

Offside!

Labour rights and sportswear production in Asia



Acknowledgements

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Front cover soccer ball insert photos: Clockwise from top Martin Wurt/OxfamAUS, Dara O'Rourke, AFP photo/Adek BERRY.

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Executive summary

While global sports brands generously sponsor the world's top sporting teams and players, the women and men in Asia who make their goods struggle to meet their families' basic needs and many are unable to form or join unions without discrimination, dismissal or violence.

Nike pays USD \$16 million (13 million Euro) a year to the Brazilian national football team and adidas pays USD \$1.8 million (1.5 million Euro) per year to French player Zinedine Zidane. Meanwhile the Asian workers who make the football boots and other sports gear worn by players are paid as little as 47 cents Euro per hour — 3.76 Euro for a standard working day. Shopping at their cheapest local markets, women producing brand-name sportswear in Indonesia need to work 3.75 hours to earn enough to purchase 1.5kg of uncooked chicken, which for some is all the meat they can afford for a month.

This report considers 12 international sports brands — adidas, ASICS, FILA, Kappa, Lotto, Mizuno, New Balance, Nike, Puma, Reebok, Speedo and Umbro — and examines the steps they take to ensure their suppliers in Asia allow workers to organise trade unions and bargain collectively for better wages and conditions. It concludes that all sportswear companies need to take a more serious approach to workers' right to freedom of association. Some companies — notably Reebok, Puma, adidas, Nike, ASICS and Umbro — are involved in positive initiatives which have led to improved conditions in some factories, but their overall approach to trade union rights has been inconsistent and at times contradictory. FILA, owned by Sports Brands International (SBI), has taken the least action to improve respect for trade union rights in its Asian supplier factories. FILA has failed to adequately address serious labour rights abuses when they have been brought to the company's attention and since February 2005 has ignored multiple attempts by labour rights groups and trade unions to communicate with the company about labour issues.

Top football players and other professional athletes are commonly represented by players' associations which negotiate collective bargaining agreements protecting players' interests and needs. In contrast, Asian sportswear workers who want to form unions and bargain collectively frequently face discrimination, harassment, threats of dismissal and, in some cases, violent intimidation. Two of the cases researched for this report — one in Sri Lanka and the other in Indonesia — involved violent assaults on workers who were attempting to form unions in sportswear factories. Women, who make up 80% of the global workforce in the sportswear sector, face particular barriers to participating in trade unions due to gender discrimination within their workplaces, their societies and within workers' organisations.

Transnational corporations (TNCs) in sportswear and other industries cannot, on their own, create the conditions where trade union rights are fully respected. Governments have a responsibility to ensure that labour rights are protected by properly enforced state legislation. However, governments in developing countries are frequently wary of regulating the behaviour of TNCs for fear that they will lose production and investment to other countries. In this context sportswear TNCs can play an important role in ensuring that trade union rights are properly respected in their own supply chains, thereby reducing pressure on governments to erode state protection for these rights.

Women from the PT Doson factory (2.5) protest against the factory's closure. Trade union leaders at Doson believe Nike's decision to cut all orders to the factory was related to the union's campaign to raise wages.
Photo: AFP PHOTO/Adek BERRY



The Play Fair Alliance — a network of organisations including, the Clean Clothes Campaign, the International Confederation of Free Trade Unions and the International Textile, Garment and Leather Workers' Federation (ITGLWF) and 11 Oxfams¹ — proposed in 2004 that the World Federation of Sporting Goods Industries (WFSGI) and sports companies cooperate in a *Programme of Work* to improve respect for labour rights in the industry. Major recommendations include:

- confidential and accessible means for workers to report exploitation and abuse;
- independent education and training for workers concerning their rights at work;
- transparency regarding company supply chains and efforts to improve conditions;
- purchasing practices which allow suppliers to respect labour standards (including stable business relationships and reasonable prices and delivery times); and
- a framework agreement between the ITGLWF and the WFSGI to facilitate freedom of association and collective bargaining.

In addition, this report recommends that sports brands should:

- prioritise retaining unionised factories in the companies' supply chain;
- ban, or severely restrict, the employment of workers on short-term contracts;
- if factories close, ensure that workers' receive their full entitlement to severance pay and take steps to help ensure there is no discrimination against worker activists if they apply for jobs with other suppliers; and
- not increase their sourcing in countries and Free Trade Zones where the right to freedom of association does not have legal force. Any new production should be in countries and zones where this right has legal effect.

Progress towards these objectives has been limited. Some companies — notably Reebok, Puma, adidas, Nike, ASICS and Umbro — have taken steps toward greater transparency and have been willing to cooperate with trade unions and other civil society groups to allow some workers to receive training in their rights. They have also been willing to prevent discrimination against trade union members in particular factories, including the two factories described above where trade union members had received death threats. These companies also participate in the Fair Labor Association (FLA), a multi-stakeholder initiative which promotes adherence to international labor standards.² The FLA acknowledges the current limitations of its efforts to promote adherence to trade union rights and is seeking to improve its performance in this area.

Unfortunately even where companies have made some progress in particular factories, across their supply chain their business practices frequently undermine and contradict their stated commitment to respect trade union rights. In some cases sports brands have pushed a particular supplier to allow workers to exercise their trade union rights and then later cut all orders to that supplier, as Nike and Puma recently did in the case of the Lian Thai factory in Thailand.

The most glaring contradiction between policy and practice is sports brand owners' decision to source the majority of their production in countries or Free Trade Zones which fail to give legal force to workers' right to freedom of association. Another contradiction between policy and practice is the increasing tendency for Asian sportswear and garment workers to be employed on short-term contracts. Workers employed under these 'flexible' arrangements are particularly wary of joining unions as they fear their employers may respond by failing to renew their contracts. While most sports brands require their suppliers to respect local laws, only Reebok goes further and has its own policy limiting the circumstances in which workers can be employed on a short-term, flexible basis.

There is also little progress to report in terms of sports brand owners addressing the impact of their buying practices — price, delivery time and stability of business relationship — on workers' rights. No brand is willing to share their pricing arrangements with worker representatives or require suppliers to make full financial information available to worker representatives as an indication of willingness to bargain in good faith.

¹ Oxfam America, Oxfam-in-Belgium, Oxfam Canada, Oxfam Australia, Oxfam Great Britain, Oxfam Intermón (Spain), Oxfam Ireland, Oxfam Novib (Netherlands), Oxfam New Zealand, Oxfam Quebec and Oxfam Germany. ² Umbro is not yet a member of the FLA but is in the process of applying for membership page.

Taking each company in turn:

- Oxfam research in 2004 into long-time **FILA** sport shoe supplier PT Tae Hwa in Indonesia revealed serious labour abuses, including denial of trade union rights, high levels of sexual harassment and intrusive and inappropriate procedures for claiming menstrual leave.³ At the time, **SBI**, owners of **FILA**, claimed there was little they could do immediately but said that in future the company would take steps to improve respect for labour rights in its supply chain. In February 2005, the Tae Hwa factory closed suddenly and without warning, leaving thousands of workers without jobs. Since then **FILA** has declined to either reveal its role in the factory's closure or to take responsibility for ensuring Tae Hwa workers receive their legal entitlement to severance pay. Unlike Nike, Reebok and Puma, FILA does not reveal the addresses of its other supplier factories and the company has ignored requests that it indicate what steps, if any, it is taking to improve respect for trade union rights in those factories.
- **Adidas** provides its suppliers with an accurate explanation of trade union rights, and if breaches of these rights are brought to the company's attention then adidas is usually willing to take steps to ensure these rights are respected. As this report was being finalised, new developments cast doubt on the company's commitment to support workers' right to freedom of association at the Panarub factory in Indonesia. Late in 2005, 33 members of a union at the factory were fired for activities linked to their participation in a strike. Despite numerous appeals to adidas, at the time of this publication going to print it remains unclear whether adidas will insist that the workers are reinstated.⁴
- In Asia, **Reebok** staff have worked hard to ensure respect for trade union rights in a number of supplier factories. The company has also cooperated with labour rights groups to explore the possibility of democratic representation in countries which legally restrict trade union rights. Unfortunately, this positive work is undermined by Reebok's vigorous opposition to the establishment of unions in its distribution centres in the United States (US).
- **Puma's** programs for ensuring that suppliers and workers understand their rights are in the early stages of development and require improvement. However the company has taken some useful initiatives. For example, in Indonesia, Puma has invited trade unions and labour rights groups to advise it in selecting new suppliers which respect labour rights. Unfortunately Puma's decision to cease ordering from the Lian Thai factory in Thailand — after the factory agreed to stop discriminating against union members — gives Puma's other suppliers little incentive to respect trade union rights.
- In several Asian factories **Nike** has shown it is willing to cooperate with the Fair Labour Association (FLA) to support workers' trade union rights when violations of those rights are brought to the company's attention. However this report also documents several cases where Nike has, in recent years, cut orders to factories in Asia where workers have established trade unions or where factory-owners have indicated a willingness to work with trade unions. Irrespective of whether or not these particular business decisions reflect a bias against unionised factories, if the company is serious about respecting trade union rights it should prioritise retaining production with suppliers which are willing to give workers' space to organise and bargain collectively
- Until a few years ago, **ASICS** had done little to address labour rights in its supply chain. Recently the company has cooperated with trade unions to address issues in at least one factory in Cambodia and has expressed willingness to cooperate with trade union and labour rights groups to ensure workers are educated in their trade union rights.

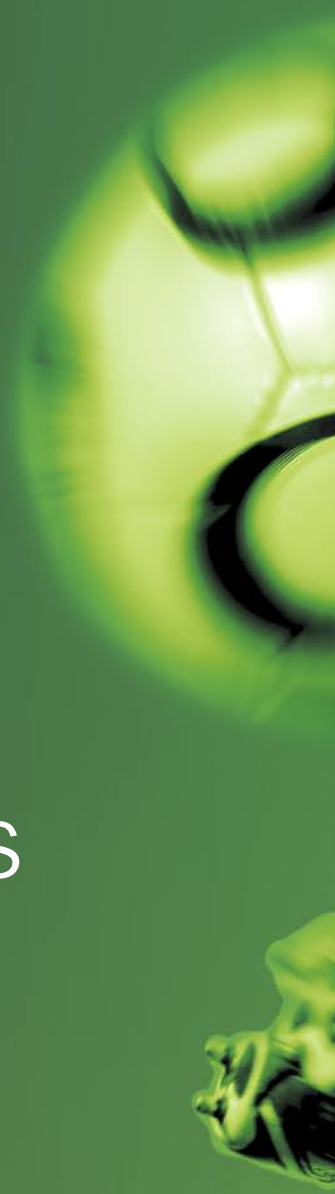
- Although **Umbro** has been slow to develop its labour rights program, since 2004 the company has had regular discussions with trade unions and non-government organisations and has expressed willingness to cooperate with trade unions in pilot worker training projects.
- **Pentland**, the owner of brands such as **Speedo** and **Lacoste**, is a member of the Ethical Trading Initiative (ETI) and is involved in two ETI worker rights projects in Asia. Pentland declined to provide sufficient information about its labour practices to the researchers preparing this report, making it difficult to determine how committed the company is to supporting trade union rights.
- **Mizuno** has recently started employing and training staff to conduct internal monitoring of labour rights in the company's supply chain. However, it has been deferring requests that it cooperate with trade unions and labour rights groups to provide workers with education and training in their rights.
- **New Balance's** plan to reduce working hours to a maximum of 54 hours per week could represent an important step forward for women and men working in the industry, provided that it does not result in a drop in workers' income. There is little progress to report on trade union rights.
- **Lotto** argues that small sports brand owners are unable to have much influence over their large suppliers. Lotto's small size should not, however, prevent it from cooperating with labour rights groups and other companies to ensure that workers' trade union rights are respected.
- Until recently, **Basicnet**, the owner of **Kappa**, has shown little interest in working with civil society organisations to improve respect for labour rights. The company is currently in negotiations with Italian unions and the International Textile Garment and Leatherworkers Federation regarding establishing a system for addressing labour rights. Hopefully this represents a new direction for the company

This report is the beginning of a regular reporting process. Oxfam International hopes that in future many more women and men employed in the sportswear industry in Asia and other parts of the world will be free to exercise their rights to form trade unions and bargain collectively for decent wages and for working conditions which respect their dignity.



³ Menstrual leave is a legal entitlement under Indonesian law. ⁴ A complete update on these developments will be prepared and made available on the internet at www.oxfam.org.au/campaigns/labour/06report.

“Sportswear workers... often face difficult and dangerous working conditions, including... sexual harassment; their trade union rights are rarely respected and are sometimes violently rejected; and their wages for a standard working week are too low to meet the basic needs of their families”





Section 1.0

BACKGROUND

1.1 Introduction

“We are all aware of the risk of unemployment in deciding to organise a union and we are prepared to face this risk. Like Eli⁵ said before, we would rather search for a new job than return to the factory and not be able to form our union. But at the same time we do look around us and think to ourselves: Why be unemployed? Why face the misery of it? Why not just put up with the exploitation from the managers? But then a long series of reasons not to organise start spreading out before us, the issues never end. The only way that the issues can end is if we build power among ourselves to change our conditions and treatment. And the only way we can really do this is by forming a union.”

Marayah,⁶ 30-year old woman sportswear worker dismissed from the Busana Prima Global factory in Indonesia for participating in a strike.

Sportswear workers are doing it tough, as are most workers in the developing world. Hundreds of thousands of workers — 80% of them women — are employed to produce sportswear in Asia, Africa, Eastern Europe and Latin America. Over the last 15 years numerous reports by civil society organisations⁷ have documented the prevalence of exploitative wages and conditions in the sector. While this research has noted some improvements, it has consistently found that sportswear workers work under high pressure for very long hours; that they often face difficult and dangerous working conditions, including verbal and sexual harassment; that their trade union rights are rarely respected and are sometimes violently rejected; and that their wages for a standard working week are too low to meet the basic needs of their families (see, for example, AMRC & HKCIC 1997, Clean Clothes Campaign et al 2002, OCAA 2000, O'Rourke & Brown 1999, Oxfam et al 2004, VLW 1997).

This report assesses the steps that companies which own sports brands are taking to address this problem and focuses on one particular issue — respect for workers' trade union rights. The report follows two lines of enquiry. Part One consists of nine case studies which document how sports brand owners have responded to breaches of trade union rights in particular workplaces. In each of these cases, civil society organisations or unions have brought the issue to the companies' attention. It should be noted that we have selected most of these case studies because some progress has been made, many more exist where no progress could be reported. Part Two assesses the extent to which 12 different sports brand owners have taken sufficient steps to ensure respect for trade union rights across their whole supply chains. Those brands are adidas, ASICS, FILA, Lotto, Kappa, Mizuno, New Balance, Nike, Pentland, Puma, Reebok and Umbro. Both these lines of research are important. If company policies do not translate into effective change at the level of individual workplaces then they are meaningless. But equally, if companies do not have effective policies in place then progress in particular factories may amount to no more than tokenism.

This approach raises a number of questions:

- Why is an aid organisation like Oxfam International concerned about labour rights?
- Why focus on the sportswear industry, aren't there exploitative working conditions in many industries?
- Why focus attention on companies, don't governments have the responsibility to protect the rights of their citizens?
- Why focus on sports brand owners? Most contract their production to suppliers, isn't it the suppliers who should be held responsible for respecting labour rights?
- Aren't wages, working hours and other labour rights also important? Why focus on trade union rights?
- In terms of trade union rights, what standard should sports brand owners be held to and what steps should they be taking?

Why is Oxfam International concerned about labour rights?

Employment conditions and the rights of waged workers are key issues for global poverty reduction, gender equality and development and thus relevant for Oxfam's mandate. In 2003, 1.39 billion people were at work but still lived below the USD \$2 (1.64 Euro) a day poverty line.⁸ A growing proportion of these workers are women, who are increasingly expected to financially support their families as well as undertake domestic and caring work.

Oxfam International does not oppose transnational sportswear companies sourcing their production in Asia, Africa, Latin America and Eastern Europe and recognises that, if conducted responsibly, this investment can play an important role in poverty alleviation. At present, through working very large amounts of overtime, many women employed in global supply chains have some financial independence and some are able to provide economic assistance to their families. However, it is unusual for their employers to pay attention to health and safety concerns. After leaving these jobs many women are left with repetitive strain injuries and other long term detrimental health effects (Oxfam International 2004a). It is vital that the economic gains from globalisation do not come at the cost of workers' rights, health, family-life and other social and cultural responsibilities and aspirations. As UNIFEM (2005, page 8) reported recently:

...strengthening women's economic security is critical to efforts to reduce poverty and promote gender equality, and...decent work is basic to economic security.

Trade union rights are particularly important. In industries such as sportswear production, which are marked by low wages and poor conditions, women and men who are able to actively participate in trade unions and bargain collectively with their employer have more power to influence their wages and conditions of work⁹. This, in turn, can have a positive impact on the wages and conditions of other workers in sportswear and other related industries.

Why focus on the sportswear industry?

The sportswear industry is an important industry which employs hundreds of thousands of mainly women workers. It is far from being alone in terms of having its goods produced in exploitative conditions (see Oxfam International 2004a). Oxfam Australia, the Oxfam International member tasked with preparing this report, has been researching labour conditions in this industry since 1995. At first, the sportswear industry was selected because it represented a striking example of the potentially negative impact of globalised trade when it is not governed and regulated in a manner which ensures respect for the rights of people living in poverty. Over time, as civil society groups continued to put pressure on the sports industry to reform its labour practices and as sports brand owners started to undertake initiatives to address the issue, Oxfam International became interested in whether it is possible for consumer and worker pressure to persuade a major industry to reform its labour practices. Although progress has been very slow, Oxfam International continues to be interested in whether the sportswear industry could, in future, become a positive example of how global trade can enhance respect for workers' basic rights and allow workers to have a voice in obtaining these rights.

⁵ Workers' name has been changed to protect her identity. ⁶ Workers' name has been changed to protect her identity. ⁷ The use of the term "civil society organisations" is controversial and definitions of who constitute "civil society" vary greatly. For the purposes of this report "civil society organisations" include but are not limited to trade unions and campaign, women's, humanitarian and labour research organisations worldwide. For the purposes of this report this term does not refer to non-profit organisations which receive most of their income by providing services for, or cooperating in projects with, for-profit corporations. ⁸ World Development Report 2004-05: Employment, Productivity and Poverty Reduction. ⁹ There is further explanation of the importance of trade union rights later in this Introduction.

Why focus on companies, aren't labour rights the responsibility of governments?

Oxfam International believes that labour rights should be protected by properly enforced state legislation and that voluntary initiatives such as codes of conduct or multi-stakeholder initiatives should not be regarded as an adequate alternative to legislation. Voluntary measures, on their own, cannot create the conditions where trade union rights are fully respected. However, governments in developing countries are frequently wary of regulating the behaviour of transnational corporations (TNCs) for fear they will take their production and investment to other countries.

This concern has been heightened following the end of the Multi-Fibre Arrangement (MFA) in December 2004¹⁰ which brought to an end the quota system which had governed most garment exports to the US and Europe for more than 40 years. It was widely predicted that, although some major garment-exporting countries would benefit, the abrupt end of the quota system would be very damaging for garment industries in a number of other countries (Oxfam International 2004b). Although job losses have, so far, not been as catastrophic as some predicted, garment industries in countries like Lesotho, Kenya, Mauritius, Malawi, Namibia, South Africa, Romania and Morocco have experienced significant loss of investment and jobs since late 2004 (Sudwind et al 2005).

It may be that the full impact of the new trading regime is yet to be felt. The phase-out of quotas is leading many TNCs to consolidate their global supply chains. Wal-Mart, the world's biggest retail company, intends to reduce the number of its supplier countries from 63 to approximately 13, and to source 80% of its goods from four or five countries. In Spain, the Inditex company is reducing the number of its supply factories from 2,700 to no more than 900 (Sudwind et. al 2005). This consolidation process is leading to increased competition between governments as each seeks to persuade TNCs to maintain production in their country.

Reports from Oxfam International's partners in Asia and Africa indicate that governments and employers have been using the increased competition as a justification for making wages and employment arrangements more flexible in the hope it will make them more attractive to TNCs. The ITGLWF similarly reports that working conditions have been deteriorating in most garment-exporting countries since the beginning of 2005, with governments and employers using the expiry of the quota system to justify lesser respect for labour rights (Kearney 2005).

If TNCs voluntarily become part of more effective systems for respecting labour rights then it will become easier for governments to protect these rights without fear that doing so will cause TNCs to move production to other countries where rights are not legally enforced. Companies are important players and their actions have significant influence on whether or not trade union rights are respected.

Why focus on brand owners? They don't employ the workers who make the goods.

As a rule, sportswear production is not managed by the sports brands directly but, instead, is contracted out to supplier factories, many of whom further sub-contract the work to other factories and to home-workers. In many cases sports brands do not deal directly with supplier factories at all, but instead contract out part of the production management to other companies, who then sub-contract the work to other factories or workplaces. Some of the Asian companies which manage production for brand owners are bigger and more powerful than the brand owners themselves and the network of suppliers that they sub-contract to is vast. Some of the companies which actually produce sporting goods are also quite powerful. The Taiwanese sport shoe supplier Pou Chen, for example, claims to produce a sixth of the world's sport shoes and has higher turnover and profits than most sports brand owners.

Oxfam International believes that both suppliers and brand owners have a responsibility to ensure labour rights are respected. Nike, adidas, Reebok, Puma and other brands have chosen to contract out their production. If they chose to, they could own and run the factories themselves. The act of contracting out production should not absolve them of responsibility of making sure their goods are made under decent conditions. In the same way that brand owners expect their quality requirements to be met, they should place similar obligations on their suppliers to ensure quality prevails in the employment relationship in production facilities.

Research by Oxfam International and others highlights how the buying practices of large brand owners contribute to suppliers' exploitation of workers. It can be difficult for suppliers to respect workers' rights to decent pay and conditions when they are commonly getting very low prices for the goods they produce; are under pressure to produce quickly and to very tight deadlines; and when brand owners are not willing to commit to a long-term business relationship¹¹ (Oxfam et al 2004a, Oxfam International 2004a). To cope with these demands, suppliers are pressuring workers to work at high intensity for low pay. They are also employing workers on a casual short-term or contract basis, so that they can easily dismiss them if orders fall or if the brand owner cuts orders (Oxfam International 2004a).

It is far from clear that this exploitative business model is the most productive or efficient way of producing sportswear and other clothing and footwear. At least one expert on the global garment industry (Birnbaum 2000) argues that labour costs are a very minor part of the overall cost structure, and that in the long term it is more profitable for companies to focus on reducing other costs rather than limit workers wages.¹² Other studies suggest that where unions exist and there is genuine negotiation between unions and employers, productivity actually increases (see for example Institute of Policy Studies n.d.). Irrespective of whether or not respect for workers' rights improves productivity and competitiveness, these are basic human rights and companies have a moral obligation to respect them.

Given the role that the brand owners' purchasing practices play in causing poor working conditions and their responsibility to ensure respect for labour rights, it is particularly important that brand owners do not stop their orders to a supplier factory when workers report violations of labour rights (also known as "cut and run"). Brand owners have a responsibility to intervene to try to resolve the problem while continuing to source orders at the factory.

Aren't wages, working hours and other labour rights important?

Oxfam International and a number of other civil society organisations and trade unions are committed to encouraging sports companies to uphold all relevant International Labour Organisation (ILO) conventions and ensure that workers employed in company supply chains are paid a living wage. Oxfam International defines a living wage as one which for a full-time working week (without overtime) would be enough for a family to meet its basic needs and allow a small amount for discretionary spending.

No sports brand has been willing to commit to this definition of a living wage. Umbro and Pentland have included in their codes a requirement that workers be paid a wage which meets their basic needs and allows for some discretionary income, but makes no mention of the financial needs of workers' dependents. At this stage there is little publicly available evidence that this wage requirement in Umbro and Pentland's codes is being implemented in the companies' supply chains.¹³ Among sports brand owners, adidas has probably done the most research and thinking about the wages issue. Adidas' code also requires that the companies' business partners "...recognise that wages are essential to meeting employees' basic needs and some discretionary payments", again with no mention of the needs of workers' children or other dependents. Adidas has commissioned extensive research into workers' living costs in Indonesia and has developed a strategy regarding mechanisms for wage setting, including collective bargaining.¹⁴



This woman previously worked in a Thai factory producing goods for Fila, Nike, Adidas and other companies. Wages and conditions were poor and the workers were threatened with violence if they formed a union. When the factory closed, some of the workers formed a collectively-owned factory which now produces for the Fair Trade market.
Photo: Junya Yimprasert.

¹⁰ The end of the MFA was enabled by the Agreement on Textiles and Clothing (ATC). ¹¹ This is not to assume that if sports brand owners paid decent prices and had more reasonable expectations regarding turnaround times then their suppliers would automatically pass these gains onto their employees. It is also necessary that workers' right to freedom of association should be respected so that they can negotiate better wages and conditions for themselves. ¹² Birnbaum (2000) argues that factors such as quality, turnaround time, backward linkages, level of technology, cost of transportation and other overheads such as electricity all have a much greater impact on competitiveness and productivity than worker wages and conditions. ¹³ In a letter to Oxfam Australia, Pentland noted: "Our code is the ETI Base Code and [we] have, since the beginning, been very clear that there are enormous problems with implementing almost every clause within our supply chain". Letter from Lesley Roberts of Pentland, August 2005. ¹⁴ See www.adidasgroup.com/en/sustainability/suppliers_and_workers/exploring_labour_standards/fair_wages.asp.

More independent research is needed to ascertain whether, as a result of this strategy, women and men who produce adidas' goods are receiving wages for a standard working week which allow them to at least meet their own basic needs, if not those of their dependents.

The labour codes of conduct of most sports brand owners avoid the issue of workers' living costs altogether and instead only require their suppliers to pay the legal minimum wage or the industry standard, whichever is higher. Nike explicitly rejects the inclusion of a living wage standard in the company's code, arguing instead that wages are set in most cases by markets and that if there is to be any non-market wage mechanism it should be set by governments or by industrial relations processes such as collective bargaining (Nike 2005b, page 44). In most countries producing sportswear, the absence of collective bargaining and workers' weak bargaining position means that the industry standard is the legal minimum wage and it usually falls well below what would be needed to cover the basic needs of a family.

For example, in 2005 sportswear factories in the area around Bandung in West Java, Indonesia were only required to pay the legal minimum wage of 642,590 rupiah (53 Euro) per month for a standard month's work. In 2004 the Legal Aid Foundation of Bandung and several local trade unions conducted a comprehensive survey of local costs and workers' consumption needs which found that 617,291 rupiah (50 Euro) per month is needed just to cover the minimum necessities of life for a single adult. A significantly higher amount, 1,192,653 rupiah (97 Euro) per month, is needed for one adult to have a 'reasonably comfortable life'. The items added to calculate the cost of a 'reasonably comfortable life' include 70 cents Euro to buy floor cleaner and dishwashing detergent, 39 cents Euro for mosquito coils, 16 cents Euro for the rubbish to be collected, 4.10 Euro in telephone costs and 3.39 Euro to save to leave the city every six months to have a picnic (SPN et al 2004). When workers cannot afford these basic items, it is not surprising that they often find it very difficult to pay union fees (See Box D).

Sportswear brand owners can afford to spend millions of dollars on marketing — Reebok pays USD \$7 million (6 million Euro) a year to Venus Williams alone (Forbes 2004) and Nike pays USD \$25 million (21 million Euro) a year to golfer Tiger Woods (Forbes 2005). Nike also has a deal with the Brazilian National Football team worth USD \$16 million (13 million Euro) annually over 10 years (AFR 2001). English football club Manchester United has signed a 13-year sponsorship deal with Nike worth £303 million (434 million Euro) and Arsenal has signed a 10-year deal worth £130 million pounds (186 million Euro) (BBC 2003). Adidas pays USD \$1.8 million (1.5 million Euro) per year to French player Zinedine Zidane¹⁵ and an estimated USD \$4 million (3.3 million Euro) per year to English player David Beckham.¹⁶ It does not seem unreasonable to expect that the workers who make the goods should have enough to meet basic needs for their families and at least be able to afford such basic comforts as dishwashing liquid and mosquito coils.

While most sports brand owners are yet to commit to a living wage, many have now committed to respect other labour standards, such as those relating to health and safety and maximum working hours. During the early to mid-1990s — when anti sweatshop campaigns were just starting to attract international mainstream media attention — most sports brand owners denied that women and men working in their supply chains were being exploited at all. More recently, several sports brand owners have been willing to admit that there are problems and have made significant investments in corporate social responsibility (CSR) initiatives. Nike, the world's largest sportswear company, now has nearly 150 of its employees working on CSR issues either as their primary job or as a significant part of their workload (Nike 2005a, page 8). Many of these employees are involved in auditing labour and environmental standards in Nike's supply chain.

Nike, along with adidas, ASICS, Puma, Reebok and other (non-sport) companies, are also members of the Fair Labor Association (FLA). The FLA is a multi-stakeholder initiative (MSI) through which the companies have agreed with several non-government organisations — notably the National Consumers League and Human Rights First — on a set of workplace standards and a system for monitoring and verifying whether those standards are being upheld. There is currently no trade union involvement on the FLA board. The US unions which had been participating in preliminary negotiations regarding the FLA pulled out in 1998 because they regarded the FLA's code and monitoring system as inadequate. Another sports brand owner, Pentland, is a member of the Ethical Trading Initiative (ETI), another MSI, which also has a set of standards. Companies, civil society organisations (including unions and non-government organisations¹⁷) come together in the ETI to discuss and develop models for companies to increase respect for the stated standards in their supply chains.

Some sports brand owners have also been involved in a variety of other collaborative projects designed to address factory conditions, including the Cambodian Buyers Forum (see www.betterfactories.org), the Prince of Wales Business Leaders Forum (see www.iblbf.pl), the Buyers Compliance Group, the Better Workplace Foundation, the SOS Occupational Health and Safety Training Initiative and the Human Resources Management Systems Project (adidas 2006).

These developments have merit. However, independent research and, increasingly, the research of brand owners indicates that exploitative practices in supplier factories continue even where brand owners have committed to, and are promoting, certain labour standards. Several reasons for this can be identified. As already noted, brand owners put a lot of pressure on their suppliers to reduce prices and meet tight deadlines, and this pressure undermines attempts to improve wages and conditions. Until sports brand owners change their purchasing practices, it will be difficult to persuade suppliers to respect workers' rights, including their trade union rights. Just as importantly, there is a basic power imbalance between most workers in the industry and their employers which makes it very difficult for workers to claim their rights.

Why focus on trade union rights?

Oxfam International believes that greater respect for workers' trade union rights would help address this power imbalance and give workers more power to influence wages and conditions in their workplaces. As the FLA (2004, page 229) has noted, when workers are able to freely exercise their trade union rights, "they are able to play a key role in ensuring that other...Workplace Standards are implemented". It is for this reason that this report focuses on trade union rights, not because other rights are unimportant, but because allowing workers to form trade unions and bargain collectively is the most effective way to give them greater influence over their working lives and provide a platform for them to obtain their labour rights. A democratically-elected well-trained trade union workplace committee, engaging in regular information sharing, consultation and negotiation with factory management, provides strong local governance of a workplace and a sustainable model of code compliance.

In this report, trade union rights means workers' rights to form and join trade unions and operate those unions without discrimination or interference from their employer. These rights are set down in ILO conventions relating to freedom of association, the right to bargain collectively and the right of workers' representatives not to be discriminated against for their union activities (ILO conventions 87, 98 and 135 respectively). In accordance with the United Nations convention on the elimination of all forms of discrimination against women, these rights apply without discrimination and equally to men and women.

Top football players and other professional athletes are commonly represented by players' associations. In Australia, Argentina, Brazil, France, Germany, England, Mexico, Portugal, Paraguay, the US¹⁵ and other countries, football players associations negotiate collective bargaining agreements protecting players' interests and needs. In contrast, Asian sportswear workers who want to form unions and bargain collectively frequently face discrimination, harassment, threats of dismissal and, in some cases, violent intimidation. While most sports brand owners — including Nike, Reebok, adidas, Puma, ASICS, Umbro, Pentland, Lotto and New Balance — have these rights in their codes of conduct, it is broadly accepted that most sportswear workers face considerable difficulty in claiming them. Nike's Vice-President for Compliance Dusty Kidd recently told the Maquila Solidarity Network that freedom of association is "the biggest single issue in compliance globally" (MSN 2005, page 5) and the FLA's 2004 annual report described freedom of association as an "especially challenging standard to implement" (FLA 2004, page 229).

Although implementing freedom of association and collective bargaining may be challenging, these rights have never been more important. In many employment relationships in the sportswear industry, the bargaining power is weighted very strongly on the side of the employer, particularly in countries marked by high levels of underemployment, strong dependence on foreign investment and an export-oriented economy. In such economies in Asia, large numbers of mostly young women workers have migrated from their rural villages to work in factories located in urban areas and industrial zones to earn money to help support their families.

¹⁵ See the Sporeco.com website at <www.sporeco.com/sponsors/adidas.htm>. ¹⁶ See the AskMen.com website at <www.askmen.com/sports/business_100/101b_sports_business.html> www.sundaymirror.co.uk. ¹⁷ Oxfam Great Britain is a member of ETI as a non-government organisation. ¹⁸ See the websites of football players associations in these countries - <www.agremiados.com.ar>, <www.pfa.net.au>, <www.fenapaf.org.br>, <www.givemefootball.com>, <<http://www.unfpage.org>>, <www.associacliatori.it>, <www.futbolistas.com.mx>, <www.fapage.org.py>, <www.sjpf.pt>, <www.safpage.ch/>, <www.ussoccerplayers.com>, <www.vdv-fussball.de>.

Oxfam International's research indicates that in addition to their role as income-earners, women workers in many countries in Asia and other parts of the developing world are commonly still expected to do a greater share of the housework than men and to raise children or support sick and elderly relatives (Oxfam International 2004a). Many of these women undertake paid employment, not in factories, but in their homes and have little or no job security. Many are new to the paid labour market and lack knowledge of their labour rights and experience in demanding them.

Women union organisers are often subject to much more intense intimidation and harassment from supervisors and factory management than men. This may be because cultural restrictions, combined with patriarchy, gives women less power in society, making it more difficult for women to object to intimidation. Women involved in a union in a sportswear factory in Indonesia told an Oxfam researcher:

"Women have a much harder time than men do in organising. They get yelled at more often by the management, who tend to take their anger out on women more than they do on men. Women also get harassed in ways that men don't. Sometimes a woman can't join her workplace union as a member until she gets permission from her husband that she can join."

(Interview 1.1.1)

In many countries in Asia, it is increasingly rare for workers to enjoy the status of 'permanent' employees. Instead, they are employed on short-term contracts, or on a daily hire basis or work from home on piece-rate basis. Workers in this situation face particularly high barriers to participating in trade unions, since contract workers who join a union commonly find that their contracts are not renewed. Most workers employed under these 'flexible' conditions are women, possibly because their incomes are seen to be less important than men's incomes within households (Oxfam International 2004a).

"In contrast, Asian sportswear workers who want to form unions and bargain collectively frequently face discrimination, harassment, threats of dismissal and, in some cases, violent intimidation"

Women sportswear workers involved in unions also sometimes have to deal with patriarchal attitudes within their own organisations, with some male trade union members assuming that it is the natural role of men to lead organisations, even if most of the members of that organisation are women.

At the same time government enforcement of labour rights is waning. Oxfam International (2004) reported that while companies enjoy increased legal protections against government actions:

Workers' rights have moved in the opposite direction. And it is no coincidence that that the rise of the 'flexible' worker has been accompanied by the rise of the female, often migrant worker...[Corporate rights are becoming stronger] while poor people's rights....are being weakened and women are paying the social costs.

(Oxfam 2004, page 4)

The International Confederation of Free Trade Unions' (ICFTU) *Annual Survey of Violations of Trade Union Rights* for 2005 describes strong repression of trade union rights across the Asia Pacific region, including examples of workers being murdered for their trade union activities and violent action by state authorities to break up strikes and worker demonstrations. The ICFTU (2005, page 159-251) reports that most governments in the region discourage independent trade union activity and that some suppress it altogether (ICFTU 2005, page 159-251).

