committee's work during this year, however, has been on the two specific charges from the President.

Strengthening Adherence to the Licensing Code of Conduct

Pursuant to the President's charge to address ways of making adherence to our code of conduct more effective, work began over the summer on developing a prototype website that would (1) provide information to licensees about expectations for them under the University's licensing contract and (2) collect information from licensees about how they are currently monitoring/enforcing the code of conduct.

During the fall, the website was modified, based on committee discussion. Several other large licensing universities were also contacted about their interest in partnering with the University. Ohio State University, University of North Carolina, and University of Southern California decided to join the University in this effort. In December, the website/data collection tool was sent to a sample of thirty licensees, representing large, medium, and small companies. (Appendix A provides examples of selected website pages.)

Two-thirds of the sample provided information about their approach to monitoring. As expected, the responses revealed a range of levels of enforcement, from sophisticated systems in the large, well-known brands to little or no activity among others. In addition to confirming the impression that many licensees, particularly mid-sized and smaller ones, have not integrated the code of conduct into their sourcing procedures, the pilot survey also provides a basis for considering what specific information to seek in an effort to document code compliance actions. (The committee report on the survey is included as Appendix B to this report.)

The committee's approach has been informed by discussions with other universities, with the FLA, and in a committee hearing with two licensees concerning their current operations and how they monitor code compliance in their factories. Based on these experiences, the committee has sought ways that the University could integrate documentation of code enforcement more centrally into the licensing relationship. Under existing practice, adherence to the code of conduct is treated in the same way as most other contractual obligations: compliance is assumed unless there is information to the contrary. Integrating a requirement for documentation into the licensing process would send a clear message that compliance with the code of conduct is an important part of how licensees produce and/or source products. Making this an explicit part of the licensing relationship would itself raise awareness of the importance of adherence to the code and result in stepped up action by licensees.

The committee recognizes that adding this requirement would be a significant additional element in the University-licensee relationship. With over 500 licensees, the information received would pose challenges for data management and assessment. In structuring the specific questions that should be asked of licensees, the committee sees several key areas:

1. the nature of the licensee's relationship to production
  - a. production by factories owned by the licensee
  - b. direct sourcing from external factories
  - c. use of distributors or providers of "blanks"
2. a licensee's internal code of conducts/corporate social responsibility policies
  - a. background and history
  - b. internal responsibilities
3. factory-level actions
  - a. monitoring at factories
  - b. communications with factories concerning code requirements
  - c. reactions/responses to code violations

Given the goal of more systematic compliance with the code of conduct and given the anticipated process involved, the committee makes the following two recommendations:

The committee recommends that the University change its licensing procedures to require that, as a condition for new licenses and renewals, licensees adequately document how they monitor the code of conduct in their facilities and those of their suppliers.

Committee commentary on the recommendation: The code of conduct is part of the contract that licensees have with the University (through its agent, the Collegiate Licensing Company-CLC). But many companies may not have taken specific steps to ensure that they and their suppliers are in compliance with this aspect of the contract. By requiring licensees to document how they monitor the code, the University would reinforce the importance of code compliance and mandate explicit attention to meeting this contractual obligation. This requirement would also result in collecting specific information that can be used as part of the decision-making about whether to approve a new licensee or renew the contract of a current licensee.

This recommendation represents the first step in an effort to "ratchet-up" adherence to the University's code of conduct. The committee recognizes that enactment of this requirement will involve developing standards for assessing the quality and reliability of the information supplied. The committee recommends that a list of reliable third-party monitors be developed during the fall of 2007. This list would be used in setting up a certification system for licensees that are working with uncertified factories

To implement this recommendation, the University's Trademarks and Licensing Office would consult with the Collegiate Licensing Company (CLC) on the specific information/format required and the process for integrating this requirement into the University's licensing agreements and renewals. It is expected that such consultation would begin immediately and the new requirement would be implemented as soon as feasible and no later than the fall semester.

The committee further recommends that, if feasible, the University use the information system being developed by the FLA to collect information about the actions and capacity of licensees to monitor the code of conduct in their facilities and those of their suppliers.