In these circumstances it can be very difficult for women workers to organise and take part in trade union activities. It is, nonetheless, important that women have a real and effective voice in workers' organisations since their needs and responsibilities are often different to those of men. The trade union movement has a key role to play in adapting organising strategies and organisational structures to meet the needs of a rapidly changing workforce. International companies also need to do all they can to remove barriers to women's participation in trade unions by insisting that both female and male workers get secure employment, that they are paid fair wages, take relevant sick, maternity and family leave, have adequate sexual harassment policies in place and are not forced to work excessive hours.

What steps should companies take to ensure respect for trade union rights in their supply chains?

In 2004 the Play Fair Alliance — a network of trade unions and other civil society organisations including the ICF TU, the ITGLWF, the Clean Clothes Campaign and 11 Oxfams¹⁹ — proposed to sports brand owners and to the World Federation of Sporting Goods Industries (WFSGI) that they cooperate in a *Programme of Work*²⁰ to improve labour rights in the industry (CCC et al 2004, page 56-9). Proposed activities to increase respect for trade union rights are a key aspect of the proposed programme and include asking sportswear brand owners to:

- develop confidential and accessible means for workers to report exploitation and abuse;
- provide workers with independent education and training concerning their rights at work;
- increase workers' participation as well as cooperation with local trade unions and labour rights organisations in all activities related to code implementation;
- increase transparency regarding company's supply chain and efforts to improve conditions, with priority on ensuring feedback to workers themselves; and
- adopt purchasing practices which allow suppliers to respect labour standards (including stable business relationships and reasonable prices and delivery times).

The *Programme of Work* noted that in addition to recommendations for companies, an industry-wide approach was also needed. Industry-wide recommendations included:

- negotiating a framework agreement between the International Textile, Garment and Leather Workers' Federation (ITGLWF) and the WFSGI and its member companies to facilitate freedom of association and collective bargaining; and
- calling for the ILO to play a more active role in code implementation and verification.

The proposed *Programme of Work* provides the framework for much of this report, and company and industry progress is primarily measured against these proposals. In addition, this report calls on sports brand owners to take a number of additional steps:

- Prioritise retaining unionised factories in the companies' supply chain.
- Ban, or severely restrict, the employment of workers on short-term contracts.
- If factories close, ensure that workers' receive their full entitlement to severance pay and take steps to help ensure there is no discrimination against worker activists if they apply for jobs with other suppliers.
- Not increase their sourcing in countries and Free Trade Zones where the right to freedom of association does not have legal force. Any new production should be in countries and zones where this right has legal effect.

The rationale for these proposals is explained in Section 3 and the extent to which sports brand owners and the industry as a whole are applying them is considered in sections 3 and 4.

This report focuses on one region, Asia, which is the focus of Oxfam Australia's labour rights program.²¹ However we do include examples of particularly good, or particularly bad, practice from other parts of the world. We hope that other civil society organisations will report on respect for trade union rights in other global industries and in sportswear production in other parts of the world.

¹⁹ Oxfam America, Oxfam-in-Belgium, Oxfam Canada, Oxfam Australia, Oxfam Great Britain, Oxfam Intermón (Spain), Oxfam Ireland, Oxfam Novib (Netherlands), Oxfam New Zealand, Oxfam Quebec and Oxfam Germany. ²⁰ The full text of the proposed Programme of Work is available on the Clean Clothes Campaign website at <www.cleanclothes.org/campaign/olympics2004-07-08.htm>. ²¹ Oxfam Australia was the Oxfam International member involved in preparation of this report.

While trade union rights pose challenges for companies, respecting them is an essential aspect of responsible business practice. These are fundamental human rights, protected not only in ILO core conventions but also in the Universal Declaration of Human Rights (Article 23) and the International Covenant on Economic, Social and Cultural Rights (Article 8). This report is the beginning of a regular public reporting process which Oxfam International hopes will help persuade sports brand owners to ensure that their goods are produced under conditions which respect workers' rights, are sensitive to the needs of women as well as men and afford decent work with dignity.

The cost of living for sportswear workers in Indonesia

In February 2006, Oxfam Australia commissioned a simple study to update previous research²² into wages and living costs for sportswear workers in Indonesia. Six workers — five women and one man — from four different sportswear factories were interviewed. Two of the workers live in an industrial area near Jakarta, and four live in an industrial area near Bandung.²³

Workers were asked their wages and this information was cross-checked against their pay-slips. They were asked to list the 10 most common foods they eat and the 10 food items they would like to eat if they earned more money. They were also asked about the cost of accommodation, drinking water, transport to the factory and children's education (if relevant).

Most workers interviewed earn a base wage of 800,000 rupiah (75.29 Euro) per month or 5,000 rupiah (47 cents Euro) per hour.²⁴ They also earn overtime pay and small daily allowances for lunch and for transport to and from work.

Rice is the staple food and this is usually accompanied by small dishes and a clear soup with green vegetable leaves. Typical foods that sportswear workers consume in a month are:

rice, chicken, fish, egg, tofu, tempe (a food made from soya bean), condensed milk, sugar, palm oil, vegetables (spinach, bean sprout bok choy, cabbage, kangkung (water spinach), fruit (banana, oranges and papaya), tea and instant noodles.

The researchers compared sportswear workers' hourly wages with the price of food in cheap local markets. An unmarried worker needs to work for:

- 4.5 hours to earn enough to pay for a month's supply of low grade rice. If they could afford it, workers would prefer to buy better quality rice which would cost an additional 0.30 cents Euro per month;
- 40 hours to earn enough to pay for a month's simple accommodation;
- Six hours to earn enough to pay for drinking water for a month;
- 3.75 hours to earn enough to pay for 1.5kg of uncooked chicken, which some workers reported to be the total amount of meat they can afford to buy each month. At 1.60 Euro per kilogram, chicken is the cheapest meat available. Several workers reported that if they had more money they would buy beef which costs \$3.86 Euro per kilogram in Bandung and \$4.07 Euro per kilogram in Jakarta. On current wages workers would need to work for more than eight hours to earn enough to buy a kilogram of beef;
- 2.6 hours to earn enough to buy two kilograms of eggs per month at 59 cents Euro per kilo;
- 2.8 hours to earn enough to buy a month's supply of sugar, tea and condensed milk. Full cream long life is considerably more expensive at 95 cents Euro per 250gm, as compared to a can of condensed milk at 43 cents Euro. Most workers interviewed reported that they cannot afford coffee which costs 44 cents Euro for a 185gm packet; and
- 30 minutes per day to buy daily vegetables or 18.5 hours per month for the monthly supply of vegetables.

Women workers reported that if they had more money they would buy herbal tonic to drink during menstruation. This costs 24 cents Euro per bottle.

1.2 Methodology

This report was researched and written between July 2005 and April 2006 in accordance with the previously prepared terms of reference. Oxfam Australia prepared the report in five main phases:

1. Selecting workplaces to be featured as case-studies.
2. Seeking input from sportswear companies highlighted in the report.
3. Researching and writing case studies of particular workplaces.
4. Assessment of sportswear companies' trade union rights programs in Asia.
5. Extensive consultation with stakeholders.

Selecting case studies

The report contains nine case studies of workplace disputes in three Asian countries. Each of the case studies involves situations where workers allege that their labour rights have not been respected. Oxfam partners and allies in Asia informed us about these cases. Oxfam Australia had previously been involved in some of the cases through research and advocacy work. The cases are not intended to be a random sample. They nonetheless give an indication of how sports brand owners have responded when allegations of breaches of union rights have been brought to their attention. It is important to acknowledge that most of the case studies selected are those where some progress has been made. While more can and should be done, progress is welcome, no matter how small, especially as there has been no progress whatsoever in the majority of cases.



Oxfam Australia checked with unions, workers and other organisations involved in the workplaces concerned to find out whether they were willing for their workplace to be included in a public report. We also clarified whether workers and their union were willing to have the factory named in correspondence to the relevant sports company. In deciding whether or not to name a workplace we relied on the advice of the union experiencing discrimination in that workplace. In two cases (factories A and B) workers and their unions were happy for the factory to be named in correspondence to the sportswear brand owners however, due to fear of the consequences from local management, they did not want the factory named publicly.

Seeking input from sportswear companies highlighted in the report

In July and August 2004 Oxfam Australia wrote to the 12 sportswear companies highlighted in the report about their programs to ensure respect for trade union rights in their supply chains in Asia. Where a sports brand owner had been or was still involved in one of the case studies then we also sent additional questions regarding the steps the company had taken to respond to allegations of trade union violations in that workplace. A copy of the questionnaire is available on Oxfam Australia's website or on request to Oxfam Australia's labour rights staff.²⁵

Paiman – shown here with his wife and two children in front of their rented room – works in the Panarub factory which makes football boots for Adidas in Indonesia. “My salary is not enough to provide necessities for my family so I had to take out a loan”, he explains.

Photo: M. Revaldi.

²² See for example Oxfam, CCC & GU 2004b. ²³ Workers' names and the names of their factories have been kept confidential because they did not give permission for this information to be publicly released. ²⁴ Local market prices are current as of February 2006. Hourly rate calculations are based on a 40 hour week, eight hour day, as per Indonesian labour law. Currency conversions were made at the rate of 1.00 Euro to 11,516.62 Indonesian Rupiah (IDR) as at 7 March 2006. ²⁵ Phone number is +61 2 8204 3910.

Preparing the case studies

Oxfam Australia interviewed and sought written input from representatives of unions and other civil society organisations involved in each case-study, in some cases with assistance from local researchers. We also requested and considered written input from representatives of sportswear brand owners highlighted in this report and checked the companies' claims with workers involved in the disputes. Where the name of the workplace is identified in the report, written input was sought from representatives of the companies which own the workplace.

In July and August 2005 local researchers conducted qualitative, in-depth interviews and focus group discussions with workers and other key informants involved in two of the nine case studies (PT Panarub and Factory A). Altogether, 30 people were interviewed including union members and union leaders at the factory branch level and at the national level. Extra time was taken for follow up. Interviews from previously published Oxfam Australia research were also utilised. Workers were interviewed by trained researchers in their own language away from the factory premises and without the knowledge of factory management, usually in the evenings or on workers' days off. The reasons for the study were clearly explained. Workers were not paid for the interviews. Refreshments were provided and in some instances transportation costs were reimbursed.

In selecting workers for interview, researchers sought workers from a range of departments within the workplace and sought to replicate the percentage of female and male workers employed in the factory. Where possible, workers who had been at the factory throughout the workplace dispute, or for a minimum of two years, were selected. It was not expected that factory supervisors would be interviewed; however they were not excluded if they had been involved in the workplace dispute and, in these instances, were interviewed separately. Union officials at the factory and national level were interviewed separately and also separately from union members.

Researchers used a semi-structured interview format. The set questions were open-ended and researchers asked clarifying questions if initial answers were inadequate or suggested further relevant lines of enquiry. Researchers prepared transcripts of each interview and these were analysed by the authors of this report. When considering the reliability of interview testimony Oxfam Australia looked for:

- specificity of detail and internal consistency of each interviewee's story;
- consistency of the story across different interviews;
- consistency of interviewees stories with other forms of evidence; and
- whether interviewees provided both comprehensive information that supports their interests and information that could contradict their interests.

Sportswear company programs regarding trade union rights in Asia

In assessing these programs Oxfam Australia relied initially on the companies' response to our questionnaire, including any supporting documentary evidence provided. Oxfam Australia then sought to check relevant company claims with trade unions, civil society organisations and other interested parties who had been involved in the projects companies' described. In some cases it was not possible to check company claims within the time-frame for preparing this report. In those cases we suspended judgment on that particular issue for the purposes of this first edition of the report. We plan to conduct further research and comment on these issues in future editions.

Despite repeated requests, several sports brand owners declined to send any response to our questionnaire or else provided very limited responses. In these cases we utilised secondary source material, including a recent report prepared by the Clean Clothes Campaign, Global Unions and Oxfam (2005). It is a company's prerogative to decide whether or not to cooperate in research activities such as this. Cooperation acknowledges the importance of transparency with regard to an issue of considerable public concern. Oxfam Australia very much hopes that those brand owners who declined to respond to our questionnaire for this report will be interested to provide answers for future editions.



Consultation

After the initial draft of the report was completed there was extensive consultation with unions and workers involved in the workplace disputes as well as with trade unions and civil society organisations working on the issue of trade union rights in the garment and sportswear sector. Sports companies were also given the draft report and were encouraged to correct factual inaccuracies with accompanying evidence.

Report limitations

As noted in the introduction, the research for this report primarily investigated the extent to which companies have taken those steps proposed in the Play Fair Alliance' Programme of Work. During consultation, several organisations and individuals pointed out that there are particular barriers facing women sportswear workers interested in exercising their trade union rights. Given that women make up 80% of the workforce, the TNCs involved can and should make efforts to address these barriers. A good example is the issue of working hours. Excessive hours leave little time for workers to organise and participate in trade union activities. Women workers with family responsibilities are commonly expected to also work at home taking care of their families and undertaking other caring and domestic work. Hence, if paid working hours are long they have even less time than men to take part in trade union activities. For women workers security issues and cultural restrictions also can make it particularly difficult to attend meetings late at night. In future Oxfam Australia intends to do more intensive research into the particular barriers which women face in forming and joining trade unions and the steps which sports brand owners and their suppliers should take to address this issue. We will include assessments of the progress which companies are making in this area in future editions of this report.

For the purposes of this report, the case-studies have a cut-off date of 30 September 2005. Developments occurring after this date will be recorded and analysed in future publications.. The relatively large proportion of case studies on factory workplace disputes in Indonesia should not be interpreted as suggesting that more violations of freedom of association and the right to organise take place in Indonesia than in other Asian countries which produce branded sportswear. Rather, it reflects the history of Oxfam Australia's work supporting labour rights in Indonesia.

Finished sports clothing
available for sale.
Photo: Martin Wurt/OxfamAUS

“...if you go again to the union we will kill you and put you into the lagoon”. Some young men passing by intervened, but the men threatened them with a knife and said, “You can take your sister, but we know the place where she is boarding...”



Section 2.0

CASE STUDIES



2.1 Jaqalanka Ltd (Jaqalanka)

Brands include: Nike, Columbia, Red Kap (VF Corporation)²⁶

Location: Katunayake free trade zone, Sri Lanka

Product: Sportswear, work wear, outdoor-adventure gear and caps

Size: Approximately 400 workers

Summary

- Factory management at Jaqalanka was accused of systematically harassing and intimidating members of a newly formed union.
- One union member was assaulted by persons unknown and two received warnings they could be killed if they did not leave the union.
- Nike and Columbia both sent auditors to the factory.
- The union and Nike made complaints to the Fair Labour Association (FLA).
- In cooperation with the Centre for Policy Alternatives (CPA) the FLA facilitated dialogue between all stakeholders and the union was recognised.
- The rights to form and join a union and bargain collectively are now respected.

In April 2003, Jaqalanka factory management informed workers it would not be paying the annual New Year festival bonus of one month additional salary²⁷ because it was running at a loss. However, Joint Managing Director Daniel Ortiz later told the local Sunday Observer (2003) that “during the period under question, we did not have any major financial losses”. The New Year bonus had been paid since the factory’s opened 28 years earlier. Workers rely on the bonus to meet the increasingly high costs of living. On 4 April 2003 workers went on strike, for half a day, in protest. About 220 workers (from a total of about 400) formed a factory branch of the Free Trade Zones Workers Union (FTZWU)²⁸ to negotiate with management.

When the 220 union members reported for work the day after their strike, factory management refused to take them back. The FTZWU union wrote to the Commissioner of Labour requesting that he intervene. A series of negotiations with factory management saw the workers reemployed on 8 April.

On 10 April, management paid workers one quarter of their monthly salary as a bonus, instead of the usual full month’s salary. However management at the factory still refused to recognise the union and continued to harass and intimidate union members. Consequently the FTZWU supported by Transnationals Information Exchange (TIE-Asia) requested and received international support from the Clean Clothes Campaign (CCC), the International Textile Garment and Leatherworker Federation (ITGLWF) and other international campaign organisations. A complaint lodged by the ITGLWF (ITGLWF 2003) to the International Labour Organisation (ILO) in July 2003 made, among others, the following observations:

- The Director General of the Board of Investment (BOI), Sri Lanka, together with BOI Officers, visited the factory on 22 May. He called a meeting of the newly-elected ‘employees’ council’ and some factory union office-bearers. “The union claims he enquired about their union membership and insisted they resign from the union” (FTZWU 2003).
- In a letter dated 3 June²⁹ the BOI Chairman denied he told workers to resign from the union. However, his letter did state, “In case there is no trade union in the workplace, the employees council could even deal with bargainable issues and conclude collective agreements...I advised the newly-elected members of the executive committee not to resort to any unilateral action but to seek solutions to problems through dialogue and consultation with management”.
- The BOI Chairman made these comments to the executive committee of the employees’ council with full knowledge that there was a union in the factory seeking legal recognition.

- On 29 May, factory management agreed to recognise the factory branch union providing the union could prove they had the required number of members in accordance with the legislation. The union agreed and the date for the ballot was set for the 9 July 2003.

According to workers and the FTZWU, in the lead up to the ballot, factory management stepped up its efforts to destroy the union. Writing in the *Asian Labour Update*, FTZWU General Secretary Anton Marcus³⁰ (Marcus & Brehaut 2003) gave some examples of worker intimidation:

- On 19 June 2003, two Jaqalanka directors called quality control, cutting, and packing workers and asked them: “Why are you paying 20 rupiah for the union? Are you going to support outsiders or are you going to support the people who look after you for 25 years as your parents?”
- “When the branch secretary went to the cutting section to correct some damage in production, the cutting section manager...used filthy and abusive language and asked why he told things to the Nike auditor (who had visited the factory to investigate the dispute), and threatened the branch secretary saying that if the factory closed he would take a knife and stab him, and that he was ready to go to jail.”
- The factory branch union secretary was assaulted by five unknown men at a road junction outside of the factory after he attended a union meeting. He made a complaint to the police about the assault.
- A female union member was threatened by four unknown men on her way home from work at the same junction who told her: “We did something for one last Sunday, but still he is continuing without shame and if you go again to the union we will kill you and put you into the lagoon”. Some young men passing by intervened, but the men threatened them with a knife and said, “You can take your sister, but we know the place where she is boarding and if we want we can do anything whenever we want”.

The CCC and other international campaign organisations continually wrote letters to Sri Lankan authorities, factory management, Nike, Columbia and VF Corporation. The FTZWU pursued the issue with the relevant Sri Lankan authorities and, with the help of the American Centre for International Solidarity (ACILS) in Sri Lanka and the US, lodged a petition to the European Union (EU) and the US government. In the petition, they asked that any granting of trade preferences under the generalised system of preferences (GSP) include a plan to remedy violations of core labour rights. The trade benefits granted to Sri Lanka under the GSP are important to Sri Lanka’s garment industry.

The referendum was held on 9 July 2003. Just 17 workers voted on the day of the referendum, well below the 40% need for the union to be registered. One vote was spoilt and all other votes were for the factory branch union.

US and European labour groups were present during the referendum as international observers. They contested the result, arguing that intimidation had prevented workers from voting (FLA 2004, page 258). Their report concluded, “This election was marred by the clumsiest of employer intimidation. The government of Sri Lanka did nothing about it” (cited in Brehaut and Marcus 2003).

Auditors from Nike visited the factory on at least two occasions, both before and after the referendum. Nike (2006) states that during the course of this issue they “engaged with our on-site compliance specialist, our South Asia Compliance manager based in Bangalore, the compliance director for the region based in Bangkok and the compliance VP based in the United States. We specifically engaged directly with the FLA during its involvement...”

Columbia auditors visited the factory on 14 September 2003. According to Marcus:

Columbia played a very good role, the regional representative went inside the factory, interviewed workers and the [factory] union to gather information before he took up the issue [of the failed referendum].

(Interview 2.1.1)

²⁶ VF Corporation one of the world’s largest brand corporations. It produces jeans brands such as Lee, Wrangler, Rustler, Riders and Britannica, holding more than 25 percent of the US jeans market. ²⁷ Sinhala/Tamil New Year is held in April. It has the same importance as the Christian Christmas and New Year, though the meaning is different. ²⁸ The FTZWU changed to the Free Trade Zones and General Services Employees Union (FTZ&GSEU) during 2003. The FTZWU is the National union. The Jaqalanka factory branch union is a branch of the FTZWU. ²⁹ Letter signed by Mr Arjuna Mahendran, Director General of the Board of Investment (BOI) of Sri Lanka on file. ³⁰ This article was jointly authored by Melanie Brehaut who at the time was working for TIE-Asia.



Following the failed referendum, management claimed that its buyer customers wanted to see a second referendum. However factory branch union members did not trust that Jaqalanka management would allow a free and fair election to take place, especially as harassment and intimidation of the union continued. Instead, the factory union called for recognition of the FTZWU as the collective bargaining agent on the basis of its signed-up membership.

Management of Jaqalanka rejected all suggestions that it had been involved in intimidating workers. Joint Managing Director Daniel Ortiz told the Sunday Observer (12 October 2003) that police investigations had found no truth in the allegations of death threats and suggested that the union was manufacturing stories in order to advance its goals. Ortiz also stated that:

It is unfair that we have been accused of not looking after our workers, when we have taken special care to train them and also arrange annual trips for them. We have created a safe and healthy environment for our workers and respect their rights.

Following consultation with all key stakeholders, the Fair Labor Association (FLA) announced in a press release on 29 September that in response to requests from both the FTZWU and Nike, the FLA (2003a) would seek “an amicable, non-confrontational resolution” to the dispute over union recognition at Jaqalanka. Feedback on the FLA proposal was positive and the FLA asked a respected local non-government organisation, the Centre for Policy Alternatives (CPA), to convene a roundtable discussion. The roundtable was held on 14 and 16 October. Participants included FTZWU representatives, factory management, Nike, Columbia Sportswear, the ILO, the American Centre International Labor Solidarity (ACILS), the CPA, and the FLA.

As a result of this discussion the factory branch union was recognised on 16 October:

Jaqalanka management accepts the FTZWU as representing the concerns of its members at Jaqalanka Ltd. In return, the FTZWU agrees to call off the international solidarity campaign that has been waged against Jaqalanka Ltd.³¹ (FLA 2003b)

A review process, monitored by CPA and FLA was built into the agreement with a major review occurring six months after the original agreement was signed.³² Workers and management were subsequently trained in freedom of association and workers’ rights. Responding to a question about the current situation at Jaqalanka, Marcus reported:

Freedom of association is there: there is a union; company management is negotiating with the union to resolve and settle disputes; management extends the union dues check off system to the union; allows the factory branch union to have meetings on the factory premises and allows branch union officials duty leave to attend union related meetings.

(Interview 2.1.1)

Following the dispute at Jaqalanka, the Sri Lankan government introduced several changes to industrial relations policy in the country’s Free Trade Zones. For example, in March 2004 the BOI published new guidelines promoting respect for core labour rights, including the right to form and belong to unions, and the right to collective bargaining. Marcus reports that the Labour Department now tries to settle disputes and recognise unions without the need for a referendum (Interview 2.1.1).

Jaqalanka Chairman and Managing Director Harin Fernando stated that “successful and harmonious cohabitation has prevailed with management, the Union and the Employee Council”. While reiterating the positive gains stated by Marcus, Fernando gave other examples (which Marcus confirmed) of successful collaboration between management, the union and employee council such as joint management of the welfare and death benevolent society committees; joint organisation of long holiday times, days off work and of social activities³³.

According to Marcus there is also not a problem, in principle, with negotiating a new collective bargaining agreement (CBA). However, in practice, it is difficult for the union to negotiate a CBA that includes a wage increase for workers. The FTZWU believes that this is because Nike and the other brand owners

A worker at a machine in Sri Lanka sews the garment care labels.
Photo: Martin Wurt/
OxfamAUS

have not increased production at the factory. Marcus noted that the union does not know the price that Nike and other brand owners pay for goods produced at the factory and that this would be useful for the union when it is involved in bargaining. The FTZWU suspects that the prices paid per unit are so low that it makes it difficult for factory management to pay for a pay rise (Interview 2.1.1).

Nike, Columbia and other brand owners sourcing from Jaqalanka should make available information on the price per unit that they are paying for the production of their goods. Nike, Columbia and other brand owners should also assess whether their unit price is adequate. Information on unit prices paid by the brand owners alone is not enough; factory management also needs to be transparent about their entire financial situation in negotiations with the union. Disclosure of all financial information is part of negotiating in good faith. Nike, Columbia and other brand owners sourcing from Jaqalanka and other factories should require that their suppliers disclose such information to the union.

In preparation for this report, Oxfam Australia sent Nike a number of questions regarding the Jaqalanka case. Nike (2005a) responded that:

Although neither the FLA nor CCC [Clean Clothes Campaign] have posted updates on the Jaqalanka factory in the last year, we feel that the information is current regarding the significant activities addressing FoA issues in that factory.

The above account of the Jaqalanka case is consistent with the information made available by both the FLA (2003a 2003b) and the CCC.³¹

Oxfam International's assessment

Nike played a positive role in the union being recognised at Jaqalanka by mobilising their compliance unit and relevant business managers and sending auditors to the factory just prior to and after the referendum. Nike also cooperated with the FLA (Section 2.2) and CPA in their role of mediating a resolution. Nike could have played a more proactive role and responded more quickly and decisively to requests from international campaign organisations and unions to ensure that its code of conduct is respected.

Nike, Columbia and other brand owners sourcing from the factory could play a more positive role as the union at Jaqalanka attempts to take the next step and negotiate a collective bargaining agreement. In particular, brand owners should require the factory to disclose its financial records to the union, including the unit price paid by the brand owners. The brand owners should discuss with the union how orders could be increased and/or the unit price increased to allow the union to bargain for better wages and conditions.

According to the FTZWU, Columbia played a positive role in the resolution of this dispute by sending auditors to the factory who spoke with workers and the union and in the FLA-facilitated roundtable meeting. This positive role needs to be backed by concrete action to support workers' efforts to negotiate better wages and conditions.

³¹ See: fairlabor.org/all/news/docs/Jaqalank2.pdf for a full copy of the terms of the agreement reached. ³² A January 2004 Progress Report can be seen at: 66.102.7.104/search?q=cache:tZti2RmVXRYJ:www.fairlabor.org/all/news/docs/Jaqalanka_update_2_04_final.pdf+Jaqalanka&hl=en. ³³ Personal communication (letter) from Mr Harim Fernando of Jaqalanka, 30 January 2006, held on file. ³⁴ See <www.cleanclothes.org/appeals-archive.htm#jaqalanka>.

2.2 Factory A³⁵

Brands include: Kangol, Umbro, Reebok, Oliver, DiaDora, Charles Vogelee, Bioko³⁶

Location: West Java, Indonesia

Product: Hats, sportswear

Size: Employs about 1,500 workers³⁷

Summary

- There are two unions at the factory — a management-sanctioned union and a factory-based independent union.
- Factory management has been accused of discriminating against the smaller independent union.
- Reebok has actively supported workers' right to organise in the factory and has encouraged improvements in conditions in accordance with Indonesian law.
- As a result, the factory management recently terminated its business relationship with Reebok.
- Umbro has taken some steps to support improvements to workers' conditions but a more proactive approach is needed.
- Other brand owners appear to have remained unresponsive.

Factory A is located in West Java, Indonesia. There are two unions that operate in the factory — a management-supported factory union (MSU) which includes supervisors and managers as its members; and an independent union (IU)³⁸, which was established in 2003 by workers due to dissatisfaction with the performance of MSU. All members of the IU are women.

IU workers interviewed by Oxfam Australia in 2005 about the attitude of management to the MSU said:

“There’s no problem with management and [the MSU]. They’re completely supported by management”

(Interview 2.2.1).

In contrast, IU members reported routine discrimination and intimidation because of their membership of that union:

“They often put pressure on us for being in [the IU], threatening to move us to another factory or fire us. Most of the pressure comes directly from our section (or line) supervisors.”

(Interview 2.2.2)

“I think it’s like this: management see us [the IU] as ‘troublemakers’ or that we just want to cause a fuss all the time. In their opinion, we’re ‘damaging the factory’s reputation’ just because we demand our normative rights at work.”

(Interview 2.2.3)

Another woman worker stated “the head of our union has experienced intimidation and threats because she acts as our leader” (Interview 2.2.4). The IU union was also excluded from negotiating the Collective Bargaining Agreement (CBA) though management requested they sign the CBA when negotiations were complete (Interview 2.2.1).

When the interviewer asked one of the IU members whether she felt safe as a woman in her workplace she responded: “For me personally, I still do”. “Despite the threats?” asked the interviewer. “Yes,” she replied, “because it’s quite normal and everyday for such threats to occur” (Interview 2.2.2).

According to Reebok (2005), the company first became aware of “allegations of intimidation against the leader of one of the two worker organisations” in January 2005. Local Reebok staff who investigated this matter found a perceived “pattern of discrimination related to union membership”. They also confirmed the close relationship between factory management and the MSU union, since MSU “board members confirmed that they were selected by their division managers to run as candidates” (Reebok 2005).

Reebok (2005) reports that its field staff found several incidents of concern relating to freedom of association at Factory A. These included:

- “Resignation of [an IU] board member, allegedly with an offer of monetary compensation in October 2004”. Reebok found evidence of this payment in August 2005;
- The IU Chairperson is a piece-rate worker. Both the union and Reebok have requested that she become a monthly worker to enable her to fulfill her union responsibilities;
- “Warning letters issued to [the IU] chair starting in January 2005 with unclear reasons”. The union Chair was issued with a warning letter for not reaching her target, while other workers who did not reach their targets were not issued warning letters.

On the latter point, “Reebok concluded that the [Factory A] system had the potential to be abused because of the absence of clear procedures for determining when to issue...warning letters on the basis of performance” (Reebok 2005). For the three months from April 2005 Reebok exerted considerable pressure on management to establish clear policies and procedures for issuing warning letters that were communicated to and understood by workers. Workers interviewed by Oxfam Australia in July 2005 reported that the system of issuing warning letters had improved. However Reebok remained concerned that the unclear procedure regarding warning letters increases the risk of discrimination against union members through the disciplinary system (Reebok 2005).

Workers interviewed by Oxfam Australia in July 2005 also said that the IU union now has access to a room for union activities that they share, on alternate days, with the MSU union. However workers must still get permission from the supervisors to take leave for union activities and this is difficult to obtain.

Workers reported other improvements following the formation of the IU union:

“Before there was a problem with our overtime pay – we weren’t given enough. But now it’s what it should be. We can send money home to our parents now. This helps families. There were also problems with the punishment system.”

(Interview 2.2.1)

Workers interviewed also noted that there have been improvements in the factory’s application of the Jamsostek health insurance system³⁵ and that the factory is cleaner, more toilets have been added and there is more water available in the toilets.

In addition to the ongoing intimidation of the IU, other problems still exist in the factory. For example, workers reported that it is still difficult to obtain their legal entitlement to menstrual leave although there have been improvements in this area. Also, the meal allowance given is only enough to buy plain rice.

Women union members said they felt “stronger” and braver as a result of being allowed to “voice their opinion” and speak out collectively through their union. One woman stated that the IU “boosts our confidence as women, and advances our position at the factory” (Interview 2.2.7). While at the same time, she recognised that many women workers were still “scared” to join the union and fight for their rights for fear “of being intimidated by management or supervisors, or of being labeled as a ‘bad person’ or a ‘troublemaker’ just because they’re in a union” (Interview 2.2.7). They also feared losing their jobs. There was also a recognition that women who have families are limited in the time they can give to organising and to the union. An additional factor is that women with family responsibilities may be more afraid of losing their jobs because of these responsibilities.

Correct overtime pay has meant more money for workers to send home to their families and, as one woman noted, this has benefited women “because they have more money for their children, for things like medicine or school books” (Interview 2.2.2). However, some women union members interviewed noted that overtime reduced the amount of time women, especially those with family responsibilities, had to participate in the union. For “women who have young children, they always have to prioritise them first. They have to put their families first”. (Interview 2.2.4)

³⁵ Workers and union officials interviewed for this research requested that the factory not be named. The factory will be referred to as Factory A. ³⁶ According to a local NGO, factory management subcontracts some of these brands to up to six subcontractors. The exception is Reebok, which does not allow subcontracting (Interview 2.2.8). ³⁷ Workers interviewed in July for this research stated that there were about 200 contract workers in this factory. ³⁸ The two unions in this case study will be identified as MSU for the management supported union and IU for the independent union. ³⁹ Jamsostek is the official Indonesian Government health insurance scheme which applies to workers employed in the private sector. Factories in Indonesia are required to either apply the Jamsostek scheme or else a scheme which is at least as generous to workers as Jamsostek.



Interviews Oxfam Australia conducted with workers in 2003 revealed that both the Umbro and Reebok codes of conduct were only available in English and were “posted high on the wall” (Interview 2.2.5). According to statements from interviewees in July 2005, for the past year the Reebok code of conduct has been clearly displayed in the Indonesian language. However, workers report that shortly before client buyers visit, the factory is cleaned and safety equipment is issued. Factory management reportedly tells workers not to criticise the factory because clients will stop ordering if there are too many complaints. Management has also been accused of seeking to prevent workers from speaking to visitors during inspections (Interview 2.2.6).

The IU and individual workers contacted client buyer companies directly in order to have particular issues addressed. Reebok has been the most active of the client buyer companies, having directly intervened on a number of occasions to correct violations of its code of conduct such as the misuse of disciplinary warning letters and denial of healthcare entitlements (Interview 2.2.6). Said one union member, “Reebok has probably been the most helpful”. Another said:

“Reebok has definitely helped us and made things better for us. Why don’t all the other buyers, like Umbro, pay attention to what Reebok is doing and follow their example so they can help us?”
(Interview 1.2.5)

Umbro has a code of conduct, has carried out an audit of the factory, is in regular contact with a local non-government organisation and holds meetings with a United Kingdom (UK) campaign organisation (NGO) about the situation in this factory. However, workers perceive Umbro has been slow to respond to their concerns. Umbro was contacted for their input into this case study and research. They confirmed they received Oxfam Australia’s questions, but did not respond to them. Umbro has promised to take firmer action in future in an attempt to ensure workers rights at Factory A. Oxfam International looks forward to reporting on whether these commitments have been followed through⁴⁰. Based on worker interviews (July 2005) it would appear that the other brand owners sourcing from the factory have so far done nothing to support workers’ rights at the factory.

Reebok’s Doug Cahn informed Oxfam Australia in a letter dated 12 August 2005 that Factory A management had decided they no longer wish to do business with Reebok. Further investigation by Oxfam Australia suggests that Factory A management did this because Reebok’s insistence on respect for labour law was creating more trouble for them than Reebok’s orders were worth. Reebok had been responsible for 5% of the factory’s orders at the time factory management cancelled the Reebok order.

According to the local NGO, the pressure on workers is getting worse, because management disagree that internal problems should be solved by ‘outsiders’, which the IU was blamed for doing. Management uses the parent–child analogy, with management being the parent and workers, the children.

“When there’s [a] problem, children should talk and ask help from parents, not strangers.”
(Interview 2.2.8)

Factory A has been certified as meeting the SA8000 labour rights standard. SA8000 stands for Social Accountability 8000, which is a set of labour standards and a system of factory investigation which is overseen by the multi-stakeholder initiative Social Accountability International (SAI).⁴¹ At the time of writing, Factory A was the subject of a complaint and further investigation under SAI procedures.

An Indonesian sportswear worker waits in a queue to use the bathroom outside her rented room. Two bathrooms are shared between five families. The bathrooms are also used for washing clothes and dishes.
Photo: M. Revaldi.

Oxfam International's assessment

When violations of freedom of association and other rights of workers under Indonesian law were brought to Reebok's attention they acted swiftly and decisively. This led to some improvements in the space for the independent union to organise and to improvements in wages and conditions.

Umbro has been willing to talk with the unions and with international campaign organisations and has undertaken a factory audit. Umbro did not respond to a request from Oxfam Australia to provide evidence as to how their intervention has supported workers' right to organise and freedom of association at Factory A. Workers interviewed by Oxfam Australia could not identify areas of improvement as a result of Umbro's intervention (July 2005). Umbro has since committed to following through on violations of their code at Factory A and Oxfam International looks forward to reporting on the impact of Umbro's interventions in future editions of this report.

There is no evidence to suggest other brand owners who source from the factory, including Kangol, Oliver, DiaDora, Charles Vogeles and Bioko, have taken any action to support workers' rights to organise and freedom of association in the factory.

Oxfam International is gravely concerned about the factory management's cancellation of Reebok's orders. This most likely occurred because Reebok was supporting workers' right to form and join unions and encouraging factory management to comply with Indonesian labour law. As a result of Reebok's departure, the space for worker organising at Factory A is likely to reduce. It is imperative that Umbro and other brand owners actively work to ensure that this does not happen.

⁴⁰ Personal communication— (letter) from Angela Webb, Global Compliance Manager, Umbro, 31 January 2006, held on file. In this same letter Umbro also explain that while they have no dedicated resources on the ground in Indonesia, they are trying to resolve the code violation at Factory A. ⁴¹ For more information see www.sa-intl.org. ⁴² Adidas has been sourcing from Panarub for over 10 years (adidas 2005). ⁴³ According to Article 59 of Labor Law 13/2003 contract workers are allowed to be used under certain conditions. Adidas (2006) reports that "in response to the WRC investigation and subsequent report in 2004, all workers are now on permanent contracts and there is no longer [according to adidas] any contract labour in the factory". ⁴⁴ The other union at PT Panurub was approached but declined to be interviewed for this case study. ⁴⁵ After the OECD's process of responding to the complaint was completed, the German CCC (2005) released a statement expressing disappointment that the OECD process had proved of such limited value as a means of addressing labour rights issues. The German CCC made a series of recommendations for improving the OECD process (see <www.cleanclothes.org/legal/04-09-15.htm>).

2.3 PT Panarub (Panarub)

Brands include: adidas⁴²

Location: Tangerang, Indonesia

Product: Sports shoes including soccer (football) boots

Size: 11,500 workers

Summary

- An independent report found widespread labour violations at Panarub, including systematic discrimination against members of one of the two unions in the factory.
- Adidas supported the implementation of the recommendations in the report and there have been major improvements in the factory.
- The remaining obstacle to full recognition of freedom of association at PT Panarub is the need for a fair and objective process to verify the membership of both unions.

Note: As this report was being finalised for print, important new developments cast doubt on adidas' commitment to support workers' right to freedom of association at the Panarub factory. Late in 2005, 33 members of one of the unions, including most of the union's leaders, were fired for activities linked to their participation in a strike. Despite numerous appeals to adidas, at the time of this publication going to print it remains unclear whether adidas will insist that the workers are reinstated. A complete update on these developments will be prepared and made available by the time this report is released, on the internet at www.oxfam.org.au/campaigns/labour/06report

In 2002, Oxfam Australia and a number of other international organisations released *We Are Not Machines* (CCC et al 2002), a report on labour abuses in sportswear factories in Indonesia, including Panarub. That report noted that in 2001 Ngadinah Binti Abu Mawardi — the branch secretary of the Perbupas union at Panarub — was arrested, imprisoned for a month and subjected to an extended trial because she had helped to organise a strike at the factory.

Ngadinah was charged under Article 335 (Unpleasant Conduct Toward Others) of the Indonesian criminal code. This poorly defined offence has often been used to persecute trade union organisers. Ngadinah's case received a lot of scrutiny internationally and within Indonesia. She was eventually found not guilty and allowed to return to work at Panarub.

Adidas (2005) reports that they took a number of steps to protest against Ngadinah's imprisonment:

adidas-Salomon wrote to the Indonesian Minister for Justice requesting her release...clearly stating...that industrial disputes [should] be managed by the Indonesian Manpower authorities and not the Police or public prosecutors. After her trial was concluded and Ngadinah was released, we lobbied management to reinstate her.

We Are Not Machines also noted other problems at Panarub such as:

- inadequate wages of USD \$1.65 (1.35 Euro) per day
- very long hours of overtime;
- verbal abuse of workers if they worked too slowly;
- 40% of workers were on short-term contracts and contract workers who joined Perbupas found that their contracts were not renewed⁴³; and
- women who wanted to claim their legal entitlement to menstrual leave were required to undergo an emotionally intrusive and humiliating physical exam in the factory clinic to prove that they were menstruating. Most women declined to take these exams so they were effectively prevented from taking this leave.

During 2003, Oxfam Australia continued to receive reports from Perbupas about problems at Panarub, including discrimination against, and dismissal of, Perbupas union officers (Interview 2.3.1). Perbupas reported that management systematically discriminated against their union in favour of the other union at Panarub.⁴⁴

Throughout 2003, Oxfam Australia and other international organisations lobbied adidas to intervene. The German Clean Clothes Campaign (CCC) made an official complaint to the German Government that in relation to this and other cases adidas was breaching the Organisation for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises.⁴⁵ In January 2004 Oxfam Australia jointly agreed with adidas to invite an independent third party, the US-based Worker Rights Consortium (WRC), to investigate allegations of labour violations at Panarub.

The WRC (2004a) found active and systematic discrimination against the Perbupas union by management, for example:

- Historically, whereas the staff member responsible for inducting new workers had been an official of the other union at Panarub, Perbupas union leaders had not been employed in positions within the human resources (HR) department where they could provide orientation to new employees (including information on trade unions). According to adidas (2006) this changed in 2001 when Ngadinah was employed in the HR department after she was reinstated at Panarub;
- Perbupas union officials were denied time off work to attend to union activities while officials of the other union received time off for such activities;
- Before 1998, workers had been formally and automatically enrolled into the other union at the outset of employment (WRC 2004a, page 7).

The WRC (2004a) also found that health and safety equipment in the factory was inadequate, as was the health and safety training made available to workers. For example:

- Employees in the hot press section inhaled the fumes of melting rubber throughout their shift.
- Machines used for trimming shoe soles lacked a finger guard.
- Many workers operating the hot glue machines had burn scars or fresh burns on their hands.

In its formal response to questions sent by Oxfam Australia for this report, adidas (2005) noted that the company has not always agreed with the reports published by external organisations such as the WRC and Oxfam Australia, nor sometimes with the recommended remediation contained within those reports. Nonetheless adidas (2005) acknowledges that:

it is a matter of public record that there have been cases of verbal abuse (by supervisors), intimidation (by supervisors), dismissal, suspension and discrimination based on union affiliation for which management is responsible. However, adidas-Salomon does not agree that management has engaged in any acts of violence or threatened violence against union officers or members.

adidas (2005) also explained that the company had taken the following steps to address issues of freedom of association at PT Panarub:

- monitoring compliance with and conducting training on their standards of engagement at Panarub;
- conducting workshops on subjects such as freedom of association and worker-management communication;
- obtaining support from the International Labour Organisation;
- supporting the WRC independent investigation; and
- coordinating and funding workshops in an attempt to resolve the issue of verifying workers' union membership.

⁴⁶ Adidas (2006) reports that this occurred in 2001.



The WRC (2004a) reports that since the release of their report, adidas and PT Panarub management have implemented almost all of the recommendations. Worker and Perbupas factory union officials interviewed for this report also referred to these positive changes. For example the factory:

- has re-employed the fired Perbupas union officers;
- has recognised (and given an office to) the Perbupas union;
- is moving to make all jobs at the factory permanent;
- has employed a new factory doctor who is implementing impressive health and safety reforms;

Workers interviewed by Oxfam Australia in August 2005 also acknowledged that there have been substantial improvements at the factory since the WRC investigation and recognition of the Perbupas union. For example, workers with families who were interviewed acknowledged that their families had benefited from the change to the JPK (health) insurance whereby their spouse, whether male or female, and up to three children are now covered by this insurance (Interview 2.3.2).

Previously, only female spouses of male workers were covered, which is contrary to Indonesian law (WRC Report 2004a, page 3). Other positive developments cited by workers interviewed included:

“Supervisors used to do violence against workers like throwing ashtray to workers’ face. Now they don’t do that because whenever there’s such a thing happens then Perbupas will demand the case to be solved right away. So I think now they are afraid to do violence against workers.”

(Interview 2.3.2)

“Pregnant women used to stand all day to do their jobs but now factory provides chairs for pregnant women. In the past many woman workers had miscarriage at factories. Now those things do not happen.”

(Interview 2.3.2)

A worker also reported that, “Now Panarub has contracted some doctors for the clinic inside Panarub.”⁴⁶ Previously, Panarub only provided nurses at the clinic” (Interview 2.3.2). Confusion still exists around the taking of menstrual leave with some workers interviewed by Oxfam Australia claiming that women are still not able to take menstrual leave, however they are permitted to rest in the clinic without being humiliated

(Interview 2.3.3).

On the question of trade union rights, members of the Perbupas union interviewed in August 2005 also noted some improvements. One stated that previously “Perbupas did not have an office so all discussions were held at workers’ dwellings...Now Perbupas has its own office inside the factory” (Interview 2.3.4).

However, these and other Perbupas members still felt that Panarub Management did not involve Perbupas in decision-making processes and cited other examples of ongoing discrimination (Interview 2.3.3):

- “There’s a discrimination against Perbupas members especially concerning grade and performance,” stated a woman worker (Interview 2.3.2)
- Another woman said, “At my division..., the manager often persuades Perbupas members with job promotion. They often say.: “If only you were not Perbupas member, you would have already been promoted.” (Interview 2.3.2)
- Some workers report that the main obstacle they experience today at Panarub is getting permission from their supervisors to take time off to undertake union activities. (Interview 2.3.2). Perbupas union leaders interviewed also cited this as a current example of discrimination (Interview 2.3.3).

Hera was one of the union leaders dismissed from the Panarub factory late in 2005 for her participation in a one-day strike.

Photo: M. Revaldi.

Most workers and union leaders interviewed commented positively adidas' code of conduct. "Adidas actually has its code of conduct which supports freedom of association at Panarub. Yet, the main point is that the code is not fully implemented," said a Perbupas federation union official (Interview 2.3.5)... Another commented that, "We also try to bring up the cases and negotiate them with management. But if we find a deadlock, then we contact adidas representatives in Jakarta to share information about what happened at Panarub." (Interview 2.3.3)

A key recommendation from the WRC report remains outstanding at the time of writing — this is the verification of union membership at Panarub. The WRC found that for many years factory managers had systematically discriminated against the Perbupas union and in favour of the other union. As a result, current union membership may not accurately reflect workers' preferences. The WRC report recommended a process whereby workers can safely indicate which union they would like to represent them.

Adidas (2006) is of the opinion that "the obstacle in reaching consensus on the issues of membership lies with the two competing unions and not the management of the factory". Adidas points to a mediation process which took place in July 2005 which failed to reach an agreement between the two unions regarding a process for verifying union membership. Adidas and Panarub have a responsibility to help ensure that workers in the factory are free to exercise their right to freedom of association and it is important that lack of agreement between the two unions in this factory should not be used as an excuse in order to justify failure to act on this responsibility.

According to union leaders interviewed in August 2005, a mini verification exercise took place on 14 April 2005 with 398 workers who wanted to change their membership. Of the 398 workers eligible to take part, 263 workers participated. Of these 263 workers, 256 chose to change their membership to the Perbupas union. Many more workers who were not eligible to participate also turned up and expressed a desire to officially clarify their union membership (Interview 2.3.3).

Workers who are Perbupas union members had this to say about the outstanding verification issue:

"I just want the management to implement freedom of association at Panarub.
(Interview 2.3.2)."

"I think many workers want to become Perbupas member but they are reluctant since the process is very bureaucratic and intimidating."
(Interview 2.3.2)

"If there are two unions at Panarub, then the management should be neutral and implement freedom of association."
(Interview 2.3.2)

"International organisations should put pressure on adidas and management to guarantee freedom of association at Panarub. Even though there has been some improvement, there's still discrimination against Perbupas and workers are not able to determine their own membership.
(Interview 2.3.5)

Oxfam International's assessment

Despite some initial reluctance to engage with international campaign organisations on the ongoing situation regarding trade union rights at Panarub, ultimately the willingness of adidas staff to support an independent WRC investigation was an important and positive turning point at Panarub.

Along with the courage and determination of the workers at PT Panarub, adidas' support for the implementation of the WRC's recommendations has persuaded factory management to substantially remedy labour violations and take vital steps towards full respect for trade union rights.

Verification of the membership of both unions remains as the main obstacle to finally ending the systematic discrimination against one of the unions by management at the factory.

2.4 PT Busana Prima Global (BPG)

Brands include: Le Coq Sportif, Bear USA, Converse, Ecko Red, Hummel, Lotto, Maui, Penn, Ping and Prostar. Most of the factory's orders are placed by Focus Far East, acting as a licensee for many of these brands.

Location: Bogor, West Java, Indonesia

Product: Sportswear

Size: Employs more than 2,150 people.

Summary

- In 2003, BPG management suspended and later dismissed four union leaders and 166 other workers when they tried to organise to improve their conditions.
- Focus Far East (FFE) and Oxfam Australia agreed in early 2005 to an independent investigation at the factory.
- Following the investigation BPG management agreed to reemploy 33 of the dismissed workers, then reneged on this promise. They also failed to implement recommendations relating to freedom of association.
- Those brand owners sourcing from BPG who were contacted in 2003 have only taken limited steps to support freedom of association at their BPG supplier.
- Currently 38 workers are still campaigning to be reemployed at BPG.

In August 2003, GSBI, an Indonesian trade union, informed Oxfam Australia about the situation at the BPG Gunung Putri factory. GSBI reported that the scorsing⁴⁷ of four union leaders and the suppression of workers' rights at the factory had led more than 300 workers to strike on 11 July 2003. The strike led to the mass dismissal of 166 workers. Interviews by Oxfam Australia staff with BPG workers in October 2003 confirmed these concerns.

According to a union leader interviewed at the time, BPG factory management treated workers badly:

"They threaten us in an inhuman way, shouting, even throwing things at workers. This is why we needed to set up the union — as a means of protection...Before we [had] a union, whatever the management says, it has to be that way. The management made promises but they weren't met — our daily conditions remain very bad. For example If an operator doesn't meet the target in her normal working hours she is scorsed — she has to work without payment until she meets the target. Sometimes this means working two to three hours extra without payment."

(Interview 2.4.1)

Workers also described how several of the union leaders had been demoted (Interview 2.4.1).

Oxfam Australia, the Clean Clothes Campaign (CCC) and other organisations launched an international initiative in support of the workers at BPG. These organisations wrote to BPG factory management, the Ministry of Labour, Lotto (Italian), Head (Dutch), Le Coq Sportif (French), Ecko and Bear USA. They also contacted FFE, a licensee for most of the brands produced at BPG which is responsible for placing most of the factory's orders. The GPS, parent company located in the United Kingdom, was also contacted.

These organisations made clear that they were not asking the brand owners to terminate their contact with the factory but rather to persuade BPG factory management to solve the labour problems in the factory. On 1 August 2003, for example, Oxfam Australia wrote to the brand owners and asked them to work with their supplier BPG "to reach a solution that is satisfactory to the workers who make your goods and is in keeping with Indonesian law".

Lotto sent a letter to GPS in November 2003 requesting that GPS “strongly intervene...and try to find a positive solution”. Unfortunately they also asked that “in case of a negative solution, to immediately [move] the manufacturing to another factory that works in full respect of human rights”⁴⁸. In another letter (July 2004) to FFE, Lotto stated “we are in favour of a constitution of a joint committee to investigate issues in the said factory as requested by the Oxfam Community Aid Abroad (Australia)”. At this time Lotto also noted “we are happy to hear that the factory owner is considering reinstating 32 workers. We hope this promise will be kept and will help resolve the contentious issue”.⁴⁹ FFE responded to Lotto stating, “We will do whatever is required to ensure this situation is resolved with fairness and justice to all concerned”.⁵⁰ Oxfam Australia understands that the licence for Lotto, held by FFE, was subsequently terminated by mutual agreement.⁵¹

Le Coq Sportif in a letter (May 2004) stated that they contacted BPG Management representatives, received worker representatives, analysed documents they received and discussed the matter with lawyers of all parties.⁵² In a conversation with the CCC in November 2003, Le Coq Sportif alleged that the management of BPG told them to take their business elsewhere, as they did not care about losing Le Coq Sportif orders that only made up 4% of the factory’s business.⁵³

In a letter dated 29 August 2003, Head responded to campaigners’ letters saying they had contacted FFE which discussed the issues raised with factory management. According to Head, BPG management asserted they had followed Indonesian law. Ecko and Bear USA did not respond.

BPG management sent several responses to international campaign organisations from September 2003, denying they had done anything wrong and requesting campaigners to contact them directly and not go through the brand owners. This was followed by a letter from lawyers representing the factory. Lawyers representing FFE also sent a letter in November 2003, stating that the allegations sent to the factory’s buyers by Oxfam Australia were irresponsible, unsustainable, unproven and may defame the factory and FFE.

GSBI continued to try to resolve the dispute through meetings with factory management, local parliamentarians and the labour attaché at the South Korean Embassy. GSBI also sent letters to the brand owners and pursued the case through the Indonesian labour arbitration system and courts. In these cases the courts did not find in favour of workers but instead allowed the dismissals to stand.

Finally, in 2004, BPG’s main buyer FFE and Oxfam Australia agreed that a local investigator with expertise in labour rights, Mr FX Supriaso, would investigate⁵⁴ both whether the dismissal of the workers was legitimate under Indonesian law and whether it was appropriate according to the international conventions of the International Labour Organisation. Supriaso (2005) found that the strike did not follow the Indonesian legal procedures for a strike but that this did not justify dismissing the workers, particularly in the context of ongoing illegal discrimination by management against union leaders. Supriaso did not find evidence that workers were violent during the strike.

The investigation revealed numerous problems at the factory (Supriaso 2005). These included:

- serious violations against freedom of association and the right to organise unions;
- while the strike was illegal it was found to be the result of systematic (and illegal) discrimination against union members by management;
- problems with health and safety including providing workers with unhygienic drinking water taken from the boiler machine and failing to employ medical officers qualified in health and safety at the factory;
- unpaid and compulsory overtime on a regular basis, contrary to Indonesian law;
- workers too intimidated to take menstrual leave, even though this is a legal right; and
- workers forced to resign or quit rather than take leave for annual holidays, sickness or family reasons.

⁴⁷ Scorsing is an Indonesian term describing a situation where an employer does not allow a worker to work, even though that worker has not been dismissed. The union organisers at PT Busana Prima Global who are scorsing were being paid the legal minimum wage, but were not receiving any seniority pay or overtime pay. These union leaders have since been dismissed.



Since April 2005, FFE has been negotiating with the managers of the BPG factory to implement all recommendations contained within the report. Oxfam Australia agreed not to publicly release the investigation report while these negotiations were taking place. However, four months later, very little progress has been made and so the report was released in September 2005.

The BPG factory managers appear unwilling to resolve the core human rights issues of freedom of association and the right to organise. Of the union members originally dismissed, four union leaders and 30 workers are still campaigning to get their jobs back but factory managers have been stalling on the reinstatement of these workers.

On 10 June 2005, FFE reported to Oxfam Australia that, "We have just agreed with the factory that they will reinstate the 30 workers". Since this time BPG factory management have reneged on this agreement and stated they will only reemploy the dismissed workers at a separate facility — an hour away from the current one, an offer rejected by the workers, who have the right to return to the same factory and to their previous positions.

After BPG management agreed that they would reemploy the 30 workers Oxfam Australia was told by workers at BPG that supervisors were organising workers inside the factory to sign a petition stating they did not want the 30 dismissed workers to return to work. A couple of weeks later this signed petition surfaced. Management bought the petition to a meeting between FFE, BPG Management, GSBI, the independent investigator and Oxfam Australia on July 23. Oxfam Australia insisted that it is management's responsibility to honor their commitment to reemploy the dismissed workers.

On August 26 Oxfam Australia sent a letter BPG President Director Mr Park stating that too much time had elapsed since the workers were dismissed and requesting that the dismissed workers and union leaders be reinstated by 31 August 2005.⁵⁵ Mr Park responded by claiming that current workers would go on strike if management reemployed the dismissed workers and union leaders.⁵⁶ In a letter dated 17 September 2005 Mr Park further stated "please find attached letter from our union SPN which is the second biggest workers union in Indonesia. They agree with our actions and concerns".⁵⁷ Oxfam Australia noted in its letter to Mr Park sent on 6 September 2005 that "...this is the first time in over two years we have received any correspondence from SPN related to BPG".⁵⁸ Communication with SPN at the national level has not yet resolved this issue. Oxfam Australia believes that irrespective of the views of currently employed workers, it is the responsibility of management to honour their commitment to re-employ the dismissed workers.

Priska – shown here minding a friend's child – was the secretary of the trade union at Busana Prima Global before she was dismissed in 2003.
Photo: Tim Connor/OxfamAUS.

In September 2005, Oxfam Australia again wrote to Le Coq Sportif, Bear USA and Ecco and asked them to take steps to persuade BPG factory management to reinstate the dismissed workers. In the same month other brand owners — Converse (Nike), Hummel, Maui, Ping — were contacted for the first time. Hummel stated that they contacted FFE and were “informed that the circumstances are in order”.⁵⁹ Perry Ellis, the master apparel licensee of the Ping brand explained that Umbro is the approved sub-licensee responsible for production of Ping branded goods at BPG.⁶⁰ Perry Ellis passed on the response of Umbro which stated “Umbro... recognises the issues brought to light in the Oxfam report are serious and wishes to play its’ part in helping to resolve the issues” and further that “we [Umbro] have been working through our agent (Leisurevibe) to put pressure on the factory to resolve the issues highlighted by the independent enquiry”. Unfortunately earlier correspondence⁶¹ from Steve Gorman of Leisure Vibes had refused to acknowledge that there are any labour rights problems at BPG.

At the time of writing, the dismissed workers and union leaders have not been reemployed.

Oxfam International’s assessment

Despite their initial threats of legal action, FFE eventually agreed to an independent investigation into labour conditions and the strike at BPG. Since the release of the independent investigation report in April 2005 FFE has actively negotiated with BPG management to implement the report’s recommendations. While some recommendations have been implemented, those relating to freedom of association and the right to organise have not. BPG management continues to refuse to reinstate the union leaders and members who were dismissed in 2003 for participating in the strike.

In 2003, Lotto, Le Coq Sportif, and Head did put pressure on their licensee FFE to resolve the labour issues at BPG. They did not, however, send their own representatives to Indonesia to investigate, a step which would have indicated directly to BPG factory management that the issue was a priority. Lotto has ended its licensing arrangement with FFE and is no longer sourcing from BPG. Umbro, which is a sub-licensee for the Ping brand, has indicated that it is concerned about the situation at BPG and wants to see it resolved. Unfortunately, Umbro has been working through its agent Leisure Vibes who has previously failed to acknowledge that there are any problems at BPG. Oxfam International hopes to be able to report in the future on positive steps taken by Perry Ellis and Umbro to persuade management to reinstate the dismissed workers. It remains to be seen whether the brand owners contacted in September 2005 — Le Coq Sportif, Bear USA, Ecco, Converse (Nike), Hummel and Maui — will be more proactive in supporting trade union rights in the factory. We hope to be able to report positive progress in the next edition of this report.

⁴⁸ Letter from Lotto to Mr M. Gilbert and Mr D. Tolman of GPS, 11 November 2003. In a letter of 24 January 2006 (held on file) Mr Gianni Lorenzato, denied that Lotto left BPG in order to avoid unionisation at the factory. ⁴⁹ Letter from Lotto to Mr Trevor Freeman, FFE, 21 July 2004, held on file. ⁵⁰ Letter from Mr Trevor Freeman, FFE to Mr Gianni Lorenzato, Lotto, 30 July 2004, held on file. ⁵¹ Letter from Mr Gianni Lorenzato 24 January 2006, held on file. ⁵² Letter sent by Thierry Scheydecker of Le Coq Sportif to the (CCC), 5 May 2004, held on file. ⁵³ Record on conversation, documented 10 November 2003, held on file. ⁵⁴ The investigation began in December 2004 and the final report was completed in April 2005. ⁵⁵ See <<http://www.oxfam.org.au/campaigns/nike/action/busanaletter.pdf>> for a copy of the letter. ⁵⁶ See <<http://www.oxfam.org.au/campaigns/nike/action/busanaletter2.pdf>>. ⁵⁷ Letter dated 17 September 2005 from Mr J. Park, President Director, BPG, on file. The attached letter was from the SPN union at BPG. Other correspondence was received from SPN at the Bogor District level. ⁵⁸ Oxfam Australia also responded in a separate letter to the SPN union at BPG and to the SPN district office in Bogor. ⁵⁹ Personal Communication (email) from Soren Schriver, CEO/President of Hummel, 23 January 2006. ⁶⁰ Personal communication (letter) from Yanire Avila, Director of Social Compliance, Perry Ellis, 27 January 2006, on file. ⁶¹ Personal communication (letter) from Steve Gorman, Leisure Vibes, 22 September 2005 on file.

2.5 PT Doson (Doson)

Brands include: Nike

Location: Tangerang, West Java, Indonesia.

Product: Sport shoes.

Size: Employed 7,840 workers before closing in September 2002

Summary

- The SPN union alleges Nike's decision to cut orders to Doson was linked to the workers' industrial campaign for better wages and conditions.
- Since the factory's closure, former Doson workers have found it difficult to get work because local employers perceive them as "troublemakers".
- Nike should inform former Doson workers when jobs become available in other Nike suppliers and prevent discrimination by Nike suppliers against former Doson workers.

In February 2002, Nike wrote to Doson management revealing plans to cease ordering from the factory. This was disastrous news for Doson management and for the 7,840 workers employed at Doson. Since at least 1993, Doson had produced only for Nike. In 2001, at Nike's suggestion, Doson invested in extra plant and equipment to increase the factory's capacity for Nike production. In 2002, a lot of foreign investment was leaving Indonesia with many companies arguing that the cost of doing business in Indonesia was too high when compared with Vietnam and China. Hence Doson management was unable to attract other buyers. The factory closed in September 2002 (Prabowo 2003).

The SPN union⁶² represents Doson workers. It organised a vigorous campaign calling on Nike to keep ordering from Doson or, at the very least, to pay workers their full legal entitlements to severance and holiday pay. On 20 August 2002, 4,000 Doson workers marched to the US embassy in support of these demands (AP 2002). Doson workers organised similar demonstrations in other parts of Jakarta in the months that followed.

In January 2003, the Berne Declaration⁶³ invited former Doson worker Ida Mustari and SPN union official Yeheskiel Prabowo to Davos, Switzerland, so they could attend the Public Eye on Davos conference. At the conference Prabowo presented a paper arguing that Nike had stopped ordering from Doson because the workers had campaigned strongly for better wages and conditions. He pointed out that workers at Doson had held a strike in October 2001 and that they were threatening "slow-down" action in February 2002, the same month Nike announced plans to cut orders. He noted that "the industry continuously relocates to areas where wages are low, where there is no freedom of association and no workers rights" (Prabowo 2003).

Nike (2005a) responds to this latter allegation by arguing that:

In general, the volume of pairs of Nike-branded athletic footwear produced in contract factories in Indonesia has remained relatively stable...Today, orders are up within Indonesia, and several of the factories with which we work have been adding capacity. By comparison, many of our competitors have downsized their presence in Indonesia dramatically, negatively impacting the overall health of the industry in Indonesia.

In a 30 January 2006 email, Dusty Kidd, of Nike, further pointed out that in 2001 Nike worked with 30 factories in Indonesia, employing approximately 104,000 people and that at the end of 2005, this had grown to 40 factories, employing approximately 114,000 people. However data based on number of factories and number of workers employed in those factories can give a misleading impression of a brand owner's presence in a country. This is because brand owners frequently place small, short-term orders with apparel suppliers, so Nike might, for example, work with 20 apparel suppliers which each employ 5,000 workers, but those orders may make up less than 5% of total production in each of those factories. A better measure of changes in Nike's production in Indonesia over time would be the volume of orders placed. Unfortunately Nike does not release this data. However the company does annually reveal the

proportion of its sneakers produced in each sourcing country.⁶⁴ These figures show that in the financial year in which Doson closed (2003) the proportion of Nike sneakers made in Indonesia fell from 30% to 27%. Since 1998, when a newly-democratic Indonesia ratified the core ILO conventions relating to trade union rights,⁶⁵ the proportion of Nike sneakers made in Indonesia has fallen from 34% to 22%. The tension between sports brand owners' stated commitment to trade union rights and their tendency to move production away from countries which respect those rights is considered further in section 3.4.

With regard to the specific decision to cease ordering from Doson, Nike points out that all of the factories making Nike sneakers in Indonesia have unions and that Doson was organised well before Nike ceased ordering from the factory. The company also notes that over the last five years there have been work stoppages and strikes within a number of Nike's suppliers, most of which are still producing for Nike. Finally, Nike argues that delivery and quality performance issues, rather than price, were the "key elements of the decision" to leave Doson (Nike 2005a).

Oxfam International does not have full access to the information which persuaded Nike to cease its relationship with Doson and hence it is not possible for us to draw definite conclusions about that decision. However the following points can be made:

- While other Nike suppliers have unions and have experienced work stoppages, this does not negate the possibility that workers at Doson were more outspoken and more effective in asserting their rights. This greater effectiveness may have influenced Nike's criteria for deciding which supplier to drop
- Worker activism does not only affect wage costs, it can also affect delivery times since industrial action or workers' refusal to work excessive overtime can make it more difficult for a factory to meet shipping deadlines.
- Nike's response does not explain why Nike suggested to Doson management that they should invest in extra plant and equipment to increase capacity in 2001.

On the information available it is not possible to dismiss the possibility that trade union activity at Doson contributed to Nike's decision to leave the factory.

On the issue of severance pay SPN and other organisations, including Oxfam Australia, argued that Nike had a moral obligation to ensure that workers received their legal entitlements. Nike didn't accept responsibility for paying workers what they were owed, but did encourage Doson management to do so. In a letter dated 1 December 2003, Nike's then Vice-President for Corporate Responsibility Maria Eitel wrote:

Since being advised by Doson management of their decision to close the factory, Nike has consistently stated its expectation that Doson factory management meet its legal obligations as it relates to severance payments...an April meeting between the Indonesian Ministry of Manpower, the PT Doson Management, and the Union resulted in an agreement on the schedule for paying workers. At this stage, Nike repeated its commitment to purchase all product (whether in finished or semi-finished state) at Doson and further stipulated that all funds related to this product go into a special account that could only be used to pay workers' severance. Nike has delivered on this promise, and we understand that Doson management used these funds to pay those workers who have received their severance to date.

According to Doson SPN union President Joko Haryono, the April 2003 agreement did not cover the full amount which workers were owed. The Indonesian Minister of Labour had exercised the discretion available to him under Indonesian law to decree that workers at Doson should receive twice the legal minimum severance pay. Doson management refused to pay this, insisting it could only afford to pay the lowest possible legal amount. The April 2003 agreement set out a schedule for workers to receive the amount of severance which Doson management was willing to pay.

It took until December 2004, a period of 20 months, for all Doson workers to receive these severance payments. Meanwhile the union has been taking a case through the Indonesian court system seeking an order that the company pay the full severance amount originally decreed by the Minister. As of

⁶² In 2002 the SPN union was known as SPTSK. The name-change took place in 2003. To avoid confusion the union is described as SPN throughout this case study. ⁶³ See <<http://www.evb.ch>>. ⁶⁴ This information is included in Nike's annual 10-K reports to the US Securities And Exchange Commission which can be found on Nike's website at <<http://www.nike.com/nikebiz/nikebiz.jhtml?page=17>>. ⁶⁵ Indonesia ratified ILO Conventions 87 and 98 in June 1998 (ILO 1998).

October 2005, 6,081 former Doson workers were also still owed holiday pay (Haryono, J. 2005, personal communication, 1 October).

Eitel's December 2003 letter also noted that Nike had taken several steps to assist Doson workers. For the eight months from September 2002 until May 2003 Nike made free medical coverage available to all former Doson workers and their families. Between March 2003 and November 2003 Nike also arranged for free short courses in skills training to be made available to Doson workers. According to Haryono (2005, personal communication, 1 October) many Doson workers declined to accept these offers because they were so upset with Nike for cutting orders to the factory.

Eitel also wrote that:

Since Sept 2002, Nike has encouraged other contract factories to consider hiring former Doson workers but our efforts have met with only limited success. The poor condition of the Indonesian economy since the onset of the Asian financial crisis, security concerns, and the trend toward more efficient operations in footwear factories have hampered workers' efforts to find alternate employment.

Nike later clarified that in the month following the factory's closure, Nike's efforts helped 49 of the 7,840 former Doson workers obtain jobs at other Nike suppliers in Indonesia (Nike 2005a).

Since the factory's closure the union leaders at Doson have several times reported to Oxfam Australia that local employers regard former Doson workers as "trouble makers" because of their outspoken campaign to receive their severance pay. They report that this prejudice makes it difficult for former Doson workers to find work. The union leaders also allege that some Nike suppliers have actively discriminated against former Doson workers when selecting new employees, in direct contradiction to Nike's promise that these workers would be given hiring preferences. Oxfam Australia raised this issue with Nike in a letter dated 3 June 2004.⁶⁶

Workers who lose their jobs because Nike cuts orders to a factory and who respond by campaigning to receive their legal rights should not find themselves blacklisted...[please] ensure that former Doson employees...are favourably considered when any new workers are employed at any Nike supplier in Indonesia.

On 8 September 2005 Oxfam Australia again wrote to Nike about this issue noting that,

Leaders of the [Doson] union would like Nike to inform them when jobs become available in other Nike suppliers, and for Nike to ensure that there is no discrimination against any Doson workers if they apply for those jobs.

Nike agreed to discuss the issue with the union.

Oxfam International's assessment

The SPN union's claim that Nike's decision to cut orders from the Doson factory was linked to the union's campaign for better wages and conditions remains credible. While there may be other reasons not linked to worker organising why Nike and other brand owners have decreased the proportion of their sports shoes made in Indonesia, it is incumbent on the brand owners to state these reasons. Brand owners should also make it clear that the steps which the Indonesian government has taken to increase respect for trade union rights have made Indonesia a more attractive place to invest for companies concerned about human rights. Because of this, any improvements in other aspects of the investment environment which do not jeopardise workers' basic rights will lead to further investment. The significant reduction in the proportion of Nike sport shoes made in Indonesia from 34% in 1998 to 22% in 2005 is disappointing.

On the issue of the blacklisting of former Doson workers, Nike should follow the practice of adidas in the Daejoo Leports case. That is, Nike should ensure that former Doson workers are informed of vacancies at other Nike suppliers in Indonesia and are not discriminated against when applying for those jobs. We hope to report on progress in this area in future editions of this report.

2.6 PT Daejoo Leports (DL)

Brands include: adidas, VF Corporation (Jansport, North Face, Eastpak)

Location: KBN export processing zone, Marunda Branch, North Jakarta, Indonesia

Product: Backpacks and Sporting Apparel

Size: Employed more than 1,100 workers before closing in August 2004

Summary

- Workers who had formed a union to try to negotiate improvements to poor conditions through collective bargaining negotiations at DL were harassed and intimidated.
- Adidas and VF Corporation (VF) encouraged Daejoo Leports (DL) management to negotiate with the SPN union.
- DL initially agreed but then closed the factory and moved production to China.
- Adidas and VF tried to persuade DL to keep the factory open, but the companies' lack of a clear policy prioritising the retention of production in factories with democratic unions limited their ability to persuade DL to continue operations in Indonesia.

In 2003, the Worker Rights Consortium (WRC 2003) investigated working conditions at DL and identified several issues of concern, notably:

- high levels of compulsory overtime — at times workers were required to work from 7am to 11pm to meet production deadlines;
- widespread complaints by workers of chronic pain — medical opinion suggested this was caused by repeated performance of the same task over long periods; and
- inadequate safety standards — lack of protective equipment, poor ventilation, high temperatures, excessive noise and limited drinking water.