Committee commentary on the recommendation: The FLA is developing an online system to collect information from mid-sized licensees on their capacity to monitor compliance with codes of conduct. This system, which is planned for pilot testing this summer, will query companies about: (1) the nature of their factory sourcing relationships; (2) their social responsibility/labor compliance program; and (3) how these compliance efforts are implemented at the factory level. To the extent that information gathered parallels information that the University will require of licensees, this system could be used to provide information needed to implement the above recommendation.

This recommendation will result in the committee seeking to work with the FLA in the development of a pilot test and, if successful, full implementation of this information-gathering approach. Delays in the availability of the FLA's system or divergences from the content needed by the University would not constitute a reason to delay or otherwise change the timing of actions attendant to an affirmative vote on the first action item.

### Continued Monitoring of the Development of the DSP

The Designated Supplier Program (or DSP) was developed by USAS—the United Students Against Sweatshops—to address continuing concerns about violations of codes of conduct in factories producing for the collegiate market. The original DSP proposal that the committee considered last year, called for changing the way that licensees

contract with factories by consolidating most collegiate production into a relatively small number of factories. Under the proposal, three years after implementation 75 percent of the collegiate goods produced by each licensee would have to come from “designated suppliers.” For a factory to be “designated,” it would have to:

1. produce primarily for the college market—that is, 2/3 of their production would be collegiate goods
2. pay, at minimum, a wage that covered the calculated cost of living for a family (estimated by the WRC for examples in Central America and Indonesia to be 2.5 to 3 times the current wage) and
3. have a union.

The proposal further required that licensees pay the factories a price for each order that was sufficient to cover “actual production cost to allow all of the standards to be met.” If there was any dispute about this, the WRC would determine whether the price paid for an order was a “fair price,” given these criteria.

Much of the committee’s efforts in 2005-06 focused on seeking more information and evaluating the DSP. While the Committee agreed that code of conduct violations continue to be a serious problem, the majority did not feel that the DSP represented a viable solution and recommended that the University not endorse the DSP at that time.

That recommendation reflected a number of considerations. Some related to the basic direction of the DSP. For example, is it a positive step to shift university pressures from the large number of factories that have some collegiate production to a small group of factories that mainly produce collegiate goods? The successes that have been achieved through university codes of conduct have been possible because there was some collegiate production in a plant. That option would be lost with this kind of consolidation.

Another issue, which has not figured prominently in the committee’s deliberations but has been an ongoing theme in DSP discussions more broadly, is whether the DSP might violate anti-trust laws. The WRC has requested the Department of Justice to provide a “business review letter” to clarify whether they would expect the implementation of the DSP to raise anti-trust concerns. A response from the Department is expected by the end of June.

Most committee discussion has focused on assessing the feasibility of the DSP and its potential for unintended adverse consequences. Would a limited number of factories be able to meet the variety of kinds of products that are made? How would issues of quality, on-time delivery, etc. be handled? From an organizational perspective, does the WRC have the resources to certify all of the factories needed for this? And do they have the expertise to assess things like what is a “fair price” for a particular order and, if so, could it be done in a timely manner? Would creating a factory with wage levels that are 2 to 3 times the going rate create unintended problems of corruption in term of how these premium jobs are allocated?

A meeting with licensees—a group that had not been consulted in the development of the DSP—was held in the summer of 2006. At this meeting, licensees expressed serious

reservations about how the proposal would work in practice. They reported that virtually no factories currently produce primarily for the collegiate market. And, because the college market is cyclical, with heavy demand during certain seasons, they questioned whether a primarily-collegiate factory could maintain steady employment throughout the year. Some licensees said that under the DSP they would be forced to leave factories that they've used for years because those factories could not come close to the minimum collegiate product requirement.

Licensees also cited problems with the potential consequences of sharing production facilities with direct competitors, a consequence of the consolidation of production under the DSP. Competition among companies in the collegiate market is often based on style innovations. In this context, companies place high priority on confidentiality with regard to their new products. Although factories typically produce for many different companies, licensees report that efforts to differentiate their products from those of competitors (design innovations, use of particular materials, etc.) would be compromised if they are being manufactured in factories that also produce for direct competitors.