With regard to trade union rights, the WRC (2003, page 12) found that DL management had:

- illegally threatened active members of the SPN union with demotion or dismissal;
- threatened to move all production to China if workers went on strike; and
- failed to respond positively to the SPN union's repeated efforts to launch collective bargaining negotiations, despite the company's legal obligation to do so.⁶⁷

The WRC (2003, page 4) also noted that anti-union practices by other factories within the KBN Export Processing Zone made many workers at DL afraid to get involved in union activities. Workers told the WRC that a number of factories in the zone employed 'preman' (hired thugs) to suppress strikes. For example, in 2001, a gang of preman reportedly intervened in a workers' demonstration and a member of the gang held a knife to the throat of one of the union leaders (WRC 2003, page 5).

In response to the WRC's investigation, adidas, Agron (adidas' licensee) and VF encouraged DL management to negotiate with the union in good faith (adidas 2005, page 3, WRC 2003, page 13). At least, initially, there was significant progress. In August 2003, the WRC (2003, page 13) praised DL management for negotiating constructively with the union. During 2003 an additional union, SBGI, was established at the factory and DL agreed to recognise the new union and to make it clear to workers that they were free to join either union, or neither if they wished (WRC 2003, page 13).

Then in June 2004, DL informed adidas that they planned to close the factory and move all production to DL's factory in China. The WRC and the unions alleged that DL was trying to evade workers' rights and demanded that adidas and VF refuse to allow their orders to be transferred to China (adidas 2004a).

⁶⁶ The Clean Clothes Campaign sent a similar letter to Nike Europe in Hilversum, Netherlands on 30 September 2004. ⁶⁷ The relevant Ministerial Regulation is PER-01/MEN/85 Article 2(3) (cited in WRC 2003, page 12). Agron (adidas' licensee) commissioned a subsequent investigation by Verité which also found evidence of discrimination and refusal to negotiate. Verité did not find evidence of verbal harassment of union members (adidas 2005, page 4). In a letter dated 13 September 2005 NY Jung of Daejoo Leports denied that there had been any discrimination against Daejoo employees for participating in trade union activities or industrial action.

Adidas, Agron and VF made it clear to DL that they were willing to continue ordering from the Indonesian plant provided that expectations regarding price, quality, delivery and labour standards continued to be met. Adidas asked DL to provide written evidence of the business case for the factory's closure and urged DL to delay the decision so that the factory's economic viability could be further discussed (adidas 2004a). Agron suspended orders to DL's factory in China⁶⁸ and warned DL of "severe business ramifications" should DL not handle the situation in a manner that adidas considered cooperative, fair and reasonable (adidas 2004a). Mr N.Y.Jung, Vice President of DL, wrote to adidas arguing that the factory's closure was not related to the establishment of the union but rather was due the factory's lack of competitiveness with Chinese bag-making factories and the greater efficiency of transport between China and the US.

Adidas also encouraged DL to pay workers a more generous severance payment than required by law. DL expressed willingness to pay more than the legal minimum but not to the extent suggested by adidas. Effective 16 July 2004, adidas and Agron terminated their business relationship with DL⁶⁹ on the grounds of DL's refusal to make a more generous severance payment and because "Daejoo's lack of disclosure and engagement with the unions...has also been unacceptable to us, as has been the inadequacy of their responses to our requests and generally poor communications." (adidas 2004b 2005).

WRC's executive director Scott Nova was involved in meetings with DL executives at the time. He told *The Independent* (2004) that adidas and VF had moved too slowly, only putting intense pressure on DL once the Indonesian factory had ceased operating:

"If they had acted earlier, they might have convinced Dae Joo to change course. There was no urgency about their approach until the issue became a matter of substantial public scrutiny..."

Subsequently the WRC reported to adidas that many former DL workers were finding it difficult to get new jobs because they were being stigmatised as troublemakers by employers in the surrounding area. Adidas took steps to ensure that DL former workers are informed of vacancies at other adidas suppliers in Indonesia and are not discriminated against when applying for those jobs.

Oxfam International's assessment

Adidas and VF responded positively to the WRC's investigation into labour rights problems in the factory and there was initial progress.

The factory's subsequent closure was a major blow for the workers. Oxfam International recognises adidas' and VF's efforts to persuade DL to reconsider the closure. Adidas' measures to ensure that former DL workers are not discriminated against when applying for jobs with other adidas suppliers are also to be commended.

Nonetheless, if adidas and VF had a policy to prioritise retention of orders in factories with democratic unions then they would have likely had greater success in persuading Daejoo to stay in Indonesia. If the brand owners had indicated a willingness to change their expectations regarding price and delivery time if that was necessary to ensure the factory's viability, then there would have been greater economic incentive for Daejoo to keep the factory open. Adidas' decision, after the factory's closure, to cease doing business with DL on the grounds of poor communication and lack of transparency is welcome, but it fell short of what was needed.

⁶⁸ Adidas (2006) notes that these orders "that were suspended were not orders that would otherwise have been placed in Indonesia. They were for an entirely different product. This action was taken to apply pressure on Daejoo's parent company." ⁶⁹ Adidas/Agron's previous orders to DL were moved to factories in countries where rights to freedom of association and collective bargaining are not protected by law (adidas 2005).

2.7 MSP Sportswear (MSP)

Brands include: Nike, Decathlon

Location: Hutalea Muong Nakornrachaseama, Thailand

Product: Sportswear

Size: 400 workers (350 women)

Summary

- Three women were dismissed for forming a union at MSP.
- After an international campaign in support of the women, Nike eventually enforced their code of conduct and the women were reinstated;
- Decathlon did not assist with the reinstatement of the dismissed workers.

Workers at MSP first tried to form a union in November 2003. According to the Fair Labour Association⁷⁰ (FLA 2005, page 279) report, three organisers:

*began to collect signatures from workers in support of a demand to management for improved working conditions, which included cessation of verbal harassment by supervisors and body searches by security guards. ... Before they had a chance to submit the demand to management, two of the workers were dismissed. [They] filed a complaint before the National Commission on Human Rights [THRC] and the Commission ordered management to reinstate the two workers in February 2004.*⁷¹

According to Somyot Pruksakasumsek of the Centre for Labour Information Service and Training (CLIST) in Thailand, workers again attempted to establish a union in October 2004. The grievances they wanted to discuss with factory management included: high production targets; regular compulsory overtime; poor quality drinking water and verbal abuse from supervisors (Interview 2.7.1).

Shortly after the union was formed three union executive members were dismissed. The remaining nine union executive members were allegedly subject to harassment and were unable to carry out their union activities in the factory. Examples of harassment included:

- The mother of a union executive who also worked at the factory was dismissed in December 2004 for no apparent reason (Interview 2.7.1);
- Another union executive was arbitrarily transferred from the sewing to the cutting line without adequate training. He was unable to meet quotas and received a warning letter (Interview 2.7.1)

CLIST contacted the Clean Clothes Campaign (CCC) in Amsterdam in November 2004. The CCC subsequently contacted Nike at the international level and when no effective action was taken the CCC launched an international campaign calling for the three workers to be reinstated on the grounds that they had been unfairly dismissed for lawful union activities⁷². CLIST also contacted Nike and asked them to intervene to help resolve the matter.

Pruksakasumsek (2005) reports that MSP management sought to discredit the union by claiming that the union had no support among the majority of workers at the factory. He notes that in December 2004, factory management organised a protest against the union and provided workers with transport and a half-day off with pay to attend (Interview 2.7.1).

⁷⁰ See section 3.7. ⁷¹ Due to the FLA's policy regarding third party complaints, this FLA report does not name MSP Sportswear. However, Nike mentioned the FLA's involvement in this case in its response to Oxfam Australia's questions. ⁷² Nike (2006) indicated that they became aware of the MSP case via a news clipping 24 November 2004. Nike states their "first recorded communication with CLIST was in December, when our Thai compliance staff met Khun Somyot at Ministry of Labor on Dec 14 2004". Pruksakasumsek of CLIST indicated that he tried to make contact with Nike on 23 November 2004. Additionally correspondence (CCC, 30 November 2004, on file) indicated that CCC first contacted Nike, on 30 November to follow through on the letters previously sent by CLIST regarding this issue.

Pruksakasumsek (2005) asserts Nike was aware that MSP was opposed to a union being formed in the factory. Nike (2005a) states:

There were mixed reports from different sources regarding possible harassment & abuse at MSP, but auditors were unable to find corroborating evidence. The investigation did suggest however, a possibly unlawful dismissal process.

During November and December 2004 two conciliation sessions were organised by the Thai Labour and Welfare Protection Department of the Ministry of Labour attended by management representatives, the dismissed workers and Nike representatives.

According to Pruksakasemsek (2005) a conciliator from the Welfare and Labour Protection committee expressed a view that the workers' rights had been violated and that they ought to be reinstated. Nike was also present at this meeting and indicated that it wished to follow the conciliators' directive, but MSP management refused. The FLA (2005, page 279) reports:

Management refused to reinstate the workers, and offered them severance pay in the form of ten months' salary. All three workers refused to accept the severance and stated that they would continue to pursue reinstatement.

CLIST and the CCC called on Nike to persuade MSP to respect Nike's code and reinstate the fired workers. Nike instead argued that the Thai government was the appropriate agency to resolve the matter.⁷³ The union leaders were unhappy with Nike's approach. In December 2004 the dismissed union president, Ms. Samai Kongthaley told the CCC: ⁷⁴

We are very disappointed that NIKE did not investigate and clarify the case, but let it be settled instead by the legal proceedings of the labour court. We made an attempt to set up a union, knowing very well that we would face dismissal, but we were confident that the NIKE code of conduct would protect our legal rights of freedom of association

The TLRC ruled in March 2005 that two of the union executive should be reinstated but did not order back pay. The third accepted a compensation package due to financial difficulties. Nike arranged a meeting with CLIST where they discussed enforcement of the TLRC ruling regarding worker reinstatement enforced and a better deal for the workers. With the FLA facilitating, the factory management agreed to reinstate all three officers with back pay. The third officer accepted a settlement and did not return to the factory.

Following this dispute, an agreement providing for "training and education to labour union representatives, welfare committee, workers, and factory management prior to reinstatement of the dismissed workers" was negotiated between all parties (Nike 2005a).

Nike (2006) asserts that their field investigations of 8-9 December 2004 "indicated a high level of tension between the three workers who had been dismissed and many other workers...[and that] formal intervention by the government, alongside our team's work and engagement with stakeholders, would potentially produce the greatest likelihood of long-term solutions that might include reinstatement but also the potential for those workers to have true and freely-decided representation." As noted above Pruksakasumsek (2005) believes this tension was manufactured by MSP factory management.

There was also agreement to draft grievance and disciplinary procedures to resolve future disputes at MSP. FLA will further develop this into a code which will also set out the procedures for appointing a neutral arbitrator in future disputes. An ombudsman has been appointed for a 12 month period. In July, the Ombudsman, FLA and Nike visited the MSP factory and addressed all workers on the rationale and steps taken leading to reinstatement of two dismissed workers (Nike 2005a).

While Nike and the FLA sought to facilitate communication between the parties involved, the Clean Clothes Campaign reports that Decathlon did next to nothing, undertaking only to investigate the matter but never releasing any results of its investigation.⁷⁵

Oxfam International's assessment

After considerable pressure from the MSP union, CLIST and international campaign organisations, Nike, with the FLA's assistance, played a positive role that saw two of the dismissed union officers who wanted reinstatement being reinstated with back pay. Had Nike taken decisive action when it first became aware that its code had been violated this result may have been achieved sooner. An earlier result would have caused less distress to the union at MSP and less hardship to the dismissed union officers.

Nike maintains that the approach that they took in this case — while it may have taken longer — was more sustainable in the long term and also helped build local capacity, especially of the TLRC. The current reality in Thailand and many countries is that it is expensive and difficult for workers to use legal measures to get these rights respected. Even in cases such as this where the Thai Labour Arbitration system finds in favour of workers, their employer can keep appealing the case through the court system, exhausting the employees' financial resources. It is the role of national governments to enact and implement laws to protect workers rights including their trade union rights. In the long term, if Nike and other sports brand owners are serious about ensuring respect for trade union rights in their supply chains, then in addition to applying their codes of conduct they need to:

- regularly and publicly communicate this commitment, so that governments can be in no doubt as to brand owners' willingness to support trade union rights; and
- work with governments and unions through the ILO, to increase government's capacity and will to ensure that national legislation is present and effective.

Oxfam International notes with disappointment that Decathlon failed to release the results of its own internal audit of MSP or to take action in support of the dismissed trade union organisers.



These women previously worked in a Thai factory which supplied Nike, Adidas, Fila and other companies. Conditions were very poor – during busy times workers were offered amphetamines to help them work through the night. After that factory closed, these workers formed their own collectively-managed factory which produces for the Fair Trade market.
Photo: Junya Yimprasert

⁷³ See for example Nike's letter of 19 January 2005 on Oxfam Australia's web site at <www.oxfam.org.au/campaigns/nike/reports/letters.html>. ⁷⁴ Quoted on the CCC web site at <www.cleanclothes.org/companies/nike04-12-17.htm>. ⁷⁵ Reported on the CCC web site at <www.cleanclothes.org/companies/nike05-03-23.htm>.

2.8 Factory B

Brands include: Reebok

Location: Indonesia

Product: Sport shoes

Size: More than 4,000 workers

Summary

- Union leaders were allegedly attacked and forced to disband their union.
- Reebok responded constructively and the union was re-established.
- The newly-formed union alleged that retrenchment of some workers reflected management bias against their union. Reebok should have investigated more thoroughly.
- Reebok has recently played a positive role in ensuring that workers are free to decide which union they want to join.

On 30 March 2003, 46 workers employed at factory B established a factory branch of Union II.⁷⁶ This was the second union to be established at the factory.⁷⁷ On 23 April 2003, the Chair and Secretary of the new union met with factory management to formally give notice that the new union had been legally registered. On 24 April, the national president of the federation that Union II is a part of wrote to Oxfam Australia reporting that on the previous afternoon violence was used to intimidate the new union's chair and secretary into closing down the new union. The workers involved later confirmed this in interviews with Oxfam Australia (Interview 1.8.1).

According to this evidence⁷⁸, at 2pm on 23 April the Union II chair and secretary were asked to come to a particular room in the factory. There they found 25 people waiting for them, many of whom were members of a local gang of thugs. These people attacked them with glass bottles, smashing a bottle over the union chairperson's head. They then forced both the union chair and secretary to sign a statement saying that they no longer wanted a new union.

According to members of Union II, in the days following the attack, a local businessman who had a business relationship with the factory publicly threatened that he could buy the chairperson's head for 100,000 rupiah (9.16 Euro) (Interview 2.8.1). The Union II chair told an Oxfam Australia researcher that:

"After the attack, I didn't come to the factory for five days, because every night ... people came to my house at midnight and threatened me with violence and told me that they would kill me."

(Interview 2.8.1).

The national union federation president informed Reebok about the attack and the company moved quickly to address the issue. In a letter dated 12 May 2003, Doug Cahn of Reebok noted that two days after the attack, Reebok staff in Indonesia visited Factory B to investigate the complaint.

On 7 May, factory management posted an announcement in the factory indicating that they regarded Union II as a legitimate workers' organisation. In a letter dated 12 May 2003, the Factory B President Director, reported that office space at the factory would shortly be made available to Union II, in the same way as office space was available to Union I.

Later by letter dated 22 September 2005, Cahn explained that Reebok's investigations revealed that:

members of the community around the factory opposed the establishment of this second union. Reportedly, members of the community asked the factory management if they could speak with the leaders of the new union to try to persuade them to join the existing union. It was in this context that the reported abuse occurred. After this incident, [Factory B's] management understood, with our support, that they needed to intervene to better manage the tensions between local community leaders, the [newly established] union, and their existing union.

Early in the following month (June 2003) factory management announced that 600 workers were to be retrenched for efficiency reasons. Union II asked management for a letter outlining which workers would be fired and the criteria being used to select them. According to Union II officials factory management initially indicated that 99 members from Union II were to be retrenched, out of a total of 150 members at the factory. However, after Union II sent an email to Reebok about the issue the number of Union II members who were to be fired dropped considerably (Interview 1.8.1). On 8 July 2003 Doug Cahn of Reebok wrote to Union II noting that in his understanding only 9 of the 600 workers to be dismissed were members of Union II.

In a letter dated 3 September 2003, the national federation president, nonetheless, argued that Factory B management was using the retrenchment as a means to get rid of some of the most active members from Union II. He noted that two of the nine members of Union II to be dismissed were members of the union's board, and five of the others were section coordinators for the union.

In interviews conducted by Oxfam Australia in October 2003, Union II members at factory B claimed that the criteria for deciding who was to be retrenched was based heavily on performance scores given to workers by the head of each factory department. They alleged the department heads deliberately gave low scores to those members of Union II who were more outspoken in advocating for workers' rights (Interviews 2.8.1, 2.8.2).

Cahn's letter to Union II on 9 July argued that Reebok had, "...no way of assessing the fairness of these worker evaluations". He noted that five workers were resisting the termination through the Indonesian labour arbitration system, and expressed the hope that this process would lead to a fair resolution. Some of these workers continued to contest the issue through the arbitration system until November 2003 when they agreed to take a severance package from the factory because they were facing financial hardship and could no longer afford to pursue the case (National Union Federation President, 2003, personal communication, 18 November).

Eighteen months later, on 16 May 2005, factory management terminated the employment of another active member of Union II, claiming he had caused financial damage to the factory on 7 April 2005 by turning off the electricity without permission during an allegedly illegal work stoppages. Union II contested this dismissal through the labour arbitration process. At Reebok's prompting, on 27 June 2005, factory management changed the dismissed members' employment status from terminated to suspended with pay pending the outcome of arbitration. Reebok also urged factory management to drop the case and reinstate this member on the grounds that their legal case was weak. In August 2005 the Indonesian Department of Labour decided that he should be reinstated (Reebok 2005).

Since Union II was established at Factory B there has been considerable tension between the two factory unions regarding how many members each union has and which workers are members of which union. This is an important issue in Indonesia since the majority union has collective bargaining rights. Reebok urged factory management to ensure that this issue was resolved in a fair manner and with the assistance of the Department of Labour a referendum to verify union membership was held in the factory.

Leaders and members of Union II stated in discussion with an Oxfam Australia local researcher on 13 October 2005 that:

- Since 2005, Factory B has applied a contract system with approximately 300 workers being employed on three-month contracts;
- Many workers are not covered by the Jamsostek health insurance;

76 Union officials from the newer union at the factory have requested that the factory not be named, nor the union. The factory will be referred to as factory B in this case study and the union as Union II. **77** Another union (which will be referred to as Union I), already had a plant-level union at the factory. **78** "This evidence" refers to the emailed report from the national president of the union federation (24 April 2003) and the Oxfam Australia research interview with the workers involved (2 Oct. 2003).

Oxfam International's assessment

Reebok has played a positive role in helping to ensure that workers are free to exercise their trade union rights at Factory B. The company responded quickly and professionally in dealing with the violent incident in April 2003. In 2005, Reebok's insistence on an objective process for verification of union membership was also constructive. It is concerning that the factory is employing 300 workers on short-term contracts. We hope Reebok intervenes to stop this, since it is very difficult for workers employed on short-term contracts to exercise their trade union rights.

Reebok should, nonetheless, have investigated more thoroughly in 2003 when Union II alleged that the dismissal of some of their most active members reflected management bias against their union. In many countries, workers either do not have confidence that courts and government officials will apply the law in a fair and objective manner or else cannot afford to wait for lengthy and cumbersome government processes to be completed. Courts and government officials themselves are often extremely under-resourced. Under these circumstances, international companies have a responsibility to properly investigate allegations of discrimination against active trade union members employed by their suppliers.



A security guard in front of the PT Nikomas Gemilang factory in Indonesia. The factory produces for Nike and Adidas.

Photo: Ashley Gilbertson/
OxfamAUS

2.9 PT Tae Hwa (Tae Hwa)

Brands include: FILA (owned by Sport Brands International)

Location: Cipukat, West Java, Indonesia

Product: Sportswear

Size: Approximately 3,486 workers including 80% women

Summary

- A key organiser was dismissed from Tae Hwa in 1999 after she was involved in a demonstration calling for improved conditions at the factory.
- In 2004, Oxfam research indicated serious labour issues in the factory, including, impossibly high work targets, high levels of verbal abuse and sexual harassment of women workers and intrusive procedures for claiming menstrual leave. FILA claimed there was little it could do about labour conditions at Tae Hwa, or about Parkati's dismissal.
- In February 2005, workers returned to work after a public holiday to find the factory closed, leaving them all without work. They are yet to receive their legal entitlements to severance pay.
- International campaign organisations and unions have approached FILA numerous times however the company remains silent on its role in the factory's closure.

In 1998, a woman named Parkati was a key organiser of a two-day strike aimed to improve conditions at Tae Hwa. According to Parkati, workers were concerned about the glue used to make the shoes was causing headaches and that during peak periods, when orders were high, workers were sometimes required to work right through the night (Oxfam et al 2004b, page 14).

Workers reported to Oxfam interviewers that the factory hired thugs to break up the protest. The thugs allegedly visited Parkati's house late that night but, fortunately, she had expected this and stayed at a friend's house (Oxfam et al 2004b, page 13). Tae Hwa factory management dismissed Parkati in 1999, reportedly for wearing sandals to work when an unwritten policy required workers to work barefoot. Three different levels of the Indonesian labour arbitration system recommended Parkati's reinstatement, but the factory appealed each decision and finally in 2001 won a court case endorsing their action (Oxfam et al 2004b, page 14).

A Tae Hwa worker who participated in a focus group discussion facilitated by an Oxfam researcher in July 2004 stated:

"We want to form a union, and we would say that most workers in the factory want to form a union. But we want one that does not have collusion with the Tae Hwa management.....if we advocate for the workers and organise demonstrations against the company and management orders we are fired. Thus the ability to make concrete demands is severely affected."

(Interview 2.9.1).

Other Tae Hwa workers interviewed by Oxfam researchers in 2004 said that workers who were dismissed for organising demonstrations were often placed on a black list and were not able to find work for many months. Workers also reported that organisers were demoted or constantly moved to different departments within the factory (Oxfam et al 2004b, page 11–13). Although workers reported that the factory abided by government regulations regarding maternity leave and sick leave, they also raised allegations of sexual harassment, verbal abuse, denial of trade union rights, impossibly high work targets, very long hours of compulsory overtime and inadequate wages (Oxfam et al 2004b, pages 11–13). This quote (Oxfam et al 2004b, page 10) is typical of statements made to Oxfam researchers by women working in the sewing section of the factory:

In the sewing department sexual harassment happens all the time and every day. The...managers will come near us and say things or look at us in a disturbing way. They are always saying crude and lewd words. They call us animal names like 'pig,'

'monkey,' and 'donkey.' They call us 'shameless girls.' The managers also throw production materials at the women in the sewing department, usually the 'upper'.⁷⁹ They will just fling it across so that it will hit workers in the leg or the lower torso.

Workers also reported difficulties in claiming menstrual leave, a legal entitlement under Indonesian law for women who are ill on the first and second day of their menstrual period, to the extent that they cannot perform their work (Oxfam et al 2004b, page 16):

Menstrual leave is allowed but only after the clinic nurse checks our underwear to see if we are actually bleeding. It is a humiliating requirement and most of us feel too insulted to go through with it so we just keep working throughout.

During 2004, the Play Fair Alliance (PFA)⁸⁰ repeatedly approached Sport Brands International (SBI), the owner of FILA, about the situation at Tae Hwa. The PFA called for Parkati to be reinstated, for an improvement in conditions inside the factory and for workers right to freedom of association to be respected. SBI did meet with representatives of the PFA in September 2004. During this meeting SBI noted that the company had only bought the FILA brand relatively recently and that they planned to restructure FILA's supply chain towards a model of production that was both more competitive and more socially responsible. For example, they indicated potential interest in sourcing goods from unionised factories in the US. However the company denied that there was much it could do about labour conditions in current suppliers, since labour clauses had not been included in the contracts. For example SBI reported that they had asked Tae Hwa management to reinstate Parkati, Tae Hwa had refused and there was little that SBI could do about it (CCC et. al 2005, page 34). Given that FILA had been the major brand produced at the factory from 1994 until 2005, accounting for between 70% and 90% of the factory's production, and that FILA's code of conduct was displayed in the factory, this claim that SBI had little power to influence labour rights at Tae Hwa is dubious.

On 11 February 2005, Tae Hwa workers returned from a public holiday to find the factory had closed, leaving them all without jobs. It is not clear what role, if any, SBI played in the factory's closure. However, it is clear that as the owner of the FILA brand, SBI has a responsibility to the workers who produced FILA goods for more than 10 years.

Immediately following the mass dismissal of workers in February, the PFA again wrote to and phoned SBI asking them to:

- clarify their role in the factory closure;
- ensure workers received all their legal entitlements including severance pay; and
- set up a compensation fund for the dismissed workers.

FILA failed to respond. International organisations and their supporters continued to write to FILA throughout 2005. Oxfam Australia supporters sent more than 200 letters to FILA US Headquarters and its Australian distributor. All these letters went unanswered.

On 28 March 2005, the Department of Manpower recommended that the Tae Hwa workers be compensated at the highest rate allowable under Indonesian law. As the company has not agreed to this recommendation, workers are pursuing this issue through the Indonesian labour arbitration system. On 28 and 29 March 2005, approximately 2,500 workers from the factory held a demonstration to bring attention to their situation.

At the time of writing, the court case regarding the workers' entitlements continues and several other court cases are underway. Workers involved in these cases report that the company claims it is "severely indebted" and that suppliers of raw materials to the company have also filed a court case demanding payment for all raw materials supplied.⁸¹

In June 2005, international campaign organisations, in an attempt to pressure FILA to respond to the desperate financial situation facing the dismissed workers, held a series of campaign actions in Amsterdam, the United Kingdom and Australia.

At the time of writing, the dismissed Tae Hwa workers have still not received their severance pay and other legal entitlements.

Oxfam International's assessment

In an initial meeting with the Play Fair Alliance in 2004, SBI stated its desire to move towards socially responsible production in future. However SBI claimed that there was little it could do, at that stage, to address serious labour issues at Tae Hwa, including verbal abuse, sexual harassment, intrusive procedures related to menstrual leave and the dismissal of a key labour organiser.

After this meeting, Tae Hwa factory closed and SBI moved its production elsewhere. SBI has repeatedly failed to respond to requests made by global unions and international campaign organisations to act responsibly towards the 3,486 mostly women workers who had been producing SBI's FILA brand for more than 10 years. SBI has not disclosed the role they played in the factory's closure nor committed to ensuring workers receive their legal compensation and other entitlements.

SBI was approached but did not respond to the questions sent to them as a part of this research. SBI's silence brings into question their commitment to workers' rights. Oxfam International hopes to be able to report on progress in this case in future editions of this report.



Parkati, during a March 2006 demonstration in front of the Tae Hwa factory. She explains: "We push for our rights which have not yet been delivered by PT. Tae Hwa, already for one year we have waited for compensation, we know the factory owners might not come to Indonesia again, but we also know that this factory has assets which can be sold to pay our compensation".

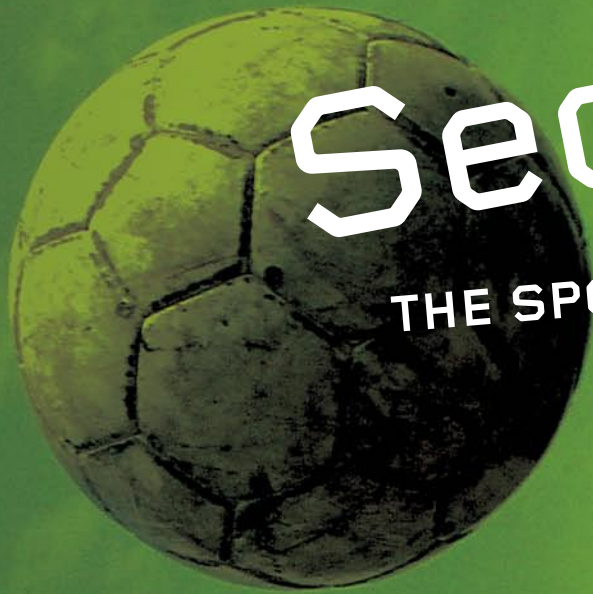
Photo: M. Revaldi

⁷⁹ The upper is the thick section of the shoe directly above the sole. ⁸⁰ This is a global campaign alliance calling for greater respect for labour rights in the sportswear industry. Member organisations include the Clean Clothes Campaign (CCC), Global Unions and Oxfam International. ⁸¹ Based on discussions with dismissed PT Tae Hwa workers and the Urban Community Mission (UCM) a Jakarta based local NGO by Oxfam Australia staff on 24 July 2005 and 28 July 2005 respectively.

“A central recommendation of the Play Fair Alliance’s proposed Programme of Work is that the sportswear industry as a whole should work together with trade unions and labour rights organisations to improve respect for workers’ rights.”

Section 3.0

THE SPORTSWEAR INDUSTRY OVERALL



3. The sportswear industry overall

In 2004, the Play Fair Alliance proposed that sportswear brand owners and the sportswear industry as a whole take a number of steps to improve respect for workers' rights in general and their trade union rights in particular.⁸²

This section assesses the progress which has been made in persuading the whole industry to work together to address labour rights. Additionally, this section collectively assesses the performance of sports brand owners against several key indicators. Section 3.7 considers a multi-stakeholder initiative, the Fair Labour Association, which influences the labour rights performance of some sports brand owners (adidas, ASICS, Nike, Reebok, Puma) but not others.

3.1 An Industry-wide solution

A central recommendation of the Play Fair Alliance's proposed Programme of Work is that the sportswear industry as a whole should work together with trade unions and labour rights organisations to improve respect for workers' rights. In particular, this alliance proposed that a formal agreement be negotiated between the International Textile, Garment and Leather Workers Federation (ITGLWF) and the World Federation of Sporting Goods Industries (WFSGI) and its member with the aim to:

establish a mutual relationship, which can facilitate freedom of association and collective bargaining as the preferred mechanism for implementing fundamental employment rights and resolving labour disputes in supplier factories in the sector.⁸³

Although sports brand owners are involved in a number of collaborative projects relating to factory labour standards,⁸⁴ there is a disappointing reluctance to participate collectively in negotiations with the ITGLWF regarding the proposed industry-wide agreement. As part of the research for this report, Oxfam Australia asked sports brand owners whether they would be willing to be involved and whether they were taking any steps to promote this proposal within the industry. Of those sports brand owners that responded, very few expressed a positive attitude toward the proposed agreement. In a letter of 20 January 2006, Lesley Roberts of Pentland suggested that the ITGLWF should negotiate with factory owners (suppliers) rather than brand owners, since it is suppliers who actually employ workers. While suppliers' participation in agreements with unions would be welcome, this does not negate the need for brand owners to also take part, since they can play a powerful role in persuading their suppliers to cooperate with unions to ensure labour rights are respected. Puma (2005b) and ASICS (2005) were the most open to participating in a framework agreement, indicating that they will support the proposal if it is agreed on collectively by the industry.⁸⁵ Umbro has previously adopted a similar position. Oxfam International encourages other sports brand owners to support the proposal.

As far as the WFSGI is concerned, organisations involved in the Play Fair Alliance, notably the ITGLWF, the ICFTU, Oxfam and the Clean Clothes Campaign (CCC), first sought to engage in dialogue with the WFSGI in 2004. A report released by the Play Fair Alliance in April 2005 (Miller 2005, page 15) expressed disappointment that this dialogue had not progressed very far:

The absence of any concrete response on the part of the WFSGI reveals that the world authoritative body for the sports industry has in fact no authority, that its lead members have ducked their responsibility for the sector as a whole, preferring to hide behind their respective CSR programmes... Yet the case for an industry wide response is glaring.

In July 2005 there was a further meeting between the WFSGI and organisations involved in the Play Fair Alliance. On 21 July 2005, the CCC, Global Unions and Oxfam wrote to the WFSGI again expressing disappointment at the lack of progress but noting that some of the initiatives discussed in that meeting had the potential to be constructive. These organisations wrote that they understood that the WFSGI CSR committee had made a commitment to regularly "review outstanding violations of labour standards in the supply chains of WFSGI member companies, based on information provided by the Play Fair Alliance, including analysis of causes and suggestions for action, particularly where these relate to capacity and issues of a systemic nature". As of November 2005 the WFSGI had not responded to this letter.



The WFSGI's willingness to engage with civil society organisations is welcome, but the very slow manner in which this dialogue has progressed calls into question the WFSGI's capacity as an industry body to facilitate constructive dialogue between its member companies and civil society groups.

3.2 Transparency: opening the supply chain to independent scrutiny

Global civil society organisations have been calling for many years for Transnational Corporations (TNCs) to publish the names and addresses of the workplaces where their goods are produced. This kind of transparency makes it easier for civil society organisations to investigate and report on working conditions in company supply chains, including their respect for trade union rights. It also can make it easier for workers producing for the same company in different factories to communicate with each other and discuss common concerns. Several years ago student campaigners in the US managed to persuade many US universities to compel sports companies to release the addresses of factories producing clothes licensed to carry the universities' logos. As a result, sports companies producing for this market, including Nike, Reebok and adidas, were required to release partial lists of their supplier addresses. Reebok then went further and published the addresses for their sport shoe suppliers, but not for suppliers of Reebok apparel. In May 2005, Nike disclosed the addresses of most of their suppliers of Nike-branded goods,⁸² although the company is yet to disclose the suppliers of the other brands owned by Nike and its subsidiaries. Later in 2005, Puma and Reebok followed Nike's lead and released the addresses of all suppliers of Puma and Reebok-branded product.

Oxfam International welcomes these developments and encourages other brand owners to also release their full supplier lists. Transparency does not, however, end with the release of supplier addresses. If companies also make public information about steps being taken to ensure compliance with labour standards then it makes it easier to assess the likely effectiveness of those steps. If companies release the results of investigations into whether labour rights, and particularly trade union rights, are being respected in particular factories then it makes it possible to trace whether the investigations are properly followed up. If companies make available the names of the factories investigated to reliable organisations⁸⁷ and also release the percentage of production placed with each supplier per year, it makes it possible to trace whether the company is moving production away from factories where workers are trying to organise unions. Table 3.2 compares the transparency efforts of the 12 sports brand owners considered in this report. As the table demonstrates, there is still considerable secrecy in the industry regarding many issues relating to labour rights.

⁸² The full text of the proposed Programme of Work is available on the Clean Clothes Campaign website at <www.cleanclothes.org/campaign/olympics2004-07-08.htm>. ⁸³ Ibid. ⁸⁴ See the section titled 'Aren't wages, working hours and other labour rights important?' in the introduction to this report. ⁸⁵ Nike expressed interest provided that factory owners were committed to the agreement. This is unrealistic given the many hundreds of factories producing sportswear it is highly unlikely that all would agree (see Section 4.4). ⁸⁶ Nike indicated that due to current contractual arrangements it could not yet release the full list of all suppliers of Nike-branded product. ⁸⁷ This information could potentially be sensitive if released publicly, since negative reports on a factory may damage the factory's ability to attract other buyers and endanger the livelihoods of workers who report labour problems.

During 2004 more than 500 campaign events were organised in various parts of the world to raise awareness of labour rights abuses in the sportswear industry. These Thai workers participated in a Workers' Solidarity Olympics which was organised in Bangkok in August 2004.
Photo: Asia Works.