After the meeting with licensees, the DSP Working Group made some changes to the DSP proposal. The union requirement was changed to a strong requirement of freedom of association. Instead of having the WRC responsible for determining whether the price for an order is "fair," this would be settled by some form of binding arbitration. Small licensees would be exempted from the DSP. And the requirement for collegiate production was reduced, so that for a factory to be "designated," collegiate goods would have to constitute at least half of its production rather than two-thirds.

The changes in the DSP also added two new requirements. First, it required licensees to have a long-term contract with the designated factory—defined as 3 years, plus a fourth year at not less than 50 percent of the previous level if the contract isn't to be renewed. Second, it identified five factories for special favorable treatment by virtue of their status as having been sites of significant advancement in worker rights because of collegiate involvement.

The WRC convened a second meeting involving licensees in January at which these new provisions were introduced. The licensees who attended that meeting did not appear to think that the changes addressed their basic concerns about the viability of the proposal.

In summary, the DSP would create a separate segment within the apparel industry for collegiate goods, governed by rules to insulate the workers and factories from some of the negative impacts of the current market system. To do this, a regulatory framework is proposed that would:

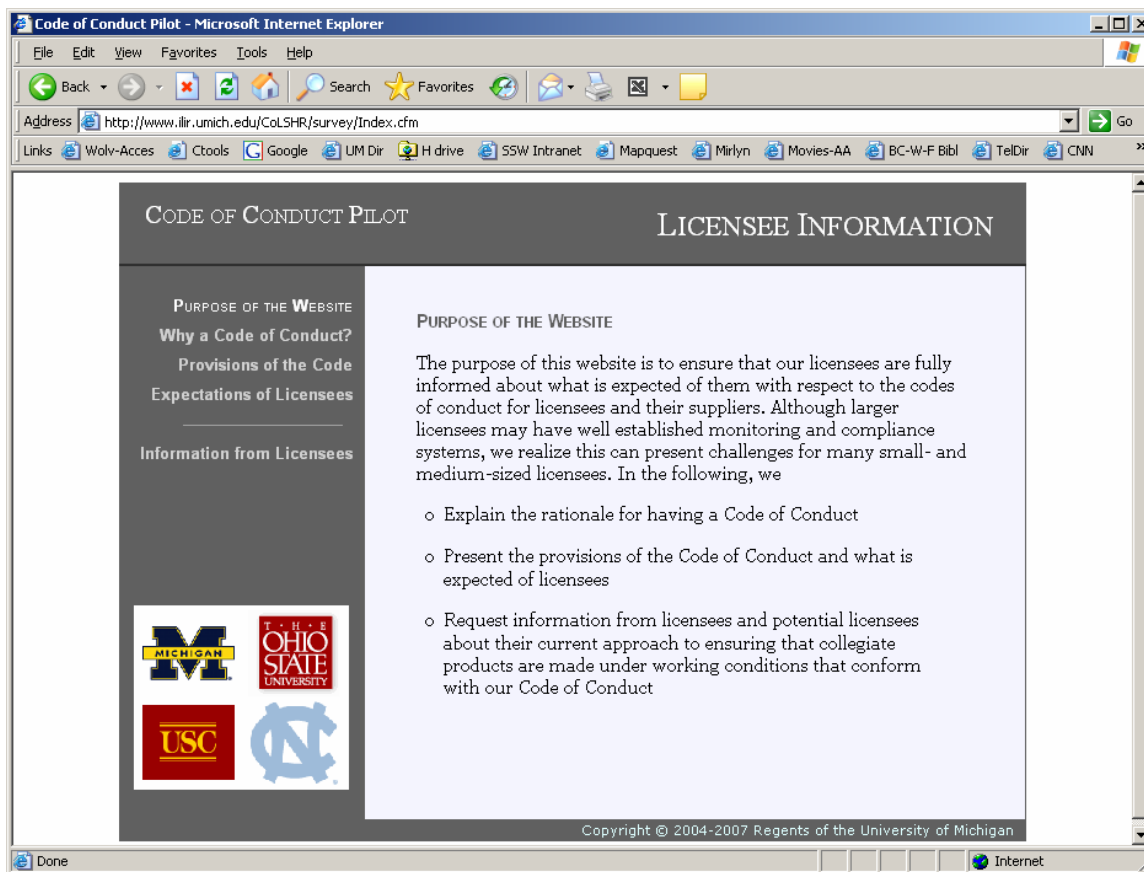
- set a wage floor based on estimated living costs for a family rather than on local wage standards or market forces
- require collegiate production to be concentrated in a limited number of factories
- ensure that the price paid for an order covers all production costs (a "fair price") by providing binding arbitration if the supplier feels the price is too low
- mandate multi-year contracts