Table 3.2 Transparency in the sportswear industry

	Code includes trade union rights and is public?	Results of investigations into respect for trade union rights made public?	Supplier addresses made public?	% of production per supplier per year made public?	Purchasing price and other financial information ⁸⁸ shared with worker representatives?
Puma	Yes	Puma releases summary information regarding its factory labour audits. Investigations which form part of the Fair Labor Association's (FLA) Independent External Monitoring (IEM) program ⁸⁹ are publicly reported, but factory names are not made available (section 3.7).	Yes, for suppliers of Puma-branded goods, but not for suppliers of the other brand owned by Puma (Tretorn).	Not made public	Not shared.
Nike	Yes	Nike releases summary information regarding its factory labour audits. Investigations which form part of the (FLA) IEM program are publicly reported, but factory names are not made available.	Yes, for suppliers of Nike-branded goods but not for suppliers of other brands owned by Nike.	Not made public	Not shared
Reebok	Yes	Reebok has not previously released the results of its own factory labour audits, but some information is due to be released in 2006. Investigations which form part of the (FLA) IEM program are publicly reported, but factory names are not made available..	Yes for all Reebok-branded goods, but not for suppliers of other brands owned by Reebok.	Not made public	Not shared
adidas	Yes	adidas does not regularly release the results of all of its own factory labour audits. ⁹⁰ Investigations which form part of the (FLA) IEM program are publicly reported, but factory names are not made available..	Only for suppliers producing adidas-branded goods for US universities. Otherwise, not made public.	Not made public	Not shared
ASICS	Yes	ASICS does not regularly release the results of its own factory labour audits. Investigations which form part of the (FLA) IEM program will be publicly reported, but factory names not made available.	Not currently ⁹¹ made public.	Not made public	Not shared
Mizuno	Yes	Not made public	Only shares the addresses of those suppliers who agree (21 so far).	Not made public	Not shared
New Balance	Yes	Not made public	Only shares the addresses of its five core sportswear suppliers.	Not made public	Not shared
Umbro	Yes	Not made public	Not made public.	Not made public	Not shared
Speedo	Yes	Not made public	Not made public.	Not made public	Not shared
Lotto	Yes	Not made public	Not made public.	Not made public	Not shared
Kappa	Yes	Not made public	Not made public.	Not made public	Not shared
FILA	Yes	Not made public	Not made public.	Not made public	Not shared

3.3 Who Pays? Purchasing practices and trade union rights

Recent research by Oxfam, the CCC and Global Unions (2004b) concluded that:

The sportswear business model...thrives on the huge pressure felt by buying and merchandising staff in the big companies to deliver to very demanding deadlines and tight budgets...

This research indicated that to keep delivery lead times short and prices low, and to maintain flexibility in meeting supply and demand, the buying staff of sportswear brand owners were:

- placing smaller orders more frequently;
- pushing for shorter delivery lead-times;
- lowering unit prices paid for the goods; and
- threatening to relocate

Under these pressures, the factory owners:

These kind of buying practices make suppliers particularly reluctant to allow workers to form trade unions. In factories where the right to freedom of association is fully respected, workers who have organised themselves into trade unions have the right to take industrial action. Given the pressure that factory owners are under to meet tight deadlines, they are very wary of having to deal with a workforce which has the power to collectively withhold its labour when an urgent order needs to be filled. Sports brand owners that are serious about respecting trade union rights need to adjust their buying practices to take into account that a factory where trade union rights are fully respected will not always be able to meet the unreasonably tight deadlines which are commonly demanded in the industry.

The *Programme of Work*⁹² calls on sports brand owners to address:

A number of sports brand owners, including Nike, adidas and Puma, have admitted that their buying practices are contributing to excessive work hours and claim to be taking steps to address this (MSN 2005, page 8, Oxfam et al 2004a, page 60). Puma also claims to be taking into account the costs of observing labour standards when it negotiates prices with its suppliers (see Section 4.2). In response to Oxfam Australia's questions for this report, however, with the possible exception of adidas (section 4.3) no sports brand was willing to provide detailed and specific information regarding the methodology they use to ensure that the prices they pay are adequate to allow suppliers to fully respect workers' rights.

Although civil society analysis of how company buying practices are undermining respect for workers' rights is relatively well developed, practical ways companies can do the right thing in this area are still being considered. The *Programme of Work* calls for the ILO to conduct a detailed study of this issue. Sportswear industry support for such a study would help persuade the ILO to conduct this research.

There are two steps which sports brand owners could take which would be of immediate benefit. Firstly, they could develop long term relationships with their suppliers, with commitments in writing to maintain ongoing orders. Several sports brand owners, notably adidas and Puma, reported to Oxfam Australia that they are moving to develop more stable relationships with key suppliers, but no company has provided evidence that they are making written commitments to maintain production with these suppliers for longer periods of time.

Secondly, sports brand owners could provide information to workers' representatives regarding the unit price they are paying for goods, and could require factory owners to provide full financial information as part of a commitment to negotiating in good faith. At the very least, suppliers need disclose annual earnings. With regard to the Jaqalanka factory described in Section 2.1, Anton Marcus of the FTZWU reported that it is difficult for workers to negotiate a collective bargaining agreement that includes a wage increase because the union does not have adequate information on the price Nike pays. The union

⁸⁸ "Other financial information" here refers to whether sports brand owners require their suppliers to disclose company financial records to worker representatives (section 3.3). ⁸⁹ Under the FLA's IEM program, each year it selects organisations to investigate labour conditions in approximately 5% of participating companies' suppliers (see section 3.7). ⁹⁰ Adidas publishes information on its website regarding specific cases which have become a matter of public interest and responds on a case-by-case basis to requests for information regarding particular factories. While sharing particular pieces of information on request has value, the regular public release of information regarding all of adidas' factory investigations would be significantly more useful in exposing adidas' investigative processes to public scrutiny and building public confidence that the company is taking labour rights seriously in all its supplier factories, not only those which have become of interest to the media or other stakeholders. ⁹¹ ASICS (2005) has indicated that it intends to make supplier addresses public in future. ⁹² The full text of the proposed Programme of Work is available on the Clean Clothes Campaign website at <www.cleanclothes.org/campaign/olympics2004-07-08.htm>.



suspects that the price paid by Nike is inadequate to sustain a wage increase (Interview 2.1.1). No sports brand owner is currently willing to make purchasing price information available to workers' representatives, or to require suppliers to disclose company financial records to worker representatives.

3.4 Inconsistent: sourcing where trade union rights don't have legal force

There are problems with the regulation and enforcement of trade union rights in almost every country in Asia. Even in those countries where legislation gives full legal effect to these rights, there are multiple problems with enforcement. Corruption in labour courts is common and even in Asian countries where courts have a reputation of making decisions objectively, the time and costs involved in taking a case through the legal system tend to be prohibitive for workers with very limited financial means.

The expiry of the Multi-Fibre Arrangement⁹³ in December 2004, which ended the quota system which had previously governed most international trade in garments, has also put pressure on many

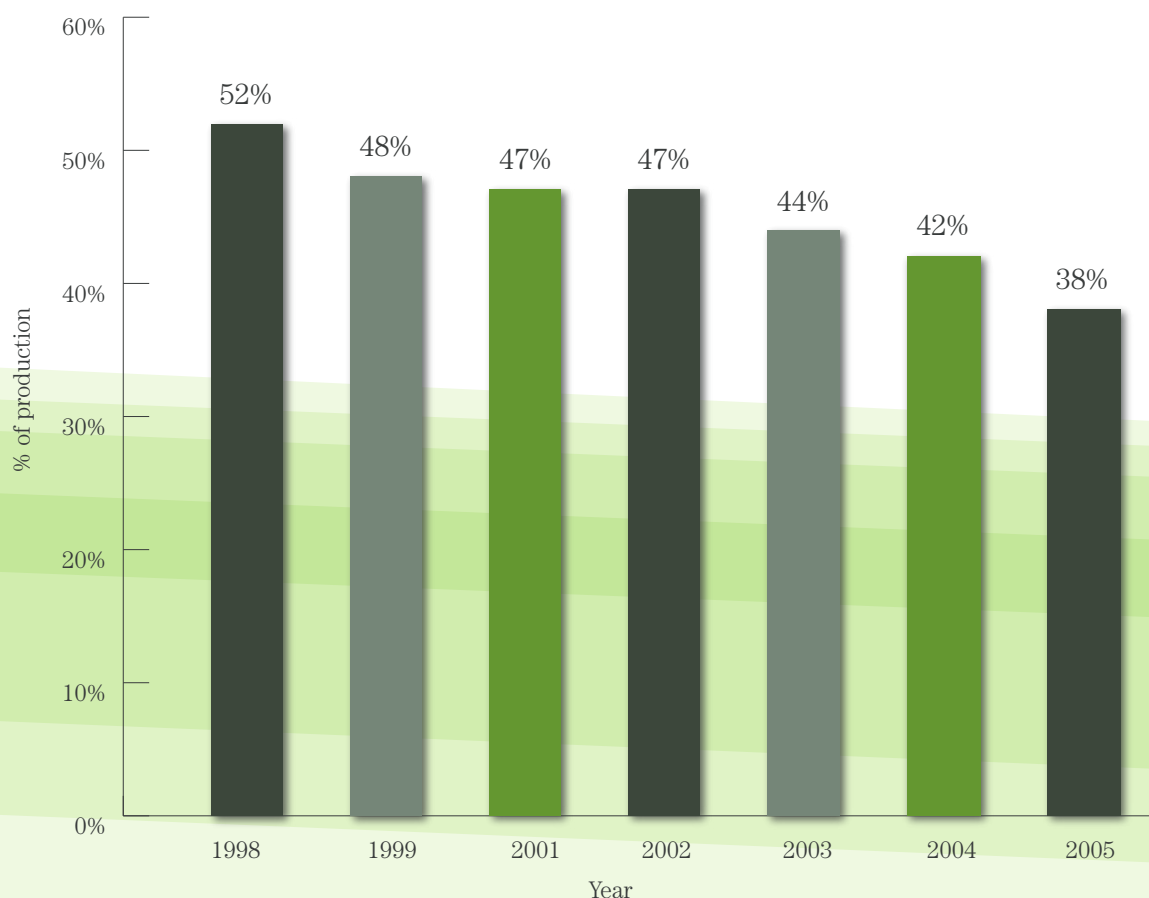
governments to reduce and limit labour protections to maintain garment production in their countries. There is evidence that the removal of the quota system has led to more lax enforcement of legislation regarding trade union rights and other labour legislation.

A qualitative distinction can be made, however, between countries which give legal force to the rights to freedom of association and collective bargaining and those which do not. Throughout this report, reference to countries which give "legal effect" or "legal force" to trade union rights means countries which have ratified ILO Conventions 87, 98 and 135 and which have passed laws which legally protect the rights defined in those conventions. In these countries, independent and democratic trade unions legally can be formed, even though lax enforcement of these laws may make it difficult for these unions to operate effectively. There is a significantly stronger limitation on trade union rights in those countries (or in some cases, those Free trade zones) where workers do not have the legal right to form their own organisations and bargain collectively with their employers.

Arguably, companies which are seriously committed to respecting trade union rights should be sourcing their products in countries which, at least, give legal force to those rights. Unfortunately the opposite appears to be the case. Nike annually releases data on the proportion of its sport shoes made in each source country. This information can be used to track the proportion of Nike sport shoes made in countries which give legal force to workers' right to freedom of association (Figure 3.4).

The leaders of the SPN union at PT Doson in Indonesia – shown here in front of the Finishing section of the factory – believe that Nike's decision to cut orders to the factory (which caused the factory's closure) was linked to the union's campaign for better wages and conditions.
Photo Tim Connor/OxfamAUS

Figure 3.4. Percentage of Nike sport shoe production in countries which give legal force to workers' right to freedom of association⁹⁴



In 1998, Nike committed to making sure that workers' rights to freedom of association and collective bargaining are respected in the company's supply chain.⁹⁵ As Figure 2.1.4 shows, the proportion of Nike sport shoe production in countries which give legal protection to those rights has fallen from 52% to 38% between 1998 and 2005. It was also in 1998 that Indonesia ratified ILO Convention 87 concerning workers' rights to freedom of association and to organise. Since then, the proportion of Nike sport shoe production in that country has fallen from 34% to 22%.

The point here is not to single Nike out. Nike deserves credit for making this information public. Puma also admitted that the majority of its sport shoe production takes place in such countries. New Balance admitted that the Asian part of its supply chain is "very much concentrated" in countries which fail to give legal effect to these rights. Adidas is the most transparent on this issue and source slightly more than half of their global product (not only sport shoes) in Asian countries which fail to give legal force to the right to freedom of association.

All major sports brand owners are sourcing much of their production in countries and free trade zones where it is legally extremely difficult for workers to organise themselves into trade unions. If sports brand owners are serious about respecting these rights then they should adopt a policy of only maintaining current purchasing relationships in such countries, and should source any new production in countries which give legal effect to these rights. They should make this policy clear to all governments involved.

⁹³ The end of the MFA was enabled by the Agreement on Textiles and Clothing (ATC). ⁹⁴ This data is included in Nike's annual "10-K" filing to the US Securities and Exchange Commission. See for example <www.nike.com/nikebiz/investors/annual_report/ar_05/docs/2005_10k.pdf>. We were unable to obtain the data for the year 2000 and so for that year have averaged the data for 2001 and 1999. ⁹⁵ Nike did this by joining the newly formed Fair Labor Association. Prior to 1998, Nike's code of conduct had only committed the company to "seek" partners committed to "best practice and continuous improvement" with regard to the rights of free association and collective bargaining.

Table 3.4: Asian countries which have ratified ILO Conventions numbers 87,98 and 135

Country	Convention #87	Convention #98	Convention #135
Bangladesh	✓	✓	✗
Bhutan	✗	✗	✗
Cambodia	✓	✓	✗
China	✗	✗	✗
Democratic People's Republic of Korea (South Korea)	✗	✗	✓
India	✗	✗	✗
Indonesia	✓	✓	✗
Japan	✓	✓	✗
Laos	✗	✗	✗
Malaysia	✗	✓	✗
Maldives	✗	✗	✗
Myanmar (Burma)	✓	✗	✗
Nepal	✗	✓	✗
Pakistan	✓	✓	✗
Philippines	✓	✓	✗
Republic of Korea (North Korea)	✗	✗	✗
Singapore	✗	✓	✗
Sri Lanka	✓	✓	✓
Thailand	✗	✗	✗
Timor-Leste	✗	✗	✗
Vietnam	✗	✗	✗

Key: ✓ = ratified ✗ = not ratified

Notes:

Convention 87: Freedom of Association and Protection of the Right to Organise Convention, 1948

Convention 98: Right to Organise and Collective Bargaining Convention, 1949

Convention 135: Workers' Representatives Convention, 1971

The ILO has identified Convention 87 and 98 have as core labour standards and “fundamental to the rights of human beings at work”. This means all ILO member countries are obligated to respect, promote, and realise these core labour standards, even if they have not ratified the specific conventions that give content to these core standards.

For production which stays in countries which fail to give legal force to the right to freedom of association, some civil society groups and multi-stakeholder organisations have called on TNCs to ensure that workers have space for ‘parallel means’ of organising. This concept is controversial. The CCC (2005a, page 46) writes:

*The central theme in all of these texts is the demand that companies establish parallel means of independent and free association and bargaining for all workers. This means encouraging nascent forms of worker-representation **only** in countries or areas where independent unions are prohibited. Examples of these structures include the establishment of workers' councils, welfare committees, complaints resolution committees, and basic-needs wage committees. But, as discussed above, approaches to parallel means are heavily criticized by some, particularly when the*

concept is misused to undermine the position of trade unions or misinterpreted to justify the employer dominated election of 'worker representatives'...

It is important that companies do not use this controversy as an excuse to shy away from supporting workers' right to freedom of association in countries where this right is restricted by law. Later in this report in the individual company assessments for Reebok (section 4.1), Puma (4.2) and Nike (4.4) there is discussion of experiments by these three sports brand owners to cooperate with civil society organisations in an attempt to address this issue.

3.5 Making it real: maintaining production in unionised factories

This report documents several examples where sportswear workers have worked hard to form trade unions and campaign for better wages and conditions, only to find that their factory then loses orders from major sports brand owners or else that their employer closes the factory altogether and relocates the production to a workplace where there is no union. The SPN union which represented workers at the PT Doson factory (Section 2.5) claims that Nike's decision to cut all orders to their factory was linked to their campaign for better wages and conditions. At the Daejoo Leports factory (Section 2.6), a long campaign to get trade union rights respected came to nothing when the factory owner closed the factory and relocated to another country. Most recently, Puma helped stop discrimination against union members in the Lian Thai factory in Thailand and then stopped ordering from the factory on the grounds that its products were too expensive (Section 4.2). Nike has also recently stopped ordering from Lian Thai.⁹⁶ Unfortunately, these are not isolated instances. Over the last decade there have been numerous examples in the global garment and sportswear industry of long and difficult campaigns to get trade unions established coming to nothing when the factory closes.

Oxfam International believes that sports brand owners should prioritise retaining factories with democratic unions in their supply chains.

Those sports brand owners who are FLA members are expected to apply the following guideline:

The employer will not shift production or close a factory for the direct purpose of retaliating against workers who have formed or are attempting to form a union. (FLA n.d page 40)

FLA member companies are also expected not to cut orders from a factory to avoid a union. Unfortunately this approach is difficult to enforce. There are many factors which impact on sourcing decisions. Therefore, it is relatively easy for suppliers and brand owners to point to reasons, other than union presence, as to why they could not continue to do business in a workplace. Also, other 'economic' factors for relocating may be related to the union's work. For example, it may well be that the ability of Lian Thai's women union leaders to negotiate better wages for themselves may have slightly increased the price of goods made at that factory as compared with Puma's other, non-union, suppliers.

Oxfam International believes that sports brand owners should prioritise retaining factories with democratic unions in their supply chains. Sports brand owners should only condone suppliers closing unionised factories in very exceptional circumstances, where it proves impossible for the brand and the supplier to find a way to allow the factory to continue operating profitably. Brand owners should also be willing to pay a higher unit price in order to keep a unionised factory in the company's supply chain.

3.6 Unstable jobs and unstable rights: flexible versus stable employment

Oxfam's (2004) research indicates that women working in global supply chains are increasingly finding themselves in unstable forms of employment. They are commonly employed as daily workers, on short-term contracts or with no contract at all. These "flexible" forms of employment are insecure and workers' incomes are more vulnerable under these work arrangements. Alternative job options are often very poor especially for women workers. These forms of employment discourage workers organising into trade unions because workers fear their contracts will not be renewed if they are a trade union member.

⁹⁶ Personal Communication (email) from Agatha Schmaedick of the Workers Rights Consortium, 20 December 2005.

Oxfam International believes that for these reasons sports brand owners and other TNCs should ban or severely limit the use of short-term contracts by their suppliers, so that workers employed to do a company's core business (for example sewing in a garment factory) cannot be employed on short-term contracts. Brand owners should also encourage governments to legally restrict the use of short term contracts.

Currently most sports brand owners have no policy preventing or limiting the use of short-term contracts, although some (including Puma) at least require their suppliers to enforce relevant local laws. The primary⁸⁷ exception is Reebok. Although Reebok does not ban the use of short-term contracts for workers doing a factory's core business, the company does have a policy limiting the use of such contracts to cover peak periods of production. Although Oxfam International is yet to see evidence that this is being effectively implemented, as a policy it is a step forward from the position of brand owners that are only willing to follow local laws.

3.7 A multi-stakeholder approach: the Fair Labor Association (FLA)

The Fair Labor Association (FLA) is described on its website (www.fairlabor.org) as:

a non-profit organization combining the efforts of industry, non-governmental organizations (NGOs), colleges and universities to promote adherence to international labor standards and improve working conditions worldwide. The FLA conducts independent monitoring and verification to ensure that the FLA's Workplace Standards are upheld where FLA company products are produced.

Organisations like the FLA are commonly referred to as multi-stakeholder initiatives (MSIs). The FLA is the most important MSI in the sportswear industry. Adidas, Nike, Reebok, Puma and ASICS are members of the FLA and Umbro (2005, page 2) is in the process of joining. The only other MSI of relevance to the sportswear industry is the Ethical Trading Initiative (ETI). Since only one sports brand, Pentland, is a member of the ETI, comments on it are included in the assessment of that company (Section 4.8).

There are concerns about the FLA's structure. The FLA's board is made up of six representatives from NGOs, six company representatives and three university representatives. Although some of the NGO representatives on the board have significant expertise in labour rights, there is no board-level representation by trade unions. Like the company representatives on the board, the university representatives are there on behalf of organisations that profit from the sale of garments — in the university's case, the sale of garments licensed to carry university logos. Arguably, the board has nine representatives of organisations who profit in this way, as compared with six representatives of civil society organisations. The FLA's structure gives a lot of decision-making power to the President and Chief Executive Officer (CEO). The current CEO, Aurret van Heerden, has extensive experience working for the ILO and has a strong knowledge of and commitment to trade union rights. It is less clear whether the board's current make-up will result in the next CEO having similar expertise and motivation.

The FLA has been criticised for failing to include a living wage in its code of conduct and for provisions which can be interpreted as allowing employers to require workers to work 60 hours per week. The FLA code does, however, require member companies to ensure respect for trade union rights and provides a comprehensive explanation of those rights and how to investigate whether they are being applied (FLA n.d., pages 7, 15, 21, 29-30, 33, 39-41). This explanation is consistent with the relevant International Labour Organisations (ILO) conventions. The CCC (2005a, page 39) notes that the FLA's guidelines on freedom of association compare favourably with those of other MSIs:

The FLA's draft freedom of association guidance document goes into considerable detail with regard to FLA participating company obligations and suggested actions with regard to freedom of association and collective bargaining. It requires companies to uphold the FLA standard and remediate and prevent noncompliance. Such activities may range from mediation between competing unions to the development of policies and procedures to guard against anti-union discrimination. A main theme of FLA guidance to participating companies is balancing activities to create a space for worker organizing with the principle of non-interference.

Oxfam International recommends that sports brand owners prioritise retaining production in unionised factories and commit to sourcing new production in countries where trade union rights have legal effect.

The FLA does not require its member companies to take these steps.

The FLA has four mechanisms for checking whether member companies are complying with its code and is in the process of developing a fifth. The four current processes are:

- the Third Party Complaint Procedure;
- the system of Independent External Monitoring (IEM)⁹⁸;
- the annual reports on company progress; and
- the process of accrediting company's labour compliance programs

The new process, which is still in development, is known as FLA 3.0

Third party complaint procedure

This procedure was activated in the Jaqalanka and MSP Sportswear cases discussed in this report. In both cases the FLA played a positive role in ensuring that trade union rights are respected. However, FLA staff are only able to directly investigate complaints and mediate resolutions in a handful of workplaces each year. The FLA's 2004 annual report described only three complaint investigations in the preceding year and the 2005 report described only two.

Independent External Monitoring

The IEM program reaches many more factories. Although only approximately 5% of factories supplying participating companies are externally monitored each year, this amounted to 110 factories in 2003. The FLA accredits organisations to conduct this monitoring, decides which factories will be investigated and chooses which monitors will conduct each investigation. In most MSIs companies themselves select monitoring organisations, so it is a step toward greater independence that under this system the FLA's CEO has this responsibility.

While the IEM findings are reported on the FLA's website, the names of the factories are concealed. Oxfam International believes that the names of these factories should be released, at least on a confidential basis to local and international labour rights organisations, so they can verify the effectiveness of IEM investigations.

In 2003, only 4% of the FLA-accredited monitors' findings of non-compliance related to freedom of association.⁹⁹ The FLA's annual report acknowledged that its accredited external monitors were under-reporting breaches of trade union rights and provided further guidance to monitors in an effort to address this (FLA 2004, page 232).¹⁰⁰ Unfortunately the following year's FLA (2005) report also indicated that only 4% of findings of non-compliance related to freedom of association, suggesting that progress in this area has been slow. That report also emphasised that the FLA (2005, page 81) "is working to develop systems for more effective monitoring and remediation of the Code Provisions that are particularly complex and difficult to assess, such as freedom of association and collective bargaining, non-discrimination, and harassment or abuse".

It may be that the FLA's efforts are leading to improved work by some monitors, even though this is not yet apparent in the global figures. Of the seven publicly reported* IEM investigations of Indonesian factories in 2003, only one identified a (relatively minor) trade union rights issue. Of the three publicly reported* IEM Indonesian factory investigations in 2004, all three identified breaches of trade union rights. All three also drew attention to the factories' illegal employment of workers on short-term contracts to do work that is permanent by nature.¹⁰¹ In both years the IEM investigations were conducted by the same organisation.

The CCC and other labour rights organisations are highly critical of the big quality assurance and accounting companies which dominate the social auditing market, arguing that these firms frequently employ staff who lack the necessary skills and local knowledge to investigate complex issues such as freedom of association (CCC 2005b, pages 50–8). Although many of the FLA's IEM visits are currently

⁹⁷ Adidas response to Oxfam Australia's questionnaire suggests that in certain circumstances adidas intervenes to prevent the use of short-term contracts by its suppliers even when the use of such contracts is not strictly illegal – see Section 4.3. ⁹⁸ See <fairlabor.org/all/monitor> and <fairlabor.org/all/complaint>. ⁹⁹ See <fairlabor.org/2004report/overview/freedom.html>. ¹⁰⁰ See <fairlabor.org/2004report/overview/iemFindings.html> and <fairlabor.org/2004report/freedom/improve.html>. ¹⁰¹ See Section 3.6 for an explanation of the relationship between short-term contracts and union organising. ¹⁰² In a welcome move, two of the Latin American organisations accredited by the FLA — GMIES in El Salvador and COVERCO in Guatemala — have grown out of local civil society movements. ¹⁰³ See <fairlabor.org/2004report/freedom/improve.html>. * As at 15 December 2005.

conducted by global quality assurance firms, the CCC (2005, page 51) reports that the FLA is shifting the balance “away from global firms to more specialized firms or to non-profit social auditing organisations, albeit at a very slow pace”.¹⁰²

Just as important as identifying violations of trade union rights, is taking steps to remedy them. The FLA’s website¹⁰³ notes that this can be “complex and involve changing attitudes and even workplace culture.” While this is undoubtedly true, the FLA’s reporting does not give a sense of how seriously and in how many factories participating companies are attempting to do this.

The FLA instructs monitors to automatically report non-compliance with freedom of association for factories located in countries which do not give legal force to trade union rights. While this honesty is welcome, it is less clear what steps the FLA expects monitors and companies to take to remediate these code violations. The FLA evidently has developed country-specific guidelines to assist monitors, but these are not publicly available.

It is also unclear whether the FLA procedure is working in the way that it is described on the company’s site. The FLA’s IEM program only reaches approximately 5% of participating companies’ factories each year and is supposed to be assessing how effectively companies own internal monitoring procedures are ensuring respect for trade union rights. Instead, where the FLA’s external monitors find breaches of trade union rights, the focus of the public reporting seems to be on remediating the problem in that factory. While this is important, it is unclear whether the FLA is also holding the participating company to account for having an internal compliance system that is failing to identify and rectify breaches of trade union rights.

Annual reports on company progress

Each year the FLA’s annual report includes a section providing “detailed reports on the efforts of ...companies...to improve the working conditions in the factories where they produce around the world” (FLA 2005, page 73). The FLA’s 2004 reports on Nike, Reebok, adidas and Puma (FLA 2005) suggest that FLA staff do not take a rigorously critical approach to company activities during this reporting process.

Accrediting company’s labour compliance programs

When companies first join the FLA there is an “initial implementation period”, of two or three years during which a company develops its labour compliance program. After this period is completed, the FLA board decides whether the program is eligible for FLA accreditation.

In 2005, the FLA decided that six companies’ programs were eligible for accreditation, including Nike, Reebok and adidas. The section of the FLA’s (2005, page 86) annual report regarding adidas’ accreditation gives a sense of the methodology applied:

The decision was based on an assessment by FLA staff that included audits both at headquarters and at the field level, and visits to a number of supplier facilities. In conducting the assessment, FLA staff interviewed adidas personnel, inspected files, observed annual compliance staff training, reviewed factory records, observed adidas field staff in factories, and analyzed findings from a total of 64 independent external monitoring visits conducted at adidas facilities over the course of the previous three years.

The publicly reported information regarding the accreditation process¹⁰⁴ does not give a sense of whether FLA staff critically and rigorously review participating companies’ labour programs. Given that the FLA has recognised that breaches of freedom of association are currently being seriously under-reported by both FLA participating companies and external monitors, it is questionable whether the FLA should be accrediting participating companies’ labour programs at this stage. In particular, given that the FLA admits that all factories in countries where freedom of association does not have legal effect are automatically in breach of the FLA code, it is doubtful whether the FLA should be accrediting the labour programs of companies who have deliberately sourced more than half of their sport shoe production in such countries.



FLA 3

The FLA's (2005, page 22) latest report describes this new initiative as follows:

FLA 3.0 starts by pooling the compliance information available to the FLA and its constituents in order to produce a Monitoring Matrix — a profile of the compliance issues and their root causes — for each country or region. We then prioritize those and propose remedial strategies before conducting consultations at the local level in order to secure stakeholder input to the matrix. This will enable us to combine the perspectives of companies, civil society, and workers and on that basis to compile a more complete picture of the compliance situation. For the first time we will be able to involve civil society in the definition of the compliance issues, priorities, and remedial strategies... Currently, the FLA is in a transition period in which some aspects of 3.0 are being phased-in on the basis of voluntary projects.

If, through this new FLA 3 approach, the FLA engages seriously with local civil society organisations to develop strategies to address the barriers to freedom of association and collective bargaining in particular countries, then this could represent an important step forward. Oxfam International plans to report further on FLA 3 in future.

The FLA has helped increase respect for trade union rights in some factories, particularly where workers have been able to access the FLA's complaint procedure. However the FLA is currently failing to make member companies accountable for ensuring respect for trade union rights across their supply chains. The FLA needs to:

- raise the standard of its accredited external monitors;
- hold participating companies to account if the IEM program exposes inadequacies in companies' internal monitoring of trade union rights; and
- ensure that when violations of these rights are found they are properly remedied and that this is publicly reported.

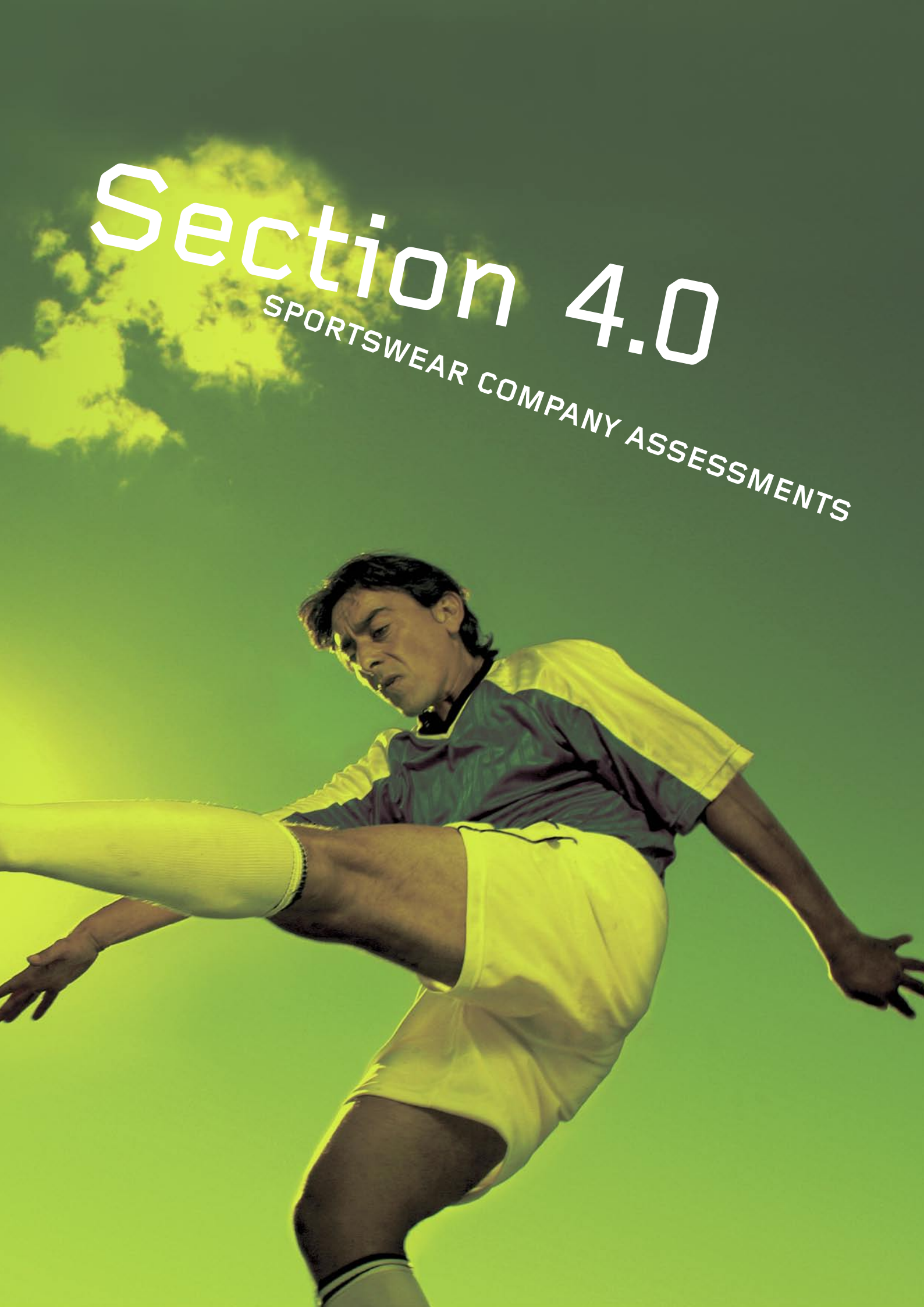
Adequate representation by trade union organisations on the FLA's board, as well as serious engagement with local civil society organisations (as envisaged in the new FLA 3 approach), would assist in this process.

Workers sewing garments
at a factory in Sri Lanka.
Photo: Martin Wurt/
OxfamAUS

104 For the report on adidas' accreditation, for example, see FLA 2005, page 86–9.

This section provides individual assessments of the steps which 12 different sports brand owners are taking with regard to trade union rights in their supplier factories in Asia. These individual assessments focus on areas where each company's performance differs from that of the industry as a whole. Each company assessment should therefore be read in conjunction with Section 3 which assesses the performance of the industry as a whole and the work of the FLA.





Section 4.0

SPORTSWEAR COMPANY ASSESSMENTS

4.1 Reebok International Ltd.¹⁰⁵

Brands Reebok, Greg Norman, Rockport or The Hockey Company

2004 annual consolidated revenue USD \$3.785 billion (3.107 billion Euro)

Multi-stakeholder initiatives FLA

In a relatively comprehensive response to questions regarding trade union rights sent as part of the research for this report,¹⁰⁶ Reebok provided the names of 12 supplier factories in Asia where unions have negotiated collective bargaining agreements and three additional Asian factories where collective bargaining negotiations are expected. Of the 11 other sports brand owners highlighted in this report, only one (Puma) was also willing to share this information.¹⁰⁷ Research also found that in at least two Indonesian supplier factories (Factory A and Factory B) Reebok has taken trade union rights seriously and worked closely with its suppliers to ensure respect for these rights.

Guidance to suppliers regarding trade union rights

Reebok (2001, pages 13–15) provides all its suppliers with a detailed explanation of the company's expectations regarding trade union rights. This guidance is consistent with the relevant International Labour Organisation (ILO) conventions and clearly indicates that suppliers should recognise and negotiate with trade unions.

Reebok's policy regarding the employment of workers on short-term contracts is that even where short-term contracts are legal, suppliers should only use such contracts to accommodate seasonal work or peak season production. This policy falls short of banning the use of short-term contracts altogether and, at this stage, there has not been any independent research into how effectively this policy is being enforced. Nonetheless, this policy is a step forward on the position of most¹⁰⁸ other sports brand owners, who only require suppliers to comply with local laws regarding short-term employment.

Worker training regarding trade union rights

Reebok (2005) tells its suppliers that workers must know their rights and recommends that:

...all workers, as part of their orientation, receive information about the Reebok Standards and how to contact Reebok directly. This information is to be posted in a prominent location in every factory.

While it is positive that Reebok expects employers to take these steps, it remains unclear what proportion of workers in Reebok's supply chain have had access to independent training in their trade union rights. In its response to questions sent as part of the research for this report, Reebok (2005) described a number of worker training projects but most related to the establishment of worker welfare committees rather than trade unions. Reebok reported that one such training for Thai workers involved in welfare committees did include information regarding the process of union formation under Thai law. This training was arranged jointly with adidas in 2004 and involved 80 workers from 40 factories receiving three days of training from a local NGO, the Arom Pongpangan Foundation Labor Resource Center (adidas 2006). Reebok also noted that forums had been conducted with unions in three factories in Indonesia and described extensive training in trade union issues for Reebok workers in countries where the right to freedom of association does not have legal force.