The WRC would be responsible for implementing the DSP. In addition to the committee's overall questions about the feasibility of the DSP, there is also serious doubt

that the WRC, with a total staff of 16, has the resources necessary to take on this responsibility.

The committee recognizes that a number of students have expressed strong support for this proposal. But the majority of the committee continues to believe that the DSP does not represent a viable approach for implementing university codes of conduct. The committee, therefore, does not see a reason for the University to change its prior stance on this proposal and it recommends that the University not endorse the DSP.

## Appendix A: Pilot Website and Data Collection





## Two Pages from Data Collection Section of Pilot Website

Code of Conduct  
Licensee Information

View Instructions  
Done

### 2006 Licensee Information

Manufacturing responsibility (check all that apply)

We have our own factory/factories

☒ in the United States  
☐ elsewhere  
Please list country location(s)

We source from outside factory/factories

☐ in the United States  
☐ elsewhere  
Please list country location(s)

We get manufactured goods/items from distributors/suppliers

☐ in the United States  
☐ elsewhere  
Please list country location(s)

Page 1   2 - Previous Page   **Page 3**   Next Page

Copyright © 2004-2007 Regents of the University of Michigan   Advisory Committee on Labor Standards and Human Rights

Code of Conduct  
Licensee Information

View Instructions

### 2006 Licensee Information

Does your company have a "sourcing" department? Yes

If Yes, please describe the department (number of employees and responsibilities)

Does your company currently have procedures to ensure that university goods are made according to the Codes of Conduct? No

If Yes, how do you ensure that working conditions meet the requirements of the university Codes of Conduct?

Does your company have its own Corporate Social Responsibility (CSR) program that includes labor conditions? -select-

If Yes, please describe your CSR policy.

What is the title or position of the person who is responsible for implementing your CSR policy and monitoring labor standards?

Page 1   2   3 - Previous Page   **Page 4**   Next Page

Copyright © 2004-2007 Regents of the University of Michigan   Advisory Committee on Labor Standards and Human Rights

## Appendix B

President's Advisory Committee on  
Labor Standards and Human Rights  
University of Michigan

### Preliminary Report on Pilot Licensee Survey

The President's Advisory Committee on Labor Standards and Human Rights at the University of Michigan, in conjunction with Ohio State University, University of North Carolina, and University of Southern California, implemented a pilot survey of licensees. The goal was to provide information to licensees about university codes of conduct and to elicit information from licensees about the nature of their operations and current approaches to monitoring/enforcement of codes of conduct. The website is located at:

<http://www.ilir.umich.edu/CoLSHR/Survey/>

The twenty largest apparel/headwear licensees from the four schools and ten additional licensees (representing non-apparel) were requested to complete the survey. As of February 9, twenty responses have been received from the total of thirty licensees who were emailed, representing a 66 percent response rate. As noted below, some licensees did not complete all of the questions. For example, as noted below, five of the twenty did not provide information about their sales volume.

In this preliminary report, we first describe the respondent group and then highlight the findings that are relevant to understanding current approaches to code monitoring and enforcement. The individual responses are included as an appendix to this report.

#### Characteristics of the Licensees Completing the Survey

The companies responding represent a variety of sizes, as shown in the table below.