Countries and free trade zones where trade union rights don't have legal force

Reebok declined to reveal what percentage of its products are made in countries or FTZs that fail to give legal force to workers' right to freedom of association. The company has, however, put the names and locations of all its footwear suppliers on the internet,¹⁰⁹ revealing that almost half of the 42 factories making Reebok shoes are located in such countries.

In one of these countries Reebok has been involved in training projects which have given information about trade union rights to workers making Reebok goods. In this country¹¹⁰ Reebok has worked since 2001 with two NGOs to conduct training for workers in democratic election procedures. Reebok (2005) reports that this training has resulted in seven "transparent, democratic...elections" taking place since 2001, four in footwear factories and three in apparel factories. Five of these elections have been to select leaders of factory-level branches of the official government union and two have been to select the leaders of worker welfare committees. Oxfam Australia has had a close and long-term relationship with these independent NGOs and is confident they are providing training which genuinely informs workers

about trade union rights and procedures¹¹¹. Oxfam Australia is also in contact with two well-respected academics who have directly observed one of the union elections and report that it was free and fair.

Reebok deserves credit for cooperating with credible NGOs to provide training to workers in democratic worker representation in countries which fail to give legal force to trade union rights. The elections, however, are more controversial. Some democratic trade union leaders are concerned that the union elections may give unjustified credibility to government-sanctioned trade unions and reduce international pressure on governments to ratify and enforce ILO conventions relating to freedom of association and collective bargaining.¹¹² There is also concern among NGOs who have conducted this kind of training that the elections may have taken place before the workers involved had a strong sense of ownership of these organisations. As a result workers involved in these organisations may lack the unity and strength required to face up to intimidation from their employer or local government authorities.

Auditing and verification

Reebok is moving to a new audit system which is based on the expectation that factories themselves will put in place systems to ensure that violations of trade union rights do not occur. Reebok's audits will assess the effectiveness of these systems rather than looking for individual issues of non-compliance. This new kind of audit will focus on "policy, procedures, training, communications, controls, documentation and worker participation".¹¹³ A key aspect of this assessment will be whether workers have access to information about their rights and are able to freely access complaint mechanisms if their rights are not respected. Reebok's website indicates that the company is aware that workers commonly "fear the risk of demotions or termination if they reveal human rights abuses to monitors". The company rightly notes the need to consult with organisations that have the trust of workers and states that, "Earning workers' trust is of paramount concern".¹¹⁴ At the time this report was researched Reebok had not yet publicly released results of these investigations, but expressed the intention to do so early in 2006.

Complaint mechanisms

In those countries where Reebok has human rights staff¹¹⁵, their mobile phone numbers are posted in every Reebok supplier factory. The research for this report focused particularly on Indonesia (see Factory A and B in Section 2) and indicated that this complaint mechanism works relatively well there. Reebok (2005) also provided examples where Indonesian trade union leaders had called their staff and Reebok had been able to assist in ensuring that trade union rights are respected.

Skills development for worker representatives

Reebok declined to say whether union representatives in its supply chain are granted time off to attend training or to deal with dispute resolution. However Reebok did draw attention to its human rights exchange program. In late 2001 and early 2002 staff and union leaders from five of Reebok's Indonesian suppliers met with staff and leaders of worker welfare committees from five of Reebok's Thai suppliers to learn more about working conditions and strategies for improving them. The material provided by Reebok suggested that the Thai representatives learnt a lot about trade union issues from the Indonesian union leaders. It remains unclear whether this kind of exchange program will be undertaken again in future.

Impact of buying practices on respect for workers' rights

In its response to Oxfam Australia's survey, Reebok avoided detailed and specific questions regarding the company's pricing policies, deadlines and commitment to suppliers. Instead Reebok (2005) argued that it has "strong business rules in place that provide sourcing and production managers with the rules of operation for how to integrate human rights into all aspects of their operations". Reebok also argued that close cooperation between compliance staff and sourcing and production managers ensures that sourcing

¹⁰⁵ Adidas announced its intention to purchase Reebok in August 2005 and the process was completed in January 2006. In future editions of this report Oxfam Australia will assess adidas and Reebok as a combined entity. ¹⁰⁶ Available on Oxfam Australia's website at <www.oxfam.org.au/campaigns/labour/06report>. ¹⁰⁷ Adidas indicated that it may in future be able to provide information of names and locations where independent unions are operating (see Section 2.3.3). ¹⁰⁸ Adidas response to Oxfam Australia's questionnaire suggests that in certain circumstances adidas intervenes to prevent the use of short-term contracts by its suppliers even when the use of such contracts is not strictly illegal — see Section 4.3. ¹⁰⁹ See <www.reebok.com/static/global/initiatives/rights/pdf/ReebokHR_FactoryLists.pdf>. ¹¹⁰ In order to minimise the chance of any negative consequences for the workers involved in this training or for other parties, Oxfam Australia has decided not to reveal the names of the factories or the country. ¹¹¹ These two independent labour NGOs have a long term demonstrated commitment to worker empowerment in numerous programs. ¹¹² That is, conventions 87, 98 and 135. ¹¹³ Letter from Doug Cahn of Reebok, 13 December 2005. ¹¹⁴ See <www.reebok.com/Static/global/initiatives/rights/text-only/business/popup/improving_monitoring.html>. ¹¹⁵ These countries are Indonesia, Korea, Thailand, the Philippines, China, Bangladesh, Turkey, Pakistan, Sri Lanka, Vietnam and El Salvador.



decisions are consistent with the company's human rights standards. While cooperation between these departments is important, Oxfam International would like to see more evidence that Reebok's suppliers are being paid enough money and being given enough time to meet deadlines in order to allow them to fully respect workers' rights, including trade union rights (see Section 3.3).

Transparency

Like Puma and Nike, Reebok has made available the names and addresses of all its suppliers of Reebok-branded apparel and footwear.¹¹⁶ The company has yet to release the addresses of suppliers of products carrying the Greg Norman, Rockport or The Hockey Company brands. Unlike adidas, Reebok does not provide details of approximate numbers of workers in Reebok suppliers in each country. Like all other sports brand owners, Reebok keeps confidential the proportion of production placed with each supplier each year. Greater transparency on these issues would make it possible to track whether Reebok's sourcing strategy is hurting suppliers who allow workers to form trade unions.

Box 4.1 Opposing unions in the US

While Reebok has taken positive steps to improve respect for trade union rights in parts of its supply chain in Asia, the same cannot be said of its distribution centres in the US. Early in 2004, the Teamsters Local Union No. 25 sought the permission of workers at Reebok's distribution centers in Norwood and Stoughton, Massachusetts, to represent them in collective bargaining negotiations. A secret ballot election was scheduled to take place on 15 April 2004.¹¹⁷

According to James Hoffa of the Teamsters Union¹¹⁸ Reebok management campaigned vigorously against the establishment of the union. Workers were, "subject to mandatory meetings with management...anti-union letters and videos...were sent to their homes".

In a 22 September 2005 letter to Oxfam Australia, Doug Cahn of Reebok gave a different perspective:

Reebok management took care not to curtail the right of Teamsters Local 25 to communicate with employees or to limit the right of employees to express their views, in accordance with both the spirit and the letter of the law. Consistent with our activities in Indonesia and elsewhere, our actions were, as you say, "proactive in creating space for (and not hindering) workers interested in exercising their trade union rights..."

Despite Cahn's comments, the video which Reebok sent to workers' homes suggests the company was more interested in dissuading workers from joining the union than in giving them space to exercise their rights. In the video, Reebok representatives make serious allegations against the Teamsters Local No. 25, including that, "This campaign is about one thing — your dues money". A Reebok spokesperson alleges that of the US\$4 million (3.3 million Euro) that Local No. 25 has collected in dues, only US\$1,000 (821 Euro) has been spent on union members. The video emphasises the risk that the Teamsters will trade away workers' entitlements in exchange for gains that will benefit the union rather than workers. Reebok CEO Paul Fireman appeals to Reebok workers to "say no to the risks of collective bargaining". In a secret ballot election, 218 workers voted against representation by Teamsters Local 25 and 80 voted in favour.

While Reebok's actions were not illegal, it is inappropriate for a company that claims to respect and value trade union rights to campaign so strongly and in such a one-sided fashion against the establishment of a union in its own facilities.

Workers put finishing touches on sport shoes in a factory in China.
Photo: Dara O'Rourke.

Maintaining production in unionised factories

Reebok (2005) does not permit its suppliers to close or move a factory to break up a union. However, in response to Oxfam Australia's questions about what steps the company takes to dissuade its suppliers from closing unionised factories, Reebok (2005) instead emphasised that "there are many reasons why a manufacturing company might close a manufacturing facility in one location and open up a facility in another." Reebok does not have a policy to prioritise retaining production in unionised factories (see Section 3.5).

Worker representation on the board

There are currently no elected worker representatives on Reebok's board of directors.

Framework agreement with the global garment and footwear union

Disappointingly, Reebok (2005) expressed no interest in joining with other sports brand owners to negotiate an industry-wide framework agreement with the International Textile, Garment and Leather Workers Federation (ITGLWF). Reebok has signed the Sports and Corporate Wear Ethical Clothing Deed with the Textile, Clothing and Footwear Union of Australia and this deed covers its five Australian suppliers (see Box 4.4b). Hopefully, in future, Reebok will be interested in extending this level of cooperation to the global clothing union.

Trade union rights work outside of Asia

Oxfam Australia asked all sports brand owners for an example of positive work they are doing outside of Asia on the issue of trade union rights. Reebok (2005) cited its participation in a project to address concerns over blacklisting and anti-union practices in Honduras, Guatemala and El Salvador. The project involves cooperation between the FLA, the ILO, national labour ministries, worker and employer organisations, FTZ authorities, multinational companies, local suppliers and NGOs. Reebok also noted that it had employed the labour standards auditing organisation Verite to conduct training in trade union rights for workers in El Salvador. Oxfam International plans to report on the progress of this initiative in future.

Oxfam International's assessment

Like all sports brand owners, Reebok needs to do more to ensure that trade union rights are respected in its supply chain. Oxfam International would like to see more evidence that Reebok's stated commitment to trade union rights is being effectively communicated to workers themselves. This commitment would be more meaningful if Reebok sought to retain production in unionised factories. The company's unwillingness to participate in framework negotiations with the global garment and footwear union is also disappointing. Greater transparency would help clarify whether Reebok's buying practices are helping or hindering workers who want to organise themselves and negotiate decent wages and conditions.

On the positive side, Reebok staff in several Asian countries, most notably Indonesia, have worked hard to ensure respect for trade union rights in a number of factories supplying Reebok. The company has also cooperated with credible labour rights organisations in projects which explore what kind of worker representation is possible in countries which fail to give legal protection to these rights. Reebok also provides its suppliers with detailed guidance in how to recognise and negotiate with trade unions. Unfortunately, this good work in Asia has been undermined by Reebok's vigorous opposition to the establishment of a union in two of its distribution centres in the US (Box 4.1). Sportswear is a global industry and companies which are serious about respecting workers' rights need to respect these rights in every country in which they do business.

¹¹⁶ As of January 2006 this list could be accessed on Reebok's web site at www.reebok.com/Static/global/initiatives/rights/pdf/ReebokHR_FactoryLists.pdf. ¹¹⁷ This is in accordance with the "card check" process set down in US law. ¹¹⁸ Letter to Josh Mailman of the Reebok Human Rights Foundation, 11 February 2005.

4.2 Puma AG

Brands Puma, Tretorn

2004 sales (including Licensees) 2.017 billion Euro

Multi-stakeholder initiatives FLA

In its response to questions regarding trade union rights¹¹⁹, Puma (2005b) provided the names of four Puma suppliers in which workers have established unions — two in Thailand and one each in Pakistan and Cambodia. In only one of these factories has it been possible for workers to negotiate a collective bargaining agreement with their employer.

However, Puma's (2005a) latest sustainability report draws attention to the Lian Thai factory in Thailand. Early in 2004, the Worker Rights Consortium (WRC) brought issues at this factory to Puma's attention, including the alleged illegal dismissal of a union member. In October 2004, the WRC (2004b, page 17) reported that conditions had improved at Lian Thai and that anti-union harassment had ceased. According to the WRC (2004b, page 3) "many of the most important changes appear to have resulted from the aggressive intervention of one of the factory's principal buyers, Puma. Puma acted promptly when contacted by the WRC and should be commended for its involvement in this case". However, in 2005, Puma ceased ordering from the factory. Puma informed the WRC¹²⁰ that this was because the factory was no longer offering a competitive price for its product. Puma's explanation to Oxfam Australia was that Lian Thai mainly focuses on woven material which does not currently fit Puma's portfolio.¹²¹ Oxfam Australia suggested that Puma source other products from Lian Thai, and Puma indicated that the company may do so in future. Oxfam International encourages Puma to prioritise sourcing orders at Lian Thai. The company's lack of commitment to a supplier which has cooperated in attempts to improve respect for workers' rights is disappointing.

Guidance to suppliers regarding trade union rights

Puma (2005c) makes it clear to all suppliers that freedom of association and collective bargaining should be respected, but qualifies that this should be done "in accordance with local law" (2005c, pages 7,14,15). In circumstances where local law gives legal force to relevant ILO conventions, this is appropriate. However, in countries where national law fails to protect core international labour standards, Puma should still uphold freedom of association

Unlike Reebok, Puma's standards guide does not make it clear that suppliers should negotiate with trade unions. Educating factory managers and supervisors about trade union rights does not appear to have been a high priority for the company in the past. Puma (2005b) reports that the focus of its recent training programs for factory managers and supervisors has been on basic health and safety procedures and other legal rights and duties. Freedom of association was mentioned in this training but was not the primary focus.

Worker training regarding trade union rights

Puma's code of conduct includes reference to freedom of association and the company provides suppliers with a pocket guide to the code to give to workers. It also requires that its code be displayed on factory walls. However, Puma's (2005b) response to questions sent as part of the research for this report suggested that most Puma workers have not had access to independent training regarding their trade union rights

This may change in future. Puma (2005b) noted that in July 2005 company representatives met with ITGLWF General Secretary Neil Kearney to plan cooperation on projects in several countries concerning health and safety and trade union-worker union representation. Puma expressed the hope that this cooperation with the ITGLWF will be the catalyst for large numbers of workers making Puma goods to receive independent trade union rights training. Puma has already had some cooperation with ITGLWF's Indonesian affiliate, the SPN union. Oxfam International understands that Puma has consulted with both the WRC and SPN regarding which factories in Indonesia respect trade union rights and hence may be appropriate for Puma to place new orders with.¹²² Mr. Prabowo of the SPN union has indicated to us that he thought Puma would be willing to cooperate in a similar way with other Indonesian unions.

Countries and Free trade zones where trade union rights don't have legal force

Puma (2005b) reported that the majority of the company's footwear production takes place in countries where trade union rights do not have the force of law. Puma (2005b) stated that:

In countries with State-endorsed unions, we have come to believe that it is important to strengthen and enable the existing structures instead of simply categorically stating that these are not real workers' organizations. Therefore we continue to encourage independent workers' welfare committees and grievance procedures.

Like Reebok, Puma has allowed an NGO to provide trade union rights training to workers in one country which fails to give legal protection to those rights. This training took place in two factories in 2003 and further training is planned for 2006. Although trade union rights training should normally be the preserve of trade unions, Oxfam Australia knows the NGO involved and is confident it is providing training which genuinely informs workers about trade union rights and procedures. Like Reebok, Puma deserves credit for undertaking projects which explore what kind of democratic worker representation is possible in countries which fail to legally protect trade union rights.

Auditing and verification of trade union rights

Puma (2005c, page 45) reports that its staff audit every supplier before Puma places the first order and then conducts follow-up audits at least once every two years. Puma staff assess whether each of its suppliers has a clear policy on freedom of association, whether employees are aware of that policy and whether workers have been discriminated against for joining any organisation (Puma 2005c, page 54–5). These audits indicate that freedom of association is a “major non-conformance area” and that “further improvements are desirable” (Puma 2005a, page 29–30).

According to Puma, its staff randomly interview selected workers on the factory premises. Although worker interviews occur separately from managers, this may not be enough to ensure that workers feel free to speak honestly. In Asian factories, workers are commonly coached by supervisors in how to respond to auditors' questions and warned that any negative comments to auditors may cause buyers to cut orders, putting workers' jobs in danger (*Financial Times*, 22 April 2005 and CCC, 2005b).

Puma joined the FLA in 2004 and in that year the FLA conducted independent audits of nine Puma suppliers. Puma (2005a, page 33) reports that the FLA audits involved dialogue with local stakeholders and most of the FLA audits identified problems that Puma's own auditors had missed. Puma should ensure that its monitoring staff have the capacity to undertake their task and should ensure that monitoring involves consultation with local stakeholders and confidential interviews with workers away from the factory.

Complaint mechanisms

Puma (2005b) reports that the contact information for Puma's compliance staff is included on the code of conduct posters which are placed in factory production areas. Puma acknowledges that the system has limitations, because workers with limited incomes have to contact foreign compliance staff. Puma reported that the complaints procedure is “working well”. However the company indicated that, so far, there have been no instances of workers using this grievance procedure to make a complaint about violations of their trade union rights.

Skills development for worker representatives

Puma (2005b) indicated that union representatives in its supply chain are granted time off to attend training or to deal with dispute resolution if it is required by local law, but the company has no policy requiring this in countries where it is not a legal obligation.

Impact of buying practices on respect for workers' rights

Puma (2005b) stated that the cost of implementing labour standards are internalised in price negotiations with factories, but declined to explain what methodology is applied. The company drew attention to the findings of a survey of its suppliers by Verena Kuemmerling, a student at the

¹¹⁹ Available on Oxfam Australia's website at <www.oxfam.org.au/campaigns/labour/06report>. ¹²⁰ Personal communication (email) from Bent Gehrt of the WRC, 12 December 2005. ¹²¹ Personal communication (email) from Mr Reiner Hengstmann of Puma, 22 December 2005. ¹²² Based on personal communication from Yeheskiel Prabowo of SPN and FX Supiarso of the WRC.



Fachhochschule Muenchen¹²³ who conducted the survey as part of her diploma thesis. According to Puma, Kuemmerling found that the company's major suppliers consider Puma's lead times satisfactory and that most suppliers believe quality and service — rather than price and on-time delivery — are the main drivers for maintaining Puma's business. Despite Oxfam Australia's efforts to do so, it was not possible to obtain and translate a copy of this thesis in time to consider it for this report. In any case, while student research is important, it is not an adequate substitute for the in-depth and well-resourced research needed to properly address this issue. The Play Fair Alliance has proposed that the ILO should conduct a detailed study of corporate purchasing practices and develop a set of recommendations for the industry in this area. If Puma and other sports brand owners supported this proposal and expressed willingness to cooperate then it would increase the likelihood that the ILO would agree to undertake it.

Puma (2005b) did indicate that it has established “strategic long-term relationships with our most important direct suppliers”. It has been buying from 83% of the 116 factories in Asia for more than two years. However, Puma (2005b) reports that it generally does not have a written commitment to stay with these suppliers, arguing that this allows “flexibility for both the brand and the factory”. This calls into question the seriousness of the company's commitment to having long-term relationships with suppliers.

Puma also reported that only half its supply chain is currently made up of direct suppliers, although the company is taking back some licensee business in Asia. The company justified its “less stable supplier relationships” with its licensee suppliers on the basis that this is standard practice in the sportswear industry.

Puma gave a similar rationale for its non-disclosure of the prices the company pays its suppliers, arguing that this secrecy was necessary “for competitive reasons”. It's worth noting that, until recently, all sports brand owners refused to release names and addresses of their suppliers on the same grounds — that this would render them uncompetitive. In 2005, Puma became one of the first companies to make available the full list of suppliers producing Puma-branded products.¹²⁴ It would be a similarly innovative and valuable step for Puma to inform worker representatives how much the company is paying suppliers for goods and insist that suppliers make the company's full financial records available to worker representatives. Such a step would enhance the ability of workers to negotiate decent wages and conditions.

Transparency

Puma's decision to release the names and addresses of all suppliers of Puma-branded product is an important step forward. Oxfam International encourages Puma to also release the addresses of suppliers

Women working in a sportswear factory in China.
Photo: Dara O'Rourke.

of the Tretorn-branded product. Greater transparency regarding the number of workers in Puma suppliers in each country and the proportion of production placed per year with each supplier would also be positive, as it would be possible to trace whether workers who form unions and negotiate better wages and conditions are being punished by having orders to their factory reduced.

Maintaining production in unionised factories

Puma (2005b) states that “any evidence” showing that factory management has closed down or moved factories in order to avoid an active union will be “dealt with immediately...Puma will terminate the business relationship with such suppliers if factory management refuses to conduct remedial action on this matter”. Puma does not, however, have a policy to retain production in unionised factories — as the Lian Thai case (described above) clearly demonstrates.

Worker representation on the board

In accordance with German law, two of the six members of Puma’s Supervisory Board are elected representatives of Puma’s direct employees. At this stage the employees of Puma’s suppliers who produce Puma’s goods do not have a presence at board level, but this is an option which may be worth considering in future.

Framework agreement with the global garment and footwear union

In addition to its membership of the FLA, Puma is also a member of the World Federation of Sporting Goods Industries’ (WFSGI) Committee on Corporate Social Responsibility. Puma (2005b) reports it has indicated to both the FLA and the WFSGI that it would support the negotiation of a framework agreement with the ITGLWF provided such an initiative was collectively agreed by the industry caucus.

Trade union rights work outside of Asia

Through the FLA, Puma is participating in the Joint Initiative on Corporate Accountability (JO-IN), a project which involves a number of different multi-stakeholder initiatives working together to develop and then test models for implementing codes of conduct in factories in Turkey. JO-IN has a focus on improving strategies for monitoring respect for trade union rights. The German Clean Clothes Campaign (CCC) started a 12 months pilot project in El Salvador with Puma on 1 December 2005 focusing on gender and workers’ rights. Puma is also cooperating with the CCC to develop a project on workers’ rights in Bulgaria involving local union representatives. In Romania, Puma is also involved in a multi-stakeholder project with adidas, Steilmann, the GTZ (German Technical Cooperation Agency) and Oxfam Germany that promotes social dialogue between companies and workers. Oxfam International plans to report on the progress of these projects in the future.

Oxfam International’s assessment¹²⁵

Although Puma has recently made some progress in terms of respect for trade union rights, the company’s efforts still fall well short of what is needed to ensure full respect for these rights. Puma could improve respect for trade union rights by clearly indicating to suppliers that they should negotiate with unions; by improving its system of monitoring whether suppliers respect trade union rights and by seeking to maintain production in unionised facilities. Puma’s decision to cease ordering from the Lian Thai factory in Thailand sends exactly the wrong message to its suppliers. It is highly unlikely that Puma’s suppliers will change their way of working to accommodate Puma’s labour rights policies unless they have confidence that Puma is committed to a long-term buying relationship.

Puma has, nonetheless, taken some useful steps forward. Puma’s release of its full supplier list marks the company as one of the leaders among sports brand owners in terms of transparency. It is also positive that Puma has cooperated with trade unions and credible NGOs to investigate placing orders with factories in Indonesia that respect workers’ rights. Similarly valuable is the company’s openness to participating in a framework agreement with the ITGLWF union and its plans to cooperate with the ITGLWF in arranging for workers to receive training in health and safety.

¹²³ A Fachhochschule is an advanced technical college, similar to a Polytechnic University in the United Kingdom. ¹²⁴ This list is available on application to the Fair Labor Association. ¹²⁵ The assessments of individual companies should be read in conjunction with Section 3, which assesses the performance of the industry as a whole and the work of the FLA in influencing the labour rights programs of adidas, ASICS, Nike, Puma and Reebok.

4.3 adidas AG

Brands adidas, TaylorMade, Maxfli

2004 Annual Consolidated Revenue 6.478 billion Euro

Multi-stakeholder initiatives FLA

Adidas gave the most detailed overall response to questions regarding trade union rights.¹²⁶ Adidas (2005a) provided the number of unions and collective bargaining agreements among its suppliers in each country in the Asia-Pacific. It reported, for example, that unions have negotiated collective bargaining agreements in three of its Cambodian, 18 of its Japanese and 21 of its Indonesian suppliers. Unfortunately, adidas declined to provide the names of these suppliers so that this could be independently verified. Adidas indicated that it may, in future, be able to provide this information but only if the concerned factories and factory based unions do not object (adidas 2005c). Oxfam International does not believe it should be necessary to get the permission of factory owners to share this information.

This report includes case-studies of two Indonesian adidas suppliers, PT Panarub and PT Dae Joo Leports. Although adidas could have been more proactive in addressing violations of trade union rights at Panarub, it eventually fully cooperated with an independent WRC investigation. The WRC also investigated conditions at Dae Joo Leports and, in both cases, adidas insisted that its suppliers implement the recommendations arising from these investigations. Unfortunately, Dae Joo Leports then closed the factory and moved production to another country. Adidas tried to persuade its supplier to keep the factory open but these efforts are likely to have been more successful if adidas prioritised retaining production in plants with democratic unions.

Guidance to suppliers regarding trade union rights

Adidas (2001, pages 9–11) gives all its suppliers a detailed summary of the ILO conventions and other international covenants which provide the international legal basis for trade union rights. The company also provides a detailed explanation of how it expects suppliers to apply these principles, including examples of good and bad practice. Adidas (2005a) staff have held training workshops with the company's Asian suppliers in order to discuss how to implement these and other company guidelines. Adidas (2005) also reports that its suppliers in Cambodia have been participating in a training program conducted by the ILO to educate factory managers regarding worker rights, including freedom of association and collective bargaining.

The employment of workers on short-term contracts can be a major impediment to trade union organising (see Section 3.6). Unlike Reebok, adidas does not usually limit suppliers' use of short-term contracts over and above the limitations applied by local law. However, adidas' (2005c) has indicated that the company will intervene in cases where:

suppliers are using short-term contracts to avoid legal responsibilities — for example, factory management re-hires the same individuals on multiple short-term contracts to avoid providing benefits that would be afforded to a permanent worker; such as social security, accrual of seniority or taxation concessions.

Adidas indicated that in these cases the company insists that workers are given permanent status and provided with the benefits they would have accrued if they had started working in the factory as permanent employees. Adidas could more effectively support trade union organising by strongly limiting the circumstances under which workers can be employed on short-term contracts, but the company's current policy is, at least, a step forward from that of companies which are only willing to apply local law.

Worker training regarding trade union rights

Adidas (2005a) expects suppliers to develop a "strategic compliance plan" which includes the provision of training to workers in Freedom of association and collective bargaining standards. Adidas (2005c) recognises that "factory management is not the best party to conduct training in freedom of association for workers" and expects that "management will bring in external trainers where necessary and provide unions with access to the workforce and to training facilities." Adidas plans to track whether factory compliance plans are implemented.

In 2004 adidas cooperated with Reebok to arrange for an NGO to provide training to Thai workers involved in welfare committees, which included providing information regarding the process of union formation under Thai law (see Section 4.1). Aside from this program, it is unclear what proportion of workers making adidas goods have, so far, received independent training in their trade union rights.¹²⁷

Adidas is working with two Asian NGOs to develop a strategy for worker training initiatives in the region and to manage the provision of that training by local organisations. Adidas reports that one of these NGOs, based in Bangkok, “has been commissioned to look specifically at problems experienced by migrant workers in the region, including exclusion from union activity and FOA [Freedom of Association].”

Countries and Free trade zones where trade union rights don’t have legal force

In response to questions sent as part of the research for this report, adidas (2005a) provided an impressively detailed analysis of the extent to which trade union rights are respected in each of the 18 Asia Pacific countries where adidas product is sourced. The company reports that 32.4% of its global production occurs in Asia-Pacific countries which have laws which give effect to Freedom of association and collective bargaining and approximately 52% of the company’s global production takes place in Asia-Pacific countries which do not give legal force to these rights. Adidas reports that between 2002 and 2004 the company’s level of production in countries which do not legally protect trade union rights grew by 3%. While this growth is disappointing,¹²⁸ adidas’ willingness to release data about this issue represents a valuable step forward.

In those countries where the right to freedom of association and collective bargaining is restricted by law, adidas’ code requires that “business partners must not obstruct alternative and legal means for independent and free association or collective bargaining”. Unlike, Reebok, Puma and Nike however, adidas has not cooperated recently with non-government organisations to allow worker training programs which provide workers with information regarding democratic worker representation.¹²⁹

Auditing and verification

In 2004 adidas (2005b, page 27) staff audited compliance with the company’s labour standards in 301 of the companies’ 843 factories. The company reports that it is moving to a more “strategic” approach which will involve “deeper monitoring coverage of fewer suppliers” (adidas 2005b, page 24). Adidas has not released data on the extent to which its internal monitoring is discovering and remediating violations of workers’ trade union rights. In response to Oxfam Australia’s questions, adidas (2005c) indicated that if specific information is requested about monitoring findings in a particular factory or country then adidas will do its best to provide it. This willingness to respond to specific and particular requests is welcome, but sports brand owners like adidas should also be regularly making public the results of its overall investigations into respect for trade union rights in the company supply chain.

Complaint mechanisms

Adidas (2005a) plans to use worker training programs and the internet to inform more workers about the company’s complaints procedure. Currently the main way workers find out how to make a complaint is through direct contact with adidas’ Social and Environmental Affairs (SEA) staff. These staff provide union officers and other workers with their contact details during factory visits. According to adidas (2005b, page 21) in 2004 workers used this contact information to make more than 100 complaints regarding working conditions. Restrictions on freedom of association and industrial relations issues, including strikes and unfair dismissals, were among the most common complaints. Adidas (2005a) reports that:

¹²⁶ Available on Oxfam Australia’s website at <www.oxfam.org.au/campaigns/labour/O6report>. ¹²⁷ That is, training provided by organisations which are independent of the workers’ employers and which have the necessary expertise. ¹²⁸ Adidas argued that this reflects the overall growth in the company’s business rather than an increase in the proportion of product sourced from these countries. Adidas (2006) also noted that the relevant sourcing decisions were based on suppliers’ performance in the area of “quality, delivery and price, together with...a general ‘matching’ or values between the supplier and adidas — and not on the existence or lack thereof of laws which protect freedom of association or collective bargaining. As noted in Section 3.4, Oxfam Australia believes that sports brands who are serious about their commitment to freedom of association should direct any new production to countries which give legal force to this right. ¹²⁹ In its response to an earlier draft of this report, adidas (2006) acknowledged that the company had “not implemented any systematic training programmes for workers relating to democratic worker representation in countries where freedom of association is restricted by law” but noted that it had “collaborated with third parties on initiatives which address this issue”. Unfortunately this information arrived too late to be considered in this report. However, Oxfam Australia has requested additional information from adidas regarding these initiatives and will provide an assessment of them on the Oxfam Australia web site at www.oxfam.org.au/campaigns/labour/O6report.

In Indonesia, union officers at a number of different suppliers have contacted the SEA compliance staff directly to complain of unfair treatment, and in some cases dismissal (based on union affiliation or activities). In such cases, where investigation proves that the discrimination has occurred, we demand that workers and union officers alike be reinstated and receive back pay

Oxfam Australia received corroboration of this in September 2005 from the SPSI Reformasi union in Indonesia who reported that it had made a complaint to adidas regarding wrongful dismissal and that adidas had investigated and required its supplier to reinstate the workers involved.

Skills development for worker representatives

Adidas (2005a) is the only sports brand with a policy to allow union officers and members to attend training provided by their own organisations and other labour groups. Adidas also described examples of worker representatives from different adidas suppliers attending joint workshops or discussions in Indonesia, Taiwan, Thailand and Vietnam.

Adidas (2005a) does not have a policy requiring suppliers to allow trade union representatives time off to handle grievances and disputes. The company reported that whether or not worker representatives are given time off for this varies considerably across adidas' supply chain.

Impact of buying practices on respect for workers' rights

Adidas (2005a) accepts that stable long-term business relationships assist in the financial security of both suppliers and workers and that "overall stability is a necessary precondition for workers to freely exercise their rights of association, to organise and bargain collectively". The company reports that, for the past four years, it has been consolidating its supply chain, "placing larger orders with fewer factories and establishing long term partnerships". The company also reports that its South East Asian staff cooperate with sourcing teams and factory managers to distribute the flow of orders to minimise the chance that workers will be required to work excessive overtime. However, it did not provide details of the methodology and procedures applied. Apart from the stability of the business relationship, adidas (2005a) does not accept Oxfam International's position that a company's other buying practices — such as prices and lead times — impact on respect for trade union rights on the factory floor (see Section 3.3).

Oxfam Australia requested data regarding the extent to which adidas has increased the levels of orders to and length of partnerships with key suppliers. Adidas' (2005c) response indicated that the companies' databases are in the process of being integrated and that, at present, "it would be incredibly time consuming to collate and provide the data you have requested". Oxfam International hopes that through this database integration it will be possible for adidas to provide information in future regarding the company's buying practices.

Adidas (2006) reports that labour costs — including basic wages, anticipated overtime payments, costs associated with maintaining health and safety requirements and other legal requirements — are included as a separate line item when negotiating manufacturing prices with factories. It is positive that adidas is taking labour costs into account when negotiating prices, but until the company shares these calculations with worker representatives it is difficult to know whether adidas is making sufficient allowance for workers' living costs.

In addition adidas, at times, makes a financial contribution to the cost of addressing particular labour rights issues. For example, in the PT Panarub case (Section 2.3) adidas (2006) "agreed with Panarub management to pay an additional amount on top of negotiated prices for an agreed number of seasons, to help cover the costs associated with comprehensive implementation of social security for all employees in accordance with Indonesian labour laws". This is a positive step which should be emulated by other companies.

Transparency

Adidas publicly releases information regarding the number of workers employed by its suppliers in each country and, as noted above, was willing to share information regarding the proportion of its production in countries which do and do not respect trade union rights.

Unfortunately, unlike Puma, Reebok and Nike, adidas does not publicly release its supplier list. In its defense, adidas (2005a) noted that it has responded positively to requests by particular organisations

or individuals to provide information regarding some suppliers, for example in the context of activities designed to improve conditions. This is less useful than full transparency, which would open respect for labour rights in adidas' supply chain to greater public scrutiny.

Adidas provides general information about its efforts to improve labour conditions in the company's annual social and environmental reports. Information regarding investigation of trade union rights issues in particular factories is sometimes included in these reports or on the company's website. But adidas does not currently have a policy of publicly reporting on all investigations into alleged breaches of these rights.

Maintaining production in unionised factories

Adidas (2005a) states that it does not have:

a policy that actively favors the selection and retention of unionised factories over non-unionised factories. However, if we were to find clear evidence of “union busting” by a business partner, whereby a supplier deliberately closed a unionised factory in order to re-open a union free enterprise elsewhere, we would view this to be a breach of FOA and would terminate our relationship with that supplier.

Worker representation on the board

In accordance with German law, six of the 12 members of adidas' supervisory board are representatives of adidas' direct employees. At this stage, the employees of adidas' suppliers who produce adidas goods do not have a presence at board level, but this is an option which may be worth considering in future.

Framework agreement with the global garment and footwear union

Adidas (2005a) expressed very strong reservations about the possibility of being part of a framework agreement with the ITGLWF. Adidas is concerned about the legal status of such agreements and believes that the ITGLWF's proposals have thus far failed to “recognise the legal and commercial independence of our business partners”. Adidas also raised concerns about situations where a supplier's workforce is unionised by a union which does not belong to the ITGLWF. Oxfam International believes that adidas' concerns could be addressed during negotiations with the ITGLWF and encourages adidas to participate in further discussions with the international union.

Trade union rights work outside of Asia

In response to Oxfam Australia's request for examples of adidas taking steps to support trade union rights in other parts of the world, adidas (2005a) noted the company's participation in ongoing dialogue with Central American trade unions. Adidas also drew attention to the Hena Tekstil case, which is described in the Nike company profile. In Romania, adidas is also involved in a multi-stakeholder project with Puma, Steilmann, the GTZ (German Technical Cooperation Agency) and Oxfam Germany that promotes social dialogue between companies and workers.