<b>Total sales</b>	<b>Number of respondents</b>	<b>Percent</b>
>\$500 million	4	27%
\$100-\$449 million	2	13%
\$50-\$99 million	3	20%
\$1-\$49 million	6	40%
Total	15	

<b>Collegiate sales</b>	<b>Number of respondents</b>	<b>Percent</b>
>\$20 million	4	27%
\$10-\$20 million	4	27%
Under \$10 million	7	47%
Total	15	

The respondents made a variety of products:

T-shirts	10
Fleece	9
Outerwear	8
Headwear	12
Replica Jerseys	3
Fashion	7
Performance Apparel	2
Youth Apparel	10
Loungewear	2
Women's Headwear	9
Accessories	6

The marketed/distributed their products through the following channels/outlets

Bookstores	14
Department Stores	12
Sporting Goods Stores	16
Campus/Local Shops	15
Mass Merchandisers	10
Grocery/Drug/Convenience Stores	4
Internet and/or Catalog	12

### Patterns Reported in Response to Code Monitoring/Enforcement

In responding to the question about compliance with the code of conduct, most respondents referred to their membership in the FLA. For larger companies (FLA category A and B), membership is predicated on having a compliance system that includes internal and external monitoring.<sup>2</sup> Arrangements are still under development for requirements for smaller firms (category C).

---

<sup>2</sup> Firms in FLA Categories A and B have annual revenues in excess of \$50 million. Those in category A have all of their operations under the FLA-approved monitoring/compliance system. Category B firms only commit to applying the FLA system to the production of their collegiate goods. Category C firms have revenues between \$5 million and \$50 million (or have less than \$5 million in annual revenues but source their goods overseas). Category D firms have less than \$5 million in sales, source in the U.S., and are located within 200 miles of their local collegiate market.

Some respondents, in addition to their mention of FLA membership, identify specific activities related to compliance, such as:

- Internal audits through internal audit department
- Co has a formal compliance program
- New factories have to provide information about compliance
- Suppliers agree to comply with FLA code
- Periodic site visits
- Communication with local organizations
- Director of global responsibility and human rights conducts annual on-site visits
- Auditing processes and training programs
- Office branch manager travels to factories 4x/yr
- Factory auditing program performs on-site inspections at least annually
- New factories undergo pre-sourcing audits
- Require factories to train workers on the code of conduct
- Contract with independent 3<sup>rd</sup> party monitors to conduct audits
- Conduct follow-up audits

The efforts of mostly smaller licensees (\$1-\$49 million) to comply with codes of conduct vary considerably, including references to what appear to be undefined actions and, in some cases, no activity in this area:

- Sourcing dept. personnel visit factories annually
- On-site inspections and agreements with factories
- Require a certificate of Code of Conduct
- In-country agents ensure that factories are up to code
- Rely upon CLC
- No sourcing dept; no procedures; no CSR

Attached to this preliminary report is Appendix A: Summary of Compliance Data by Size of Licensee

This table summarizes the responses about compliance efforts, grouping these by the size of the companies (based on their response to their category of annual revenue). Those companies that did not indicate their revenues are grouped together at the end of this table.