Oxfam International's assessment¹³⁰

Like other sports brand owners, adidas needs to do much more to ensure that trade union rights are respected within its supply chain. In particular, it is inconsistent for a company that professes to respect such rights to source more than half of its production in countries where it is legally either impossible or extremely difficult to exercise them. Nonetheless, adidas' willingness to share information regarding the proportion of its production in such countries is a step forward. Oxfam International hopes that adidas takes this transparency further and joins Nike and Puma in revealing its full supplier list.

On the positive side, the company provides its suppliers with a detailed and accurate explanation of trade union rights. In the two cases described in Section 2 of this report, adidas cooperated in comprehensive efforts to ensure that these rights are respected. There is also evidence that adidas has been proactive in protecting trade union rights in other cases in Indonesia. It is noteworthy that adidas (2005a) is the only sports brand with a policy allowing union officers and members to attend training provided by their own organisations and other labour groups.

¹³⁰ The assessments of individual companies should be read in conjunction with Section 3, which assesses the performance of the industry as a whole and the work of the FLA in influencing the labour rights programs of adidas, ASICS, Nike, Puma and Reebok.

Steps which adidas could take to increase the extent to which trade union rights are respected in the company's supply chain include cooperating with independent organisations to ensure that workers receive training in these rights; prioritising the retention of unionised factories in its supplier base; sharing pricing information with worker representatives; and participating in negotiations with the ITGLWF union regarding the possibility of an international framework agreement.

Stop press:

As this report was being finalised for print, new developments cast doubt on adidas' commitment to supporting workers' right to freedom of association at the Panarub factory. A complete update on these developments will be prepared and made available on the internet at www.oxfam.org.au/campaigns/labour/06report



Siti Nurhasanah, 24, has been producing football boots at the Panarub factory in Indonesia since 1997. She is married with a two and a half-year old child. Siti hopes her pay will increase so she doesn't need to do overtime and can spend time with her child.

Photo M. Revaldi

4.4 Nike

Brands Nike, Cole Haan, Bauer Nike, Hockey, Hurley International, Converse and Exeter Brands Group

Annual Consolidated Revenue 2004 USD \$10.866 billion (8.920 billion Euro)

Multi-stakeholder initiatives FLA

Nike (2005a) provided a relatively detailed response to questions for this report,¹³¹ but declined to provide details of supplier factories where unions have been formed and have negotiated collective bargaining agreements. Research for Part 1 of this report found that in two factories — Jaqalanka in Sri Lanka and MSP sportswear in Thailand — Nike eventually intervened in a constructive manner and cooperated with the FLA to ensure workers' trade union rights were respected, but only after local and international organisations made repeated public calls for Nike to enforce its code of conduct. In a third factory, PT Doson in Indonesia, Nike's decision to cut all orders resulted in the Doson factory's closure. The SPN union alleges that Nike's decision was linked to the union's industrial campaign for better wages and conditions in the factory.

Guidance to suppliers regarding trade union rights

Nike's Contractor Compliance Manual (CCM) explains to suppliers the steps which Nike expects them to take in respect of workers' rights to freedom of association and collective bargaining. This explanation is broadly consistent with, but less detailed than, the corresponding ILO conventions — numbers 87 and 98 — and the decisions of the relevant ILO committee.¹³² Nike's expectations in this area are also less detailed than those of Reebok (2001) and the Fair Labor Association (FLA n.d., pages 29–41). Nike does not, for example, specify that suppliers should negotiate in good faith with any union that has been recognised as a bargaining agent.

Like Puma, Nike's (n.d) expectations of suppliers in this area focus on compliance with national laws concerning freedom of association and collective bargaining. As noted in the assessment of Puma (Section 4.2), this reference to local law could allow Nike to ignore breaches of freedom of association in countries where national law fails to give legal force to the right to freedom of association.

Beyond local legal requirements, Nike does not prevent or limit the extent to which suppliers can employ workers on short-term contracts, although Nike does prohibit subcontracting to home-based workers (see Section 2.1.6).

Worker training regarding trade union rights

Nike requires that suppliers post the company's code of conduct in all major workspaces. Nike (2005a) further requires each supplier to provide training to its management, workers and worker representatives in Nike's code of conduct requirements.

It is appropriate for Nike to expect suppliers to have a policy to allow freedom of association and to communicate this policy to their employees. However, given that factory managers commonly do not want workers to exercise these rights, it is inappropriate to rely on managers to make sure workers understand them. Nike should cooperate with labour rights organisations to allow independent training in freedom of association and also ensure that trade union organisations have access to workplaces to provide such training. Nike's (2005a) reports that there has been cooperation with local universities, local NGOs and labor law consultants to provide labour law training to some workers, but indicated that the company's current recording systems do not allow it to find and provide details of how much of this training specifically related to trade union rights.¹³³

Countries and free trade zones where trade union rights don't have legal force

Nike (2005a) declined to say what proportion of its production is taking place in countries or free trade zones where the right to freedom of association is not given legal effect. Nike distanced itself from responsibility for these decisions, arguing that the company's relationship is with its suppliers, and that it is up to the suppliers to decide where to locate their factories. This ignores the considerable influence which Nike has in its relationship with suppliers.

¹³¹ Available on Oxfam Australia's website at <www.oxfam.org.au/campaigns/labour/06report>. ¹³² See the digest of the decisions of the ILO's Committee on Freedom of Association at <<http://www.ilo.org/ilolex/english/digestq.htm>>. ¹³³ Personal communication from Caitlin Morris of Nike, 6 December 2005.

Nike's (2005b, pages 38–41) latest corporate responsibility report indicates that when “the law itself prohibits the right of workers to freely associate or bargain collectively...our goal is to facilitate a process where workers can achieve parallel means of representation”. In one such country Nike reports that it has worked with a local organisation to provide training in local labour law and related issues. In 2004, all the workers in this factory elected representatives to sit alongside factory management and the state-sanctioned union in the Factory Grievance Committee. Nike recognises that this is not a trade union but describes the step as an important beginning. Oxfam Australia was not able to investigate this case in time for this report, but plans to do so in future.

Nike (2005b, page 40) also reports that it is working with union and factory representatives to support the establishment of a workers' welfare committee in a factory in one of Bangladesh's export processing zones (EPZs). Under a law passed in July 2004, it is now legal to establish such welfare committees in Bangladesh's EPZs as a precursor to the legalisation of trade unions in the EPZs from 1 November 2006. Oxfam International plans to report on the progress of these initiatives in future.

Box 4.4a Doing the right thing and then walking away: the Bulgaria apparel project

Both Nike's (2005b, page 40–1) and adidas' (2005b, page 36) annual corporate responsibility reports for 2004 include reference to a project in Bulgaria which was designed to:

...encourage constructive dialogue between management and workers as well as between government, industry and unions and to build capacity among workers, workers' groups, employers and unions.

Through the initiative all stakeholders received focused training on corporate responsibility issues, social dialogue, corporate codes, local and international laws and possible local implications. Through 'improvement circles' the workers shared what they had learned with more than 500 other workers in their factories...Approximately 140 people from 10 different factories...were directly involved in the training. From a total of 140 people, 97 were factory floor employees. (Adidas 2005b, page 36).

The project involved adidas, Nike, Levi's and H&M cooperating with the European Trade Union Federation of Textiles, Clothing and Leather and the Bulgarian Ministry of Labour. Just Solutions¹³⁹, a company which provides labour auditing, training and consultancy was extensively involved in the provision of training. Just Solutions has considerable expertise in the area of trade union rights.

This is exactly the kind of project which sports brand owners should be involved in — the direct provision of training regarding trade union rights to workers and other key stakeholders by organisations with established expertise in this field.

Unfortunately, following the completion of this project, Nike significantly reduced its sourcing in Bulgaria and reduced or cut orders to the factories which took part in the project.¹⁴⁰ According to Nike, this decision was made because the buying agent sourcing in those factories was failing to meet Nike's expectations regarding delivery and quality.¹⁴¹ In contrast, adidas (2006) reports that the company still works with all three of the factories supplying adidas which participated in the project and that, in 2005, orders of adidas product to those factories increased by 15 per cent on the previous year. It is very disappointing that Nike failed to follow through on this positive project by maintaining or increasing orders to the factories involved. Factory managers cannot be expected to invest time and effort in serious attempts to increase understanding of and respect for trade union rights unless the brand owners involved make a serious commitment to a long-term ordering relationship. Oxfam International hopes that Nike and adidas will follow through on this project by prioritising placing orders with these factories.

Auditing and verification

Nike's main internal monitoring tool is its 'M-Audit'. Specially trained Nike staff conduct these audits in 25–33% of Nike's active factory base each year (Nike 2005b, pages 20–7). The FLA also arranges external investigations in 5% of Nike's suppliers each year (see Section 3.7). In 2004, the M-Audits found that, “Freedom of association is not provided where legal” in less than 10% of Nike's supplier base. However, Nike (2005b, page 41) acknowledges that:

there are many subtle methods employers might use to restrict workers' rights to freely associate...we do not have a complete picture of the actual situation due to the challenge of discovering these practices through monitoring.

The MSP Sportswear and Jaqalanka cases considered in Section 2 cast some doubt on how rigorously Nike's internal audit staff are investigating trade union rights. On 19 January 2005, Nike wrote to Oxfam Australia regarding alleged violations of freedom of association in the MSP case, stating that:

Unraveling and resolving the underlying issues in these types of cases requires the involvement of neutral, third-party organizations. As a buyer in the MSP factory, Nike is not an appropriate mediator in the dispute.¹³⁴

Although this case was eventually effectively resolved with the FLA's intervention it is important that Nike should not avoid responsibility for investigating whether trade union rights are respected in its supplier factories. The FLA's stated role is to verify whether Nike and other companies are ensuring respect for workers' rights, not to be the first line of investigation (see Section 3.7).

Nike did participate in a very positive monitoring and training program in Bulgaria which addressed trade union rights. Unfortunately, at the end of the program, Nike significantly reduced its orders to the factories involved (Refer Box 4.4a).

Complaint mechanisms

Oxfam Australia's survey asked whether Nike had established "confidential and accessible means for workers to report violations of trade union rights". In response Nike (2005a) noted that toll-free complaint numbers have been established in a couple of countries. In Indonesia, Nike (2005a) has worked with a local women's organisation to establish confidential hotlines in a number of factories so that women can report complaints regarding sexual harassment. Nike declined to give any examples of workers using Nike's complaint mechanisms to report violations of trade union rights.

Skills development for worker representatives

Nike (2005a) does not require suppliers to give union representatives time off to attend training or to deal with dispute resolution, although it did recently intervene so that a union representative from Malaysia was able to attend an ITGLWF meeting.

Impact of buying practices on respect for workers' rights

Nike has publicly acknowledged that the company's ordering practices can contribute to excessive overtime in supplier factories and has established an internal taskforce to address this issue (MSN 2005, page 8). The company's latest corporate responsibility report describes the company's "balanced scorecard" approach, which means that suppliers' compliance scores on M-audits and other corporate responsibility measures produce a corporate responsibility rating which, in addition to Nike's traditional measures such as cost, delivery time and quality, will influence whether Nike places further orders with a supplier.

It is positive that Nike is starting to incorporate compliance information into the company's sourcing decisions. It is crucial, however, that the process for doing so does not lead Nike to reduce orders from factories where workers are trying to establish unions. Nike (2005b) admits that the company finds it challenging to monitor freedom of association and argues that it "can only truly be tested during periods when workers are actively exercising this right". This suggests that Nike is most likely to score a factory badly for failing to respect freedom of association at the very time when workers are trying to organise. Nike should adjust the "balanced scorecard" approach so that it prioritises maintaining buying relationships with unionised factories and factories where workers are trying to establish trade unions.

Transparency

Nike released its address list of factory suppliers for Nike-branded products in April 2005. This was an important step forward in terms of transparency.

Oxfam International encourages Nike to release the addresses of factories making the other brands which Nike owns, including Converse and the discount sportswear Nike produces for sale in Wal-Mart stores.

¹³⁴ Response by Nike, 19 January 2005, see <<http://www.oxfam.org.au/campaigns/nike/reports/letters.html>>.

¹³⁵ Personal Communication (email) from Agatha Schmaedick of the Workers Rights Consortium, 20 December 2005.

Maintaining production in unionised factories

Nike does not have a policy that actively favours the selection and retention of unionised factories in its supply chain. In addition to the Doson case (see Section 1.5), Oxfam International is concerned that Nike recently ceased ordering from the Lian Thai factory in Thailand,¹³⁵ a factory which has a democratic union of predominantly women workers. This factory was previously a model factory in Nike's Global Alliance program. Nike (2006) reports that "Nike and Lian Thai reviewed our business plans and priorities and mutually agreed that other suppliers/buyers would better serve each other". However, in response to Oxfam Australia's enquiries, the union leader at Lian Thai, Prakob Yorddamnern, strongly questioned whether Nike's departure from the factory was by mutual agreement. She believes that Lian Thai management would be happy to continue producing Nike product. She and other worker representatives at Lian Thai are very disappointed at Nike's (and Puma's) decision to stop ordering from the factory.

Worker representation on the board

There are currently no elected worker representatives on Nike's board of directors.

Framework agreement with the global garment and footwear union

In recent years Nike has joined a number of other sports brand owners in attending meetings organised by the ITGLWF. Nike has also expressed willingness to engage in regular dialogue with unions at the national level in Indonesia and other countries. With regard to the proposed framework agreement, Nike (2005a) believes "there are some shared purposes...and [we] would like to explore those further". However, Nike believes these types of agreements "must include the commitment of factory owners". This last reservation calls into question Nike's interest in the proposed framework agreement, since it allows Nike to use factory owners' reluctance to cooperate as an excuse for not participating.

Trade union rights work outside of Asia

Nike (2005a) drew attention to the company's role in resolving trade union rights issues at the Hena Tekstil factory in Turkey. Nike cooperated with adidas to persuade Hena Tekstil management to engage in dialogue with the DISK union which resulted in the recognition of DISK as the majority union and a signed collective bargaining agreement in April 2005. There was also an agreement to investigate and hire back trade union members that were terminated. Oxfam International hopes to be able to report on further progress at this factory in the future.

Box 4.4b. A positive example: the sports and corporate wear ethical clothing deed

Only nine of the more than 700 workplaces producing Nike-branded product are located in Australia, but workers in those factories are covered by an agreement that is unique in terms of Nike's supply chain. In 2003, Nike Australia and the Textile Clothing and Footwear Union of Australia (TCFUA) signed the Sports and Corporate Wear Ethical Clothing Deed.

Under the terms of the deed, Nike accepts that everyone in Australia producing Nike-branded goods must receive legal wages and conditions outlined in the Clothing Trades Award. This is required by Australian law in any case. What is unusual about the arrangement is that the TCFUA is authorised to enter the premises of Nike's suppliers, without notice, to check wages books, interview employees and carry out safety inspections. Moreover, this is a legally binding deed, rather than a voluntary code and the deed is part of Nike's contractual arrangements with suppliers.

Reebok has signed a similar deed covering production of its goods in Australia, where Reebok has five suppliers. Oxfam International encourages Nike, Reebok and other sports brands to apply this level of transparency and cooperation with democratic trade unions throughout their global production chain.



Oxfam International's assessment¹³⁶

Nike has recently demonstrated greater transparency and willingness to engage in social dialogue. The company released the addresses of suppliers of Nike-branded product in April 2005 and is participating in a number of potentially useful initiatives, including the MFA Forum (MSN 2005, page 10–16), the JO-IN Initiative¹³⁷ and the FLA's Central America project.¹³⁸

Nike has also admitted that ensuring respect for trade union rights in its supply chain represents a considerable challenge. However, it remains unclear how committed the company is to taking on this challenge. In two of the cases described in Section 2, Nike cooperated with the FLA in processes which resulted in workers' trade union rights being respected. But the company moved slowly and seems to rely heavily on the FLA to solve the problem when trade unions rights issues in its supply chain receive international campaign attention.

Irrespective of the business reasons behind Nike's decision to reduce or cut orders to the Doson factory in Indonesia, the Lian Thai factory in Thailand and the Bulgarian factories involved in the Bulgaria Apparel Project (Box 4.4a), these decisions have ended or reduced the presence of unionised factories in Nike's supply chain and given other suppliers little incentive to comply with Nike's code of conduct and allow workers to organise trade unions and bargain collectively. If Nike is serious about respecting trade union rights then it should prioritise retaining production in factories where workers have established democratic trade unions and should encourage the factory owners to bargain collectively with those workers. Nike should also work with trade unions and suppliers to address misconceptions about unions and the issue of trade union access to workers at a local level as well as allowing the provision of worker training in freedom of association and collective bargaining rights. It is positive that Nike has admitted that the company's buying practices can impact negatively on working conditions, but Nike should ensure that any reform of these buying practices does not negatively impact on workers' right to organise.

¹³⁶ The assessments of individual companies should be read in conjunction with Section 3, which assesses the performance of the industry as a whole and the FLA's work in influencing the labour rights programs of adidas, ASICS, Nike, Puma and Reebok. ¹³⁷ See the Puma company profile for an explanation of this initiative. ¹³⁸ See the Reebok company profile for an explanation of this initiative. ¹³⁹ See <www.just-solutions-net.com/services.php>. ¹⁴⁰ Caitlin Morris (Nike's Director of Integration & Collaboration, Corporate Responsibility Compliance) indicated by email on 21 December 2005 that as of December 2005, Nike was placing no orders with two Nike supplier factories which took part in the project. Nike (2006) indicated that "Nike products continue to be made in four of five factories involved in the project, with declining amounts". ¹⁴¹ Personal Communication from Caitlin Morris of Nike, 9 December 2005.

This woman works in one of Nike's Indonesian sport shoe suppliers.
Photo: Ashley Gilbertson/OxfamAUS



4.5 ASICS

Brands ASICS

2004 sales (including Licensees) ¥146.679 billion Yen (1 billion Euro)

Multi-stakeholder initiatives FLA

ASICS (2005) responded to many, but not all, of the questions regarding this report.¹⁴²

Akiko Gono — Secretary of TWARO, the Asian and Pacific Regional Organisation of the ITGLWF — states that ASICS has been cooperating with unions affiliated to TWARO to solve a workers' rights issue in one of its factories in Cambodia.

In 2004 and 2005, ASICS participated in a number of meetings with members of the Play Fair Alliance — including Oxfam, the Clean Clothes Campaign and the ITGLWF — to discuss steps which ASICS could take to ensure respect for workers' trade union rights and other labour standards. During these meetings, ASICS acknowledged that its systems for monitoring suppliers' compliance with labour standards needed improvement.

In 2004, ASICS established a Corporate Social Responsibility (CSR) team made up of ASICS' staff. ASICS (2005) reports that this team has communicated to suppliers that ASICS expects them to comply with ILO conventions regarding trade union rights (Conventions 87 and 98) and other fundamental rights (Conventions 29, 100, 105, 111, 138, 182). ASICS (2005) CSR team has begun auditing labour conditions in supplier factories and the company reports that it attempts to work with suppliers to remediate labour violations when found.¹⁴³ ASICS (2005) only has a small proportion of the orders at many of its supplier factories and the company argues that this limits its ability to influence factory conditions. This problem could potentially be addressed by working closely with other buyers to persuade factory owners to end labour violations. ASICS accepts that the whole sportswear industry needs to work together to address labour issues and supports the proposal that the World Federation of Sporting Goods Industries (WFSGI) sign a framework agreement with the ITGLWF. In the absence of this agreement, ASICS (2005) reports that it is "cooperating with ITGLWF/TWARO whenever the problem occurs in our sub-contracted factories". In July 2005, ASICS attended a consultation which the ITGLWF organised in Hanoi between unions and sports brand owners. Gono confirms that ASICS is engaging in a positive dialogue regarding

Sportswear workers in a factory in China.
Photo: Dara O'Rourke.

trade union rights with the ITGLWF/TWARO and UI ZENSEN (the Japanese union which represents ASICS workers).¹⁴⁴ ASICS (2005) accepts that education and training for worker in their rights is needed and is willing to cooperate with the “ILO, local labor body and NGOs” to arrange such training.

ASICS has contracted two quality assurance firms — Intertek and Bureau Veritas — to investigate respect for labour rights in the company’s supply chain. As noted previously (section 2.2) many labour rights organisations are highly critical of the way in which quality assurance firms are auditing labour standards and question whether they have the skills and motivation to effectively investigate respect for trade union rights (see CCC 2005b, pages 50–8).

In 2005, ASICS became a participating company in the FLA (Section 3.7). At this stage, only ASICS footwear comes under the FLA program, but ASICS is in the process of applying for apparel, accessories and equipment to also be covered.¹⁴⁵ ASICS (2005) does not currently make public the list of its suppliers but reports that it will do so once it has completed its “consolidating partners supplier project”.

Oxfam International’s assessment¹⁴⁶

Until a few years ago, ASICS had done very little to address labour rights in its supply chain but recently there have been a number of positive developments, including:

- ASICS' willingness to engage in dialogue with trade unions and NGOs and the company's interest in cooperating with these groups to ensure that workers receive rights training.
- ASICS' communication to its suppliers that it expects them to comply with international labour standards and the company's willingness to investigate violations and seek to remedy them.
- ASICS' decision to submit part of its supply chain to the FLA's monitoring program.

While these steps are promising, in the absence of public reporting of ASICS' supplier factory addresses, or of investigations into those factories, it is difficult to determine how extensively the company is ensuring respect for trade union rights within its supply chain. Oxfam International hopes that ASICS will follow through on these initial positive steps by cooperating extensively with trade unions and labour rights groups to ensure that workers are aware of their rights and are able to claim them. The company also needs to ensure that its buying practices do not put pressure on suppliers to violate workers' rights.

¹⁴² This questionnaire is available on the internet at <www.oxfam.org.au/campaigns/labour/06report>. ¹⁴³ As of December 2005 ASICS (2005) staff had conducted labour audits in 45 of its supplier factories and follow-up audits in at least 16 of those factories. ¹⁴⁴ Letter from Akiko Gono of TWARO dated 21/11/05 on file.

¹⁴⁵ Letter from Mr Tanooka Yoshizumi, ASICS CSR team, 24 January 2006. ¹⁴⁶ The assessments of individual companies should be read in conjunction with Section 3 which assesses the performance of the industry as a whole and assesses the FLA's work in influencing the labour rights programs of adidas, ASICS, Nike, Puma and Reebok.

4.6 Umbro

Brands Umbro

2004 sales (including licensees) £140.375 million pounds sterling (201 million Euro)

Multi-stakeholder initiatives None (in the process of joining the FLA)

Umbro declined to make any response to questions for this report.¹⁴⁷ In a letter dated 30 January 2006, Angela Webb (Umbro's global compliance manager) explained that Umbro:

elected not to respond to the Oxfam questionnaire, not because it had anything to hide but because the questionnaire required an immense amount of data relating to questions pertaining to the whole supply chain, and we simply don't have this level of detail.

Many of the questions Umbro was asked would not have required extensive data collection. Webb recognised that Umbro could have answered some of the questions, but wondered whether "assumptions would have been drawn on the parts we didn't answer". Oxfam International hopes that Umbro takes a more positive approach to cooperating with research for future editions of this report.

Umbro has taken some steps to support improvements to workers' conditions in 'Factory A' in Indonesia, but the company needs to take a more proactive approach in that case.

During 2004, Umbro became involved in regular dialogue with member organisations of the Play Fair Alliance, in particular Labour Behind the Label — the UK member of the Clean Clothes Campaign network (CCC et al 2004, page 14). Umbro has also been involved in discussions with the ITGLWF regarding models of training on worker rights and worker representation. The ITGLWF is drawing up a training program for an Umbro supplier in Asia (CCC et al 2004, page 55).

Umbro has reported to the Play Fair Alliance that the company has internally reviewed its code of conduct compliance system and is exploring ways to improve this system (CCC et al 2005, page 55). Umbro's code includes reference to freedom of association and the company is in the process of becoming an FLA member. (Refer Section 3.7).

Umbro has also indicated that it is ready to cooperate with other sportswear companies in a collective approach to addressing labour rights issues, but has expressed doubt as to whether this will be workable unless a critical mass of companies can be persuaded to join in (CCC et al 2004, page 55).

On the issue of the relationship between brand owners' buying practices and exploitative working conditions, Umbro argues that this is not an issue in its business because the company has to plan its kit production at least one year in advance. Workers in 'Factory A' in Indonesia certainly reported to Oxfam Australia researchers that when they were producing Umbro product they worked under less intense pressure than when they were producing for other brand owners. However, buying practices involves more than lead times — pricing and other issues can also impact on respect for workers' rights.

Oxfam International's assessment¹⁴⁸

Umbro's decision not to participate in the research for this report is disappointing. Although Umbro has been slow to develop a comprehensive labour rights program, since 2004 the company has taken a number of positive steps, including engaging in regular dialogue with trade unions and NGOs and expressing willingness to cooperate with trade unions in pilot worker training projects. Oxfam International encourages Umbro to follow through on these initiatives and to be more proactive in investigating whether workers in its supply chain are being denied their trade union rights and rectifying any examples found.

4.7 Mizuno

Brands Mizuno

2005 sales (including licensees) ¥144 billion Yen (1 billion Euro)

Multi-stakeholder initiatives None

Mizuno answered some, but not all, of the questions for this report.¹⁴⁹ The company does not source from any of the factories considered in Section 2 of this report.

Mizuno was one of the companies whose labour practices were highlighted during campaigning by the Play Fair Alliance in 2004. In response to that campaign, Mizuno admitted that the company had made mistakes in the past in terms of its suppliers' labour practices. In March 2004, the company established a corporate social responsibility committee to develop a program to address the issue. Committee members held meetings with Mizuno's suppliers to discuss implementation of Mizuno's labour rights policies (CCC et al 2005, page 45). In 2005, Mizuno recruited staff to conduct the companies' internal auditing of suppliers and those staff received training from an organisation with expertise in labour rights issues. In December 2005, Mizuno provided Oxfam Australia with a list of 34 factory suppliers and the dates which Mizuno staff planned to conduct labour audits in those factories. In January 2006, Mizuno sent address details of 21 of those suppliers who had agreed to have their addresses made public.

From 2004 onward Mizuno also participated in dialogue with organisations involved in the Play Fair Alliance, including Oxfam, the ITGLWF and the Clean Clothes Campaign. During these discussions Mizuno expressed its commitment to improving labour conditions in its supply chain, including respect for workers' right to freedom of association. Mizuno also declared its support for industry-wide cooperation to improve respect for workers' rights, and indicated its belief that the WFSGI should lead on this.

During this time, organisations involved in the Play Fair Alliance urged Mizuno to cooperate in regular dialogue with trade unions and NGOs to develop a means of improving respect for labour rights. In response, Mizuno argued that the company was still developing its knowledge of the issues and was not yet ready for this kind of dialogue. For example, regarding the proposal that Mizuno start negotiations to sign a framework agreement with the ITGLWF, Mizuno wrote in July 2004 that the time was not yet right, "as our efforts and trials to improve labour-practices have just started and it is not overnight work for us". In response, organisations involved in the Play Fair Alliance argued that:

the task ahead is not so much to design a programme, but to agree and participate in a process. So, although we of course understand that implementing the CSR programme takes time and effort, we think this will have to go hand-in-hand with international social dialogue (cited in CCC et. al 2005, page 46)."

Oxfam International's assessment¹⁵⁰

Although, in 2004, Mizuno actively participated in dialogue with organisations involved in the Play Fair Alliance, the company's reluctance to engage in ongoing cooperation with trade unions since then is unfortunate. The company reports that it is undertaking internal activities to address labour rights issues, but in the absence of cooperation with trade unions or participation in a credible multi-stakeholder initiative it is very difficult to determine whether these activities are effectively increasing respect for workers' rights in the companies' supply chain. Oxfam International strongly encourages Mizuno to engage in dialogue and cooperation with independent trade unions and labour rights groups in order to establish ways of improving respect for these rights in the company's supply chain.

¹⁴⁷ Available on Oxfam Australia's website at <www.oxfam.org.au/campaigns/labour/06report>. ¹⁴⁸ The assessments of individual companies should be read in conjunction with Section 3, which assesses the performance of the industry as a whole and assesses the FLA's work in influencing the labour rights programs of adidas, ASICS, Nike, Puma and Reebok. ¹⁴⁹ Available on Oxfam Australia's website at <www.oxfam.org.au/campaigns/labour/06report>. ¹⁵⁰ The assessments of individual companies should be read in conjunction with Section 3, which assesses the performance of the industry as a whole.

4.8 Pentland (Speedo, Lacoste)

Brands Berghaus, Brasher, Ellesse, KangaROOS, Kickers, Lacoste, Mitre, Red or Dead, Speedo, Ted Baker

2004 sales (including licensees) c. £320 million Pounds Sterling¹⁵¹ (458 million Euro)

Multi-stakeholder initiatives Ethical Trading Initiative (ETI)

Pentland provided a limited response to questions for this report,¹⁵² although the company was more cooperative than Kappa and FILA.

Pentland is an ETI member¹⁵³ and is, hence, committed to the ETI's base code which includes respect for the rights of freedom of association and collective bargaining. The ETI is a learning initiative which aims to "identify what constitutes "good practice" in code implementation, and then promote and share this good practice".¹⁵⁴

Unlike the FLA, the ETI does not arrange external monitoring to verify that companies are implementing its code, although a member company can be asked to leave the ETI if the NGO and union members believe that company is not making progress in implementing the code. Pentland provides confidential annual reports to the ETI but declined to make these available for this report.¹⁵⁵

Pentland does not make its supplier list available to the public. In response to questions regarding trade union rights sent as part of the research for this report, Pentland declined to say:

- How it communicates its expectations to suppliers with regard to trade union rights.
- Whether it has established means for workers' to report violations of trade union rights.
- Whether union representatives in its supply chain are granted time off to attend training or to deal with dispute resolution.
- Whether or not it has a policy of seeking to maintain production in unionised factories.
- Whether the company is interested in being part of a framework agreement with the global garment and footwear union.

Lesley Roberts, of Pentland, chairs the WFSGI CSR committee. In response to questions sent as part of the research for this report, Roberts wrote on 9 August 2005 that:

We are currently in dialogue with international unions, Oxfam, Clean Clothes Campaign on these issues through the World Federation of the Sporting Goods Industry. I feel that this is the best way to communicate on these issues.

As noted in Section 3.1, Oxfam International, the Clean Clothes Campaign and Global Unions have been disappointed at the lack of progress in discussions with the WFSGI.

Pentland did provide some information regarding the following issues.

Worker training regarding trade union rights

Pentland noted that in the past the company's Indonesian suppliers had been involved in an ILO trade union training program. Pentland declined to say whether workers in any other parts of the company's supply chain have had access to independent education and training concerning their trade union rights at work.

Countries and free trade zones where trade union rights don't have legal force

Pentland declined to say what proportion of its production is occurring in countries which fail to give legal effect to the right to freedom of association. Pentland did however describe projects in two such countries — one is an ETI project with the goal of putting in place "elected worker health and safety committees working with management to take forward sustainable operation of health and safety in the workplace".¹⁵⁶ The project in the other country also focuses on addressing health and safety issues.

Auditing and verification of trade union rights

Apart from the Sri Lankan project described below, Pentland declined to provide detailed information regarding how it is auditing respect for trade union rights in its supply chain. Roberts did indicate that Pentland employs university researchers and NGOs to interview workers, including union members, and report any issues. She also reported that:

there are enormous problems with implementing almost every clause [of the ETI base code] within our supply chain, depending on the country and product. The issue is not identifying the problems but lack of capacity of local institutions and organisations to help us find solutions to them. We need to shift resources from reviewing factories (audit was always a misleading term) to improving local capacity.

In Sri Lanka, Pentland was, until recently, part of an ETI project which involves Sri Lankan employers, trade unions and non-government organisations meeting together to investigate how to most effectively apply the ETI base code in the Sri Lanka garment industry. The focus of the project has been on assessing different audit methodologies and the corrective action plans which arise from them. The project does not focus on trade union rights but since these rights are part of the ETI base code this is one of the issues being addressed. Maggie Burns, an independent consultant involved in the project, reports that progress has been slow but she is hopeful that the process will lead to improved respect for workers' rights, including freedom of association and collective bargaining.¹⁵⁷ Pentland left this project in November 2005 and, although Pentland requested that its Sri Lanka supplier Linea Aqua stay involved, Linea Aqua also subsequently pulled out. Hence, future progress in this project will not improve respect for labour rights in Pentland's supply chain.

Impact of buying practices on respect for workers' rights

Pentland is a member of an ETI project looking at the issue of purchasing practices. According to Burns, this project is still at a very early stage, with work plans being negotiated between the companies, trade unions and non-government organisations involved. At this stage the project has not yet influenced the participating companies' business practices.¹⁵⁸

Trade union rights work outside of Asia

Pentland noted that in Brazil, Portugal and Italy the footwear sector is covered by a collective agreement between the unions and the employers' association and reported that in these countries Pentland has been encouraging its suppliers to participate in collective bargaining.

Oxfam International's assessment¹⁵⁹

Pentland provided limited information for this report, which raised further questions. Pentland declined to answer these additional questions and at one point requested no further correspondence on these matters. Some of the ETI projects which Pentland mentioned sound promising but available evidence suggests that they have not yet led to greater space for worker democracy in Pentland's supply chain. Pentland has in any case recently withdrawn from the ETI project in Sri Lanka.

Pentland questioned how cooperation with research for this report would help the company improve its labour practices. Lesley Roberts, of Pentland, emphasised that she believes that it is the lack of capacity of local institutions and organisations in sourcing countries which is the main impediment to making progress. Oxfam International believes that many local labour rights organisations are unwilling to cooperate with transnational companies because they do not trust them. Credible public reporting of genuine efforts by companies to cooperate with local organisations to promote adherence to trade union rights could turn this perception around. Unfortunately, Pentland's reluctance to provide detailed information makes it difficult to determine how seriously it is committed to these rights.

¹⁵¹ Source: www.oft.gov.uk/Business/Mergers+EA02/Decisions/Clearances+and+referrals/Pentland.htm. ¹⁵² Available on Oxfam Australia's website at <www.oxfam.org.au/campaigns/labour/06report>. ¹⁵³ As noted in the introduction, the ETI is a multi-stakeholder initiative Companies unions and non government organisations (Oxfam Great Britain among them) come together in the ETI to discuss and develop models for companies to improve respect for ETI base code's labour standards in their supply chains. ¹⁵⁴ See ETI website at <www.ethicaltrade.org/Z/abteti/index.shtml>. Oxfam Great Britain is a member organisation of the ETI, along with trade unions and other civil society organisations. ¹⁵⁵ Oxfam Great Britain is also a member of the ETI, but Pentland declined to give permission for Oxfam Great Britain to share these reports with the researchers from Oxfam Australia who researched and prepared this report. ¹⁵⁶ Personal communication from ETI consultant Maggie Burns, 08 Sep 2005. ¹⁵⁷ Personal communication from Maggie Burns, 8 September 2005. ¹⁵⁸ Personal communication from Maggie Burns, 8 September 2005. ¹⁵⁹ The assessments of individual companies should be read in conjunction with Section 3, which assesses the performance of the industry as a whole.



Sportswear workers in a factory in China.
Photo: Dara O'Rourke.

4.9 New Balance

Brands New Balance

2004 sales (including licensees) USD \$1.5 billion (1.23 billion Euro)

Multi-stakeholder initiatives None

New Balance (2005) answered some of the questions regarding trade union rights sent as part of the research for this report but provided partial or inadequate responses to others¹⁶⁰. Mr. Lary Brown of New Balance (2005) noted that the company's code of conduct was revised in 2004 and now includes:

explicit protection of freedom of association in accordance with ILO Core Conventions. The New Balance Standards Manual requires suppliers to bargain in good faith with legally formed unions, and prohibits discrimination based upon membership in unions or any other organization. Where freedom of association is restricted by law, suppliers are required to encourage alternate means of communication with the work force.