## Appendix A (of survey report): Summary of Compliance Data by Size of Licensee

### Total Sales Greater than \$500 million

Id. #	College sales	Compliance efforts
49	Not reported	<p>Nike [self-identified] has a trained team of internal monitors and support for common monitoring platforms such as the Fair Labor Association.</p> <p>Nike's compliance programs for contract factories have four stages:</p> <ol style="list-style-type: none"> <li>1. At the beginning stage, we follow a six-step New Source Approval Process to select factories.</li> <li>2. Once a factory is approved and begins active production for Nike, the compliance team focuses on monitoring and assisting factory remediation of compliance issues that inevitably arise.</li> <li>3. Factories with whom we have longer-term relations also may benefit from Nike-supported training and other forms of capacity building to help the factory develop its own compliance management capabilities.</li> <li>4. When business circumstances change, and we end our orders with a factory, we also may apply a factory exit process. Like the New Source Approval Process, the exit process has a series of defined steps, although it is usually applied only when our exit from a factory could create significant dislocations for the workforce.</li> </ol>
23	\$7,750,000	<ul style="list-style-type: none"> <li>• Internal audits through internal audit department</li> <li>• FLA member (Cat. B)</li> </ul>
70	\$8,000,000	<ul style="list-style-type: none"> <li>• FLA member (Cat. B)</li> <li>• Internal Corporate Responsibility Department with twelve full time staff ensure working conditions of our manufacturing locations meet codes of conducts, which include but not limited to monitoring and training efforts.</li> <li>• All factories manufacturing for our brand are subject to code requirements including on-site unannounced visits and sustainable remediation training (including training factory workers) and capacity building projects.</li> <li>• Working in collaboration with merchandising and sourcing departments, continuation of business relationship with suppliers are assessed based on the supplier's ability to meet the code requirements as well as its vendor performance.</li> </ul>
37	\$14,000,000	<ul style="list-style-type: none"> <li>• FLA member (Cat. B licensee)</li> <li>• Factory auditing program performs on-site inspections at least annually</li> </ul>

### Total Sales \$100 million to \$499 million

46	Not reported	<ul style="list-style-type: none"> <li>• FLA Cat. A licensee</li> <li>• Co has a formal compliance program )</li> <li>• New factories have to provide information about compliance (<i>continued</i>)</li> <li>• Suppliers agree to comply with FLA code</li> <li>• Periodic site visits [no further description/explanation]</li> </ul>
----	--------------	--

		<ul style="list-style-type: none"> <li>• Communication with local organizations</li> </ul>
71	\$65,000,000	<ul style="list-style-type: none"> <li>• FLA member and working toward accreditation as a participating company</li> <li>• Ask factories to adopt code of conduct</li> <li>• Perform 3<sup>rd</sup> party social compliance audits on factories</li> <li>• Many factories are WRAP certified</li> </ul>

**Total Sales \$50 million to \$99 million**

56	\$20,000,000	<ul style="list-style-type: none"> <li>• FLA member (Cat. A licensee)</li> <li>• Assuring Factory Compliance (AFC) team works in conjunction with FLA</li> </ul>
62	\$8,000,000	<ul style="list-style-type: none"> <li>• FLA conducts on-site factory audits (Cat. A licensee)</li> </ul>
57	\$5,825,000	<ul style="list-style-type: none"> <li>• FLA member</li> </ul>

**Total Sales \$1 million to \$49 million**

51	\$20,000,000	<ul style="list-style-type: none"> <li>• FLA member (Cat. A licensee)</li> <li>• Auditing processes and training programs [no further information]</li> </ul>
43	\$30,000,000	<ul style="list-style-type: none"> <li>• FLA member (in process of becoming Cat. B licensee)</li> <li>• Office branch manager travels to factories 4x/yr</li> </ul>
64	\$18,000,000	<ul style="list-style-type: none"> <li>• Sourcing dept. personnel visit factories annually</li> </ul>
63	\$2,200,000	<ul style="list-style-type: none"> <li>• On-site inspections and agreements with factories [no further explanation]</li> </ul>
65	\$1,000,000	Require a certificate of Code of Conduct
28	\$25,000,000	In-country agents ensure that factories are up to code

**Total Sales Not Reported**

54	•	<ul style="list-style-type: none"> <li>• FLA member</li> <li>• Conducts several additional audits of factories each year</li> </ul>
44	•	<ul style="list-style-type: none"> <li>• Adopted FLA code of conduct</li> <li>• New factories undergo pre-sourcing audits</li> <li>• Require factories to train workers on the code of conduct</li> <li>• Contract with independent 3<sup>rd</sup> party monitors to conduct audits</li> <li>• Conduct follow-up audits</li> </ul>
15		<ul style="list-style-type: none"> <li>• No sourcing dept; no procedures; no CSR</li> </ul>
55		<ul style="list-style-type: none"> <li>• Rely upon CLC</li> </ul>
35		<ul style="list-style-type: none"> <li>• No information</li> </ul>