Five of New Balance's core footwear suppliers are located in Asia, and each of these have been supplying New Balance for at least eight years. All of these suppliers are based in countries which fail to give legal force to the right to freedom of association. New Balance is willing to share the names and addresses of these suppliers on request. New Balance does not publicly release details of its other suppliers.

New Balance reports that it is:

on a provisional basis, requiring key suppliers to reduce work hours further to 54. Once we are satisfied that the 54 hour work week is effectively working, we will formalize this standard within our Code of Conduct.

Provided this development does not see a drop in workers' overall income, New Balance's planned shorter working week could bring important benefits to workers in terms of less stress and more leisure time. It could also assist workers' efforts to organise unions in order to negotiate better wages and conditions since the very long hours worked in many

sportswear factories make it difficult for workers to find time to form and join unions. This is particularly so for women workers in Asia, who commonly face cultural and security barriers to participating in meetings late at night.

New Balance also reports that the company has made efforts to improve health and safety in factories and ensure that wages meet legal requirements. Recently the company has focused on establishing complaint mechanisms so that workers can report grievances to factory staff or to New Balance. The company has employed the monitoring organisation Verite to train workers in these grievance systems. According to New Balance (2005) its research and that of Verite indicates that workers have an "increasing awareness of the grievance procedures, and a growing willingness to speak up".

While effective complaint mechanisms can be important ways of identifying whether workers' rights are being respected, they do little to increase workers' collective power in relationship with their employer. Workers can complain but they must rely on the goodwill of their employer or on the brand to respond positively to the complaint. If workers are able to form unions, negotiate collectively and, potentially, take industrial action, they then have more power to influence their wages and working conditions.

Between 2003 and 2005 New Balance contracted Verite to provide separate training for workers and supervisors in the company's supply chain and the company reports that more than 1,000 supervisors attended this training and many hundreds of workers. New Balance reports that this training included reference to freedom of association, but from New Balance's description it sounds like this aspect of the

training related to local labour law rather than trade union rights as described in ILO conventions.¹⁶¹

New Balance (2005) describes Verité as an “an independent, non-profit social auditing and research organization.” However Esbenshade (2004) argues:

Verité in many respects...actually operates as any other commercial firm. Verité charges standard fees, maintains the confidentiality of reports for clients, and conducts one-time or short-term audits, often temporarily hiring local employees or bringing in staff from the United States. While advertising itself as the only non-profit with a global monitoring program, Verité actually straddles the line between commercial firm and local NGO.”

In response to Esbenshade’s opinion, Lydia Long, of Verité¹⁶², notes that Verite’s fees are customised rather than standard, that it conducts long-term monitoring as well as one-time audits, that it does not bring in staff from the US to conduct audits, and that monitoring is only one of several activities in which Verite engages companies. Verité’s other activities include capacity building, research and worker education programs.

There are a range of views among labour rights organisations regarding Verité’s work and more independent research is needed before a definite conclusion can be drawn. As a general principle, however, when an organisation’s income comes almost entirely from commercial firms which select it to help them address labour rights issues, then that organisation is likely to find it difficult to push companies to take steps they don’t want to take. As a general principle trade union rights training should be provided by trade unions themselves or by organisations which are financially independent from companies and which have well-established reputations as labour rights advocates.

During correspondence regarding this report, New Balance agreed to meet with local labour rights groups to discuss the possibility of supporting training for workers in freedom of association and labour rights in one of New Balance’s main sourcing countries. Hopefully this dialogue will lead to training projects for workers in New Balance’s supplier factories.

Oxfam International’s assessment¹⁶³

New Balance’s failure to respond in detail to many of the questions put to the company in the course of research for this report is disappointing. While New Balance appears to have made very limited progress in the area of respect for trade union rights in the company’s supply chain there is some reason to hope that there will be further progress in future. Provided it does not result in a drop in workers’ income, New Balance’s plan to reduce working hours to a maximum of 54 hours per week could represent an important step forward for women and men working in the industry and could help reduce a significant barrier to participation in trade unions. Oxfam International also hopes New Balance’s recent meetings with labour rights groups leads to projects which allow some greater space for worker representation in those factories.

¹⁶⁰ Available on Oxfam Australia’s website at <www.oxfam.org.au/campaigns/labour/06report>. ¹⁶¹ Oxfam Australia has sought clarification of this point and will report New Balance’s response on the internet at www.oxfam.org.au/campaigns/labour/06report. ¹⁶² Cited in an email from Lary Brown of New Balance, 27 January 2006. ¹⁶³ The assessments of individual companies should be read in conjunction with Section 3, which assesses the performance of the industry as a whole.

4.10 Lotto Sport Italia SpA

Brand Lotto

2004 sales (including licensees) 256 million Euro

Multi-stakeholder initiatives None

Lotto responded to questions regarding trade union rights sent as part of the research for this report,¹⁶⁴ but only to the questions relating to the Busana Prima Global (BPG) Factory described in Section 2.4 of this report. Lotto did not respond specifically to the general questions regarding the company's labour practices. As noted in the BPG case study, Lotto did put pressure on their licensee, Focus Far East (FFE), to reinstate the trade union members who had been dismissed from BPG for their participation in a strike. It would have been more effective, however, if Lotto had responded positively to requests that the company send its own representatives to Indonesia to investigate, a step which would have indicated directly to BPG factory management that the issue was a priority.¹⁶⁵

Lotto was one of the companies whose labour practices were highlighted during the Play Fair campaign in 2004. As a result of that campaign, Lotto held meetings with Italian Apparel and Shoe Trade Unions and with Centro Nuovo Modello di Sviluppo, the Italian member of the Clean Clothes Campaign, to discuss improvements to Lotto's code of conduct and other issues.

Lotto's code¹⁶⁶ now states that it expects its suppliers to:

grant their employees the right to choose to affiliate with legally sanctioned organizations or associations of their own choosing, and to bargain collectively. Where the right to freedom of association and collective bargaining is restricted under law, the employer shall consider the development of parallel means for independent and free association and bargaining.

In a 7 July 2005 letter to Oxfam Australia, Gianni Lorenzato of Lotto questioned what influence Lotto could have on the, "decision or policy of the manufacturing factories that produce millions and millions of items where Lotto represent the 0.6% of the total volume". Lorenzato emphasised the need for an industry-wide approach to addressing labour rights issues:

In this direction, it is necessary having a serious commitment between sports industries and manufacturing factories, but not only, we need also the participation of the ILO as well as the major industries federations and labor unions...each of the parties involved must keep on a piece of the project giving their contribution and promoting strong relationships and appropriate mood in a constructive way as much as possible.

As a sign of the company's willingness to participate in industry-wide approaches, Lotto sent a representative to a joint seminar between sports brand owners and Asian trade unions affiliated to the International, Textile, Garment and Leather Workers Federation (ITGLWF) which was held in July 2005. In a letter dated 24 January 2006, Lorenzato also indicated that Lotto's quality controllers in its supplier factories are responsible for also monitoring labour conditions.

Lotto is covered by the 2004 National Agreement for the Italian Textile and Clothing Industry which obliges companies to negotiate a code of conduct with the trade union signatories of that agreement. Negotiations for this code are yet to begin, but it is likely that these negotiations will involve the ITGLWF and will relate to Lotto's international production.¹⁶⁷

Oxfam International's assessment¹⁶⁸

Lotto's decision to provide only limited cooperation in the research for this report is disappointing. It is true that an industry-wide approach to respect for labour rights is needed and Oxfam International encourages Lotto to play an active role in promoting such a process within the industry and to report to labour rights groups on the progress of these efforts. Lotto should also do what it can to promote labour rights in its own supply chain. For those factories where Lotto represents only a small proportion of total product, the company could cooperate with other sports brand owners to influence labour conditions, potentially through membership and active participation in a Multi-Stakeholder Initiative such as the FLA or the Fair Wear Foundation. For those factories where Lotto represents a larger proportion of production, the company can have a more direct influence on labour conditions. Again, these efforts are likely to be more credible and effective if conducted transparently in cooperation with trade unions and labour rights groups. In the Busana Prima Global case, for example, although the company did put some pressure on its licensee to address violations of trade union rights, the company could have been much more proactive in addressing this issue.



¹⁶⁴ Available on Oxfam Australia's website at <www.oxfam.org.au/campaigns/labour/06report>. ¹⁶⁵ In a letter dated 24 January 2006 Mr Gianni Lorenzato, Executive Vice-President of Lotto, noted that licensees like FFE manage only 4% of Lotto's apparel production. He argued that for this licensee production Lotto's ability to influence labour conditions is less direct than for direct contractors, where Lotto staff directly visit and stay in the factories. ¹⁶⁶ See <lottosport.com/2003/inglese/lottocsr/GeneralSourcingPolicy_integ_300605.pdf>. ¹⁶⁷ Personal Communication from Doug Miller of the ITGLWF, 24 November 2004. ¹⁶⁸ The assessments of individual companies should be read in conjunction with Section 2.1, which assesses the performance of the industry as a whole.

Workers from the PT Busana Prima Global factory wearing Lotto shirts produced at the factory. Photo: Tim Connor/OxfamAUS

4.11 Basicnet (Kappa)

Brands Kappa

2004 sales (including licensees) 94 million Euro

Multi-stakeholder initiatives None

Basicnet did not respond to questions regarding trade union rights for this report.¹⁶⁹ The company has a code of conduct for its suppliers which includes the most important International ILO standards. However, it has not been possible to find any information regarding what steps the company takes, if any, to ensure compliance with these standards (CCC et al 2005, page 36).

Historically, the company has shown little interest in cooperating with civil society organisations to improve its social impact. In 2002, the company's president Marco Boglione, responded to a campaign calling on it to cease ordering from Burma by writing to all campaign participants stating:

*Judging whether a government is good or bad and deciding whether to produce in that country or not, I really don't think this is our responsibility... Moral political actions are tasks of governments or world institutions vested with this duty.*¹⁷⁰

The company was one of those whose labour practices were highlighted during the Play Fair campaign in 2004. The company eventually indicated that it was available to start a dialogue with the organisations involved in the Play Fair Alliance but no constructive dialogue resulted.

Basicnet is covered by the 2004 National Agreement for the Italian Textile and Clothing Industry which obliges companies to negotiate a code of conduct with the trade union signatories of that agreement. Negotiations for this code have begun and involve the International, Textile, Garment and Leather Workers Federation (ITGLWF), but it is too early to say whether these negotiations will lead to improved respect for trade union rights in the company's international supply chain.¹⁷¹

Oxfam International's assessment¹⁷²

Basicnet's decision not to cooperate in the research for this report is disappointing. Until 2005, Basicnet was one of the sports brand owners least interested in cooperating with trade union organisations and labour rights groups. Oxfam International hopes that the current dialogue involving Italian trade unions and the ITGLWF will be the start of a new direction for the company, one which will lead to improved respect for trade union rights in the company's supply chain.

Darwati, and her husband Jalil, made Fila sneakers for 11 years at the Tae Hwa factory in Indonesia before the factory closed suddenly in February 2005. They are still waiting for their back-pay and severance pay. They currently work at a stall selling food – the stall also doubles as their home. Photo: M. Revaldi



4.12 Sport Brands International (FILA)

Brands FILA, Ciesse

2004 sales (including licensees) Unknown.

Multi-stakeholder initiatives None

Despite repeated requests that it do so, Sports Brands International (SBI), which owns the FILA brand, declined to respond to questions for this report.¹⁷³ SBI's code of conduct includes reference to freedom of association, but it is unclear what steps, if any, the company takes to enforce this (CCC et al 2005, page 31).

In 2004 organisations involved in the Play Fair Alliance¹⁷⁴ drew SBI's attention to labour problems at FILA supplier PT Tae Hwa in Indonesia (section 1.9) including the dismissal of a labour activist. Oxfam research in 2004 indicated that although the factory respected local laws regarding maternity leave and sick leave there was evidence of serious labour rights abuses including high levels of compulsory overtime, impossibly high work targets, high levels of verbal abuse and sexual harassment of women workers and intrusive and inappropriate procedures for claiming menstrual leave (see Section 2.9).

In September 2004, SBI met with representatives of the Play Fair Alliance to discuss these issues. The company reported that the FILA brand had recently changed hands and that the supply chain was being restructured to make FILA more competitive and increase compliance with labour standards. SBI indicated potential interest in sourcing goods from unionised factories in the US but argued that until the restructure was completed the company had little control over its current suppliers or licensees, since labour clauses had not been included in the contracts. With regard to the Tae Hwa case Mr. Erb argued that the supplier had refused to reinstate Ms. Parkati and there was little that SBI could do. SBI has a significant amount of power in its relationship with its suppliers and could use that power to try and persuade the suppliers to respect labour rights, whether or not this is part of previously drafted contracts.

Subsequently, in February 2005, workers from Tae Hwa returned from a public holiday to find the factory closed and themselves out of work. They are yet to receive their severance pay and other legal entitlements. FILA had been the main product produced at the factory for the previous 11 years, but since the factory's closure SBI has ignored multiple letters from labour rights organisations in Europe, America and Australia about the issue. These letters requested that SBI indicate its role in the factories' closure and take steps to ensure workers receive their legal entitlements.

Unlike ASICS, adidas, Pentland, Puma, Reebok and Umbro, SBI has not taken part in multi-stakeholder initiatives designed to improve respect for labour rights and has expressed little interest in doing so (CCC et al 2005, page 34). Unlike Nike, Puma and Reebok, SBI does not reveal the addresses of factories supplying FILA product.

Oxfam International's assessment¹⁷⁵

FILA's decision not to cooperate in the research for this report is disappointing. Despite FILA's claim that it is restructuring its supply chain in order to increase respect for workers' rights, of all sports brands considered in this report FILA has demonstrated the least interest in cooperating with labour rights groups and trade unions to address the rights of the workers who have been producing the company's product. SBI's failure to take firm action in 2004 to address evidence of serious labour abuses at the PT Tae Hwa factory in Indonesia, combined with the company's subsequent silence regarding the reasons for that factory's closure in 2005, cast doubt on the seriousness of the company's commitment to ensuring respect for labour rights in its supply chain.

¹⁶⁹ Available on Oxfam Australia's website at <www.oxfam.org.au/campaigns/labour/06report>. ¹⁷⁰ See <www.cleanclothes.org/news/newsletter16-02.htm>.

¹⁷¹ Personal Communication from Doug Miller of the ITGLWF, 24 November 2004. ¹⁷² The assessments of individual companies should be read in conjunction with Section 3, which assesses the performance of the industry as a whole. ¹⁷³ Available on Oxfam Australia's website at <www.oxfam.org.au/campaigns/labour/06report>. ¹⁷⁴ This is a global campaign alliance calling for greater respect for labour rights in the sportswear industry. Member organisations include the Clean Clothes Campaign (CCC), Global Unions and Oxfam. ¹⁷⁵ The assessments of individual companies should be read in conjunction with Section 3, which assesses the performance of the industry as a whole.

“Oxfam International’s research for this report indicates that while some sports brand owners have made policy commitments to respect trade union rights, implementation falls well short of what is needed.”





Section 5.0

CONCLUSION

5. Conclusion

As the experiences of sportswear workers documented in this report demonstrate, Asia can be a difficult and dangerous place to join a trade union. Two of the factory cases involved violent assaults on union organisers and in both those cases union members were threatened with death if they did not stop their union activities. In another case, local thugs broke up a workers' demonstration and then later that night visited the house of one of the organisers — fortunately she had guessed this might happen and had arranged to stay elsewhere. In another case described in this report, workers reported that although their own employer hasn't used violence to deter workers from campaigning for better wages and conditions, it is common for factory owners in their free trade zone to employ thugs to break up strikes. This contributes to a general climate of fear in that zone, and makes all workers reluctant to organise. While, in most cases, there is no evidence directly connecting this violence with employers, the violence is clearly designed to scare workers into giving up any idea of participating in unions.

Violence is only one among a number of means used to stop workers from organising themselves into trade unions. Other techniques documented in this report include demoting union organisers to menial tasks, dismissing workers for participating in industrial action, using verbal abuse and other forms of harassment against union members and threatening to close the factory and relocate to a country where trade union rights are not respected. Given that levels of unemployment in many parts of Asia are very high, this last threat can be particularly effective. Asian sportswear and garment workers are also increasingly being employed on short-term contracts, and workers employed under these 'flexible' arrangements are particularly wary of joining unions in case their employers respond by failing to renew their contracts.

While both men and women experience these difficulties, Asian women who want to form and join unions face additional obstacles. Despite their growing role in the paid workforce, women are still commonly expected to carry a greater share of the domestic and caring responsibilities within their families and communities, reducing their time available to participate in trade union activities. The long hours commonly worked in many industries, including sportswear, mean that trade union meetings tend to happen late at night. Women who want to attend these meetings therefore frequently have to deal with the additional security risks which women face at night in many of Asia's industrial zones. Women returning to their homes late at night from such meetings are also commonly perceived as 'loose' or immoral in a way that men are not. Given that more than 80% of sportswear workers are women and that women's experiences and needs in the workplace have important differences to those of men it is particularly important that the barriers to women's participation in union formation and collective bargaining are removed.

“While both men and women experience these difficulties, Asian women who want to form and join unions face additional obstacles.”

Despite these barriers to organising trade unions, the rights to freedom of association and collective bargaining have never been more important. As in most labour-intensive industries, highly exploitative wages and working conditions are still prevalent in the sportswear sector in Asia. Attempts to improve these wages and conditions are unlikely to bring about sustainable change unless they allow workers space to form their own organisations and bargain collectively. External auditors employed by transnational corporations (TNCs) can only visit a factory occasionally, and their suppliers usually warn workers in advance to mislead auditors in order to protect their jobs. Even where TNC's auditors do bring about improvements in wages and conditions, this will do little to change workers' lack of power within the supply chain and any improvements will be contingent upon the TNC's continued goodwill. If workers are able to form unions, bargain collectively and take industrial action, it gives them some power to negotiate better wages and conditions for themselves.

This issue should be addressed on an industry-wide basis as well as by companies acting individually. While a number of sports brand owners have indicated they believe the World Federation of Sporting Goods Industries (WFSGI) should take the lead in coordinating industry work on labour rights, those

trade unions and labour rights groups involved in dialogue with the WFSGI (including Oxfam) report that progress thus far has been disappointingly slow. As of December 2005 the WFSGI had not yet formally responded to a set of recommendations (a *Programme of Work*) which global civil society organisations proposed to it in early 2004. This program included a proposal that the WFSGI and its member companies negotiate a framework agreement with the ITGLWF to set up processes for ensuring respect for trade union rights. Unfortunately, so far few sports brand owners have expressed willingness to seriously pursue this proposal, with Puma and Umbro the companies which have indicated the most open attitude.

In terms of the labour rights programs of individual sports brand owners, Oxfam International's research for this report indicates that while some sports brand owners have made policy commitments to respect trade union rights, implementation falls well short of what is needed. The most glaring contradiction between policy and practice is the way so much production is located in countries or free trade zones which fail to give legal force to workers' rights to freedom of association and collective bargaining. Adidas sources just over half of its sportswear production in such countries. For Puma, it is more than half of its sports shoe production and for New Balance, it is almost all of its Asian production. Since 1998, when Nike made a public commitment to ensuring respect for trade union rights, the company has significantly reduced the proportion of its sports shoes made in countries where these rights have legal effect. Nike, Puma, adidas and New Balance deserve at least some credit for transparency on this issue — particularly adidas which provided detailed data. It is likely that those sports brand owners which refused to share this information have similar, if not higher proportions of their production in countries which fail to give legal effect to trade union rights. Companies who are serious about respecting these rights should adopt a policy that any new production will be sourced in countries which give these rights legal force, and should make their reason for doing so clear to the governments involved.

That is not to say that any government in Asia has a perfect track record on trade union rights. In Indonesia there is significantly more legal protection for these rights than there was during the Suharto presidency, but Indonesian trade union organisations report an alarming growth in the use of short-term contracts and other 'flexible' employment arrangements which make it difficult for workers to organise. Nonetheless, Indonesia has made important progress on trade union rights since the fall of Suharto and companies who value democratic rights should be giving favourable consideration to this when making sourcing decisions.

Even in those countries where independent trade unions are actually legal, no sports brand owners currently takes adequate steps to ensure that these rights are respected in practice. In particular, no sports brand has policies and procedures in place which effectively prevent their suppliers from closing unionised factories and relocating production to factories which have no unions. Some sports brand owners are committed to stopping a supplier from closing a factory to break up a union, but these brand owners would be willing for unionised factories to be closed for other business reasons. In practice this means that suppliers are relatively free to close unionised factories, since it is usually possible to find other reasons for relocating production. Oxfam International believes that where democratic trade unions are present in a factory, sports brand owners should prioritise retaining these factories in their supply chain and should work with the suppliers to find ways of making those factories profitable.

There is also little progress to report in terms of sports brand owners addressing the impact of their buying practices (price, delivery time, stability of business relationship) on workers' rights. Some brand owners, notably adidas, accept that stable business relationships are a necessary precondition for trade union organising and claim to be building longer term relationships with a smaller number of suppliers. A few sports brand owners also claim to be managing their flow of orders so as to minimise the likelihood of workers being required to work excessive overtime. No brand is willing to share their pricing arrangements with worker representatives or require suppliers to make full financial information available to worker representatives as an indication of willingness to bargain in good faith. This information would greatly assist workers involved in wage negotiations.

Although no sports brand owners are undertaking comprehensive and effective programs to ensure respect for trade union rights in their supply chains, some are making limited progress. Transparency regarding factory addresses is important because it makes it easier for independent organisations to investigate whether workers' rights are being respected. In 2005, Nike released the contact details of all factories producing Nike-branded product, although not the details of suppliers making other (non-Nike) brands it owns. Later in 2005, Puma and Reebok followed Nike's lead and released addresses for factories supplying Reebok and Puma-branded product. Oxfam International encourages all sports brand owners to release their full supplier lists for all the brands they own.

Reebok, Puma, adidas and Nike were the companies who proved most willing to cooperate in the research for this report. These companies are also FLA members. ASICS also recently joined the FLA and Umbro has applied for membership. FLA membership represents a step forward for these companies, particularly to the extent that workers are able to access the FLA's complaint procedure. However significant reforms are needed before there can be confidence that the FLA is holding companies accountable for ensuring that their suppliers respect trade union rights. The FLA appears to be aware of the limitations of its current work on trade union rights and has set a new direction which, in principle, has the potential to improve the FLA's impact.

In Asia, **Reebok** staff have worked hard to ensure respect for trade union rights in a number of supplier factories. Reebok is also the only company with a policy restricting the employment of workers on short-term contracts. Although, at this stage, it is not clear how effectively this policy is being applied, this is an important step forward since many sportswear workers in Asia are employed on a short-term basis which makes it difficult for them to organise to claim their rights. The company has also cooperated with some labour rights groups to explore what kinds of democratic representation might be possible in countries which legally restrict trade union rights. Unfortunately, this positive work on trade union rights is undermined by Reebok's vigorous opposition to the establishment of unions in its distribution centres in the US.

Adidas provides its suppliers with a detailed and accurate explanation of trade union rights, but it is unclear how many workers making adidas product are getting access to independent education about these rights. Research for this report suggests that although adidas needs to be more proactive in investigating breaches of these rights, if breaches are brought to its attention the company is usually willing to cooperate in efforts to ensure these rights are respected. As this report was being finalised for print, new developments cast doubt on adidas' commitment to supporting workers' right to freedom of association at the Panarub factory in Indonesia. Late in 2005, 33 members of one of the unions at the factory were fired for activities linked to their participation in a strike. Despite numerous appeals to adidas, at the time of this publication going to print it remains unclear whether adidas will insist that the workers are reinstated.¹⁷⁶

Puma only began to engage seriously with the issue of trade union rights in its supply chain relatively recently and its programs for ensuring that suppliers and workers understand these rights require some improvement. However, in Asia, the company has taken some important steps forward by seeking to cooperate with trade unions and labour rights groups on projects in several Asian countries. In Indonesia, Puma has invited trade union representatives to accompany their social audit staff on factory visits and invited trade unions and labour rights groups to advise it in selecting new suppliers which respect labour rights. Unfortunately Puma's commitment to trade union rights has recently been called into question by the company's decision to cease ordering from the Lian Thai factory in Thailand — after the factory agreed to cease discrimination against union members. It will be difficult for Puma to persuade its other suppliers to respect trade union rights if they believe that Puma has no ongoing commitment to placing orders with their factories.

Nike has shown it is willing to cooperate with the FLA to support workers' trade union rights when violations of those rights are brought to the company's attention. The company seems to rely heavily on the FLA's complaint mechanism to help it solve disputes regarding trade union rights, however, rather than itself insisting that its suppliers' respect these rights. Given the FLA's very limited capacity, Nike needs to be more proactive in ensuring respect for trade union rights and should only rely on the FLA's help in very difficult cases. This report also documents a number of cases where Nike has, in recent years, stopped placing orders in factories in Asia where workers have established trade unions or where factory-owners have indicated a willingness to work with trade unions. Irrespective of whether or not these particular business decisions reflect a bias against unionised factories, if the company is serious about respecting trade union rights it should prioritise retaining production with suppliers which are willing to give workers space to organise and bargain collectively. Nike's public statements reveal a growing awareness of the challenges involved in ensuring that trade union rights are respected. What remains unclear is how seriously the company is committed to taking on these challenges across its supply chain.

Up until a few years ago **ASICS** had done very little to address labour rights in its supply chain but recently the company has been willing to engage in open dialogue with trade unions and non-government organisations and has cooperated with trade unions to address issues in at least one factory in Cambodia. ASICS has also started to investigate whether its suppliers are respecting labour rights and has expressed

willingness to cooperate with trade union and labour rights groups to ensure workers receive education in their trade union rights. The company's decision to join the FLA is also a step forward.

Although **Umbro** has been slow to develop a comprehensive labour rights program, since 2004 the company has applied to join the FLA, has engaged in regular dialogue with trade unions and NGOs and has expressed a willingness to cooperate with trade unions in pilot worker training projects. At this stage there is little progress to report in terms of greater space for workers to exercise their trade union rights in Umbro's supply chain, but hopefully these projects will at least start to address this.

Pentland, the owner of brands such as **Speedo** and **Lacoste**, is an ETI member and is involved in two ETI worker rights projects in different countries in Asia. Pentland provided little information about these projects and information from other sources suggest these projects are yet to produce greater space for worker democracy in Pentland's supply chain, although they may do so in future. Pentland declined to provide sufficient information about its labour practices to the researchers preparing this report, making it difficult to determine how committed the company is to supporting trade union rights.

Mizuno has recently started employing and training staff to conduct internal monitoring of labour rights in the company's supply chain, but has been deferring requests that it cooperate with trade unions and labour rights groups in efforts to provide workers with education and training in their rights.

Provided it is effectively implemented and does not result in a drop in workers' income, **New Balance's** plan to reduce working hours to a maximum of 54 hours per week could represent an important step forward for women and men working in the industry. There is little progress to report regarding space for workers to exercise their trade union rights, although New Balance's recent meetings with labour rights groups provide some hope that the company will cooperate in training programs which increase workers' knowledge of these rights and of worker democracy.

Lotto argues that small sports brand owners are unable to have much influence over their large suppliers. It is true that an industry-wide approach to respect for labour rights is needed and Oxfam International encourages Lotto to play an active role in promoting such a process. Lotto's small size does not, however, prevent it from cooperating with labour rights groups and other companies to ensure that workers' trade union rights are respected. One means by which Lotto could cooperate with other sports brand owners to positively influence labour conditions would be by joining and actively participating with companies and labour rights groups in a multi-stakeholder initiative such as the Fair Wear Foundation.

Basicnet, the owner of **Kappa**, has, until recently, shown very little interest in working with civil society organisations to improve respect for labour rights. The company is currently in negotiations with Italian unions and the ITGLWF about establishing a system for addressing labour rights. It is to be hoped that this represents a new direction for the company and will lead to concrete action to allow workers space to organise and bargain collectively.

Oxfam research in 2004 into long-time **FILA** sport shoe supplier PT Tae Hwa in Indonesia revealed serious labour abuses, including denial of trade union rights, high levels of sexual harassment and intrusive and inappropriate procedures for claiming menstrual leave.¹⁷⁷ At the time, **Sport Brands International (SBI)**, owners of **FILA**, claimed there was little they could do immediately but said that, in future, the company would take steps to improve respect for labour rights in its supply chain. In February 2005, the Tae Hwa factory closed suddenly and without warning, leaving thousands of workers without jobs. Since then **FILA** has declined to either reveal its role in the factory's closure or to take responsibility for ensuring Tae Hwa workers receive their legal entitlement to severance pay. Unlike Nike, Reebok and Puma, **FILA** does not reveal the addresses of its other supplier factories and the company has ignored requests that it indicate what steps, if any, it is taking to improve respect for trade union rights in those factories.

As noted in the introduction, the Play Fair Alliance's¹⁷⁸ proposed *Programme of Work*¹⁷⁹ has been the main benchmark against which company progress has been measured in this report. Unfortunately, at this stage there has only been very limited progress toward the programme's goals. Oxfam International hopes that in future we will be able to report significant advances and that many more sportswear workers in Asia and other parts of the world will be free to exercise their rights to form and join trade unions and bargain collectively for decent wages and working conditions.

¹⁷⁶ A complete update on these developments will be prepared and made available on the internet at www.oxfam.org.au/campaigns/labour/06report.

¹⁷⁷ Menstrual leave is a legal entitlement under Indonesian law. ¹⁷⁸ Organisations involved in the Play Fair Alliance include the ICFTU, ITGLWF, Clean Clothes Campaign and Oxfam. ¹⁷⁹ The full text of the proposed Programme of Work is available on the Clean Clothes Campaign website at www.cleanclothes.org/campaign/olympics2004-07-08.htm.

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Interviews

- 1.1.1 — Group interview with six women from Factory C and Factory D (Nike suppliers), (Oxfam Australia researcher), 3 October 2003.
- 2.1.1 — Individual interview with worker Anton Marcus, Joint Secretary, Free Trade Zones and General Services Employees Union (FTZ&GSEU), previously Free Trade Zones Workers Union (FTZWU) (Oxfam Australia, Advocacy Officer), 21 July 2005
- 2.2.1 — Group interview with four women workers and members of the IU, Factory A, (Oxfam Australia researcher), 12 July 2005
- 2.2.2 — Individual interview with a worker and member of the IU, Factory A (Oxfam Australia researcher), 12 July 2005
- 2.2.3 — Group interview with three women workers and members of the IU, Factory A (Oxfam Australia researcher), 11 July 2005
- 2.2.4 — Group interview with two women workers and members of the IU, Factory A (Oxfam Australia researcher), 12 July 2005
- 2.2.5 — Individual interview with a woman worker and member of the IU, Factory A (Oxfam Australia researcher), Sunday, 28 September 2003
- 2.2.6 — Individual interview with worker and member of the IU, Factory A (Oxfam Australia researcher), 12 July 2005
- 2.2.7 — Individual interview with a women worker and member of the IU, Factory A (Oxfam Australia researcher), 12 July 2005
- 2.2.8 — Individual interview with local NGO worker (Oxfam Australia researcher), 29 August 2005
- 2.3.1 — Three-hour focus group discussion with 11 members of the Panarub branch of the Perbupas union (Oxfam Australia researcher), 1 October 2003.
- 2.3.2 — Focus group discussion with three workers (two female) and members of the Panurub branch of the Perbupas union (Oxfam Australia researcher), 19 August 2005.
- 2.3.3 — Interview with three (two women) factory union leaders; Panurub branch of the Perbupas union (Oxfam Australia researcher), 18th August 2005.
- 2.3.4 — Interview with two women workers and members of the Panurub branch of the Perbupas union (Oxfam Australia researcher), August 2005 (interview).
- 2.3.5 — Interview with one male and one female from the Perbupas federation (Oxfam Australia researcher), August 2005 (interview 3).
- 2.4.1 — Two-hour focus group discussion with 6 union leaders (three women and three men) of the Busana Prima Global branch of the GSBI union (Oxfam Australia researcher), 4 Oct. 2003.
- 2.4.2 — Ninety-minute focus group discussion with 6 members (all women) of the Busana Prima Global branch of the GSBI union (Oxfam Australia researcher), 4 Oct. 2003.
- 2.7.1 — Interview with Somyot Pruksakasumsek of the Centre for Information, Services and Training (CLIST), Thailand, by Oxfam Australia staff, 8 October 2005
- 2.8.1 — Two-hour focus group discussion with 20 members of the factory B branch of Union II (Oxfam Australia researcher), 2 Oct. 2003.
- 2.8.2 — Two-hour focus group discussion with six members of the factory B branch of Union II (Oxfam Australia researcher), 2 Oct. 2003.
- 2.8.3 — One-hour group discussion with six members and leaders of the factory B branch of Union II (Oxfam Australia researcher), 13 October 2005
- 2.9.1 — Group interview with three workers, two male and one female, from the PT Tae Hwa factory, (Oxfam Australia researcher), 24 July 2004.

Glossary of Acronyms

CCC	Clean Clothes Campaign
ICFTU	International Confederation of Free Trade Unions
TNC	Transnational Corporation
ITGLWF	International Textile, Garment and Leather Workers' Federation
WFSGI	World Federation of Sporting Goods Industries
FLA	Fair Labor Association
SBI	Sport Brands International
ETI	Ethical Trading Initiative
VLW	Vietnam Labor Watch
OI	Oxfam International
UNIFEM	United Nations Development Fund for Women
MFA	Multi-Fibre Arrangement
US	United States
ILO	International Labour Organisation
SPN	Serikat Pekerja Nasional (National Trade Union)
GSBI	Gabungan Serikat Buruh Independen (Federation of Independent Trade Unions)
CSR	Corporate Social Responsibility
MSI	Multi-Stakeholder Initiative
FTZ	Free Trade Zone
CPA	Centre for Policy Alternatives
FTZWU	Free Trade Zones Workers Union
TIE-Asia	Transnationals Information Exchange - Asia
BOI	Board of Investment (Sri Lanka)
ACILS	American Centre for International Labor Solidarity
EU	European Union
GSP	Generalised System of Preferences
CBA	Collective Bargaining Agreement
MSU	Management-Supported Union
IU	Independent Union
SAI	Social Accountability International
OECD	Organisation for Economic Cooperation and Development
HR	Human Resources
IEM	The FLA's Independent External Monitoring program
WRC	Worker Rights Consortium
SOE	Standards of Engagement (Adidas' Code of Conduct)
JPK	The health insurance scheme at the PT Panarub factory.
BPG	PT Busana Prima Global
FFE	Focus Far East
DL	PT Daejoo Leports
VF	VF Corporation
MSP	MSP Sportswear
CLIST	Centre for Labour Information Service and Training
TLRC	Thai Labour Relations Committee
PFA	Play Fair Alliance
JO-IN	Joint Initiative on Corporate Accountability
SEA	Social and Environmental Affairs (Adidas)
CCM	Contractor Compliance Manual (Nike)
EPZ	Export Processing Zone
TCFUA	Textile Clothing and Footwear Union of Australia
TWARO	The Asian and Pacific Regional Organisation of the ITGLWF

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Offside!

Labour rights and sportswear production in Asia

Sportswear is big business and brands like Nike, Reebok, adidas, Puma, ASICS and FILA make big profits and spend hundreds of millions of Euro on marketing and sponsorship of big-name athletes. Meanwhile, the Asian workers who make the sneakers and sports gear are doing it tough. They struggle to meet their families' basic needs and many are unable to form or join unions without discrimination, dismissal or violence.

This Oxfam International report asks fundamental questions about the global sportswear industry. How much power is held by the hundreds of thousands of mainly women workers in Asia and other parts of the world who make the sporting goods? Are their rights respected? Which sports companies are taking this issue seriously and which are doing nothing?

The focus is on the right to unionise, a fundamental right protected in international labour law and human rights conventions. Without it most workers in countries marked by high unemployment have very little bargaining power and are forced to either endure low wages and harsh working conditions or job loss, often with little or no access to social security.

This report includes factory case-studies, reports on individual sports brands and possible solutions. It is designed to contribute to the debate on how to increase respect for workers' rights in the sportswear industry and other sectors of the increasingly globalised world economy.

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