

Fair Labor Association (FLA)

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History of the Organization

The Fair Labor Association (FLA), headquartered in Washington, D.C., was founded in 1996 when then-President Bill Clinton convened the Apparel Industry Partnership (AIP), a meeting of apparel brands, NGOs and labor unions with the aim of ameliorating terrible working conditions in apparel and footwear factories around the world, especially in developing nations.¹ Out of this, the FLA was created as a 501 c(3) non-profit organization tasked with auditing factories and protecting labor rights around the world.

Purpose of the Organization and Services Offered

The Fair Labor Association (FLA) purports to “combine the efforts of business, civil society organizations, and colleges and universities to promote and protect workers’ rights and to improve working conditions globally through adherence to international standards.”² The FLA works towards this goal through three particular means.³ First, the FLA seeks to “[hold] affiliated companies accountable for implementing FLA’s Code of Conduct across their supply chains.” Second, the FLA “conduct[s] external assessments so that consumers can be assured of the integrity of the products they buy.” Finally, the FLA “seek[s] to create a space where CSOs [Civil Society Organizations] can engage with companies and other stakeholders to find viable solutions to labor concerns.”⁴

Essential to achieving the FLA’s mission is providing training and resources (online and in-person) for both affiliated and nonaffiliated companies and factories so that they are capable of implementing FLA’s Code of Conduct. The FLA asserts that its training methodology and its resources are developed by experts around the world.⁵ Moreover, rather than claiming to certify brands or individual factories, FLA distinguishes its services by certifying a company’s “Internal Compliance Program” to ensure that the company is upholding fair labor standards throughout the brand’s entire supply chain. As detailed below, this internal compliance program is developed by the individual companies in accordance with the FLA codes of conduct. This accreditation is renewed every three years after FLA evaluation.⁶

While the FLA conducts factory audits itself, it also accredits what its calls “Independent External Monitors” (IEMs). Under its Sustainable Compliance Methodology (SCI), the FLA, as

¹ [FLA Website, History page](#)

² [FLA Website, Mission page](#)

³ [FLA Website, Our Work page](#)

⁴ [FLA Website, Our Work page](#)

⁵ [FLA Website, Training page](#)

⁶ [FLA Website, Accreditation page](#)

well as its IEMs, assess whether affiliated factories are in compliance with the FLA's Code of Conduct.⁷ These IEMs will be discussed in greater detail in the next section.

Because the FLA was originally created in order to address the multitude of injustices in the apparel and footwear industry, the bulk of its industrial focus is on these two industries. However, according to its 2012 annual report, "FLA has broadened the focus of its assessments to include the entire supply chain – from the harvesting of raw materials to recycling a product at the end of its use."⁸ The FLA's services have also been expanded into the agricultural and electronics sectors.

Members of Organization

According to the FLA, all of its members join the association in order to improve conditions in global supply chains by ensuring compliance with international labor standards and the FLA's Code of Conduct. The FLA distinguishes between three types of affiliates.⁹ The first are universities who have joined FLA.¹⁰ Drawn to the FLA with the intent of ensuring that goods which bear their lucrative trademarks are produced ethically, about 200 colleges and universities have affiliated with the FLA. Second, the FLA has four NGO affiliates (or what it calls CSOs, Civil Society Organizations) which help shape the various programs and policies of the FLA (Educators for Socially Responsible Apparel Business, Global Fairness Initiative, Human Rights First, and the National Consumers League.¹¹ The third group of affiliates of FLA are companies. These constitute the bulk of FLA affiliates and are split into three categories: Participating Companies,¹² Participating Suppliers,¹³ and Collegiate Licensees.¹⁴ These three types of companies implement FLA standards in different ways. The Participating Companies are large brands that utilize the production services of various factories around the world. The Collegiate Licensees are also companies that source apparel and other goods, but even though they may not be FLA affiliates themselves, they are responsible for ensuring their collegiate supply chains are compliant with the FLA Code of Conduct. Participating Suppliers are individual producers (or groups of producers) that have sought and gained certification of compliance with FLA's standards.

There are about 65 companies that are dues-paying members of the FLA, which accounts for 4,532 factory suppliers worldwide.¹⁵ As discussed later, these various companies fund the FLA through dues based on the size of their supply chains to be inspected.¹⁶ According

⁷ [FLA Website, Labor Standards page](#)

⁸ [FLA Annual Report, 2012](#)

⁹ [FLA Website, Benefits and Membership page](#)

¹⁰ [FLA Website, Colleges and Universities page](#)

¹¹ [FLA Website, CSO page](#)

¹² [FLA Website, Participating Companies page](#)

¹³ [FLA Website, Participating Suppliers page](#)

¹⁴ [FLA Website, Collegiate Licensees page](#)

¹⁵ [Mark Anner, *The Limits of Voluntary Governance Programs, 2013*](#) (Updated version published in *Politics and Society*)

¹⁶ [FLA Company Affiliate Categories List, 2013](#)

to the FLA's charter, in order to become an affiliate company, each applicant must submit an application with a Monitoring Plan that includes the internal compliance methods, agree to comply with the FLA Workplace Code of Conduct, pay annual dues, submit a report every twelve months, and to allow its facilities to be properly assessed by the FLA.¹⁷

In addition to monitoring factories itself, the FLA also subcontracts a considerable amount of its auditing to 25 Independent External Monitors.¹⁸ With regards to these IEMs, the FLA says that its Board of Directors accredits both monitoring organizations as well individual lead auditors. Lead auditors are individuals who are qualified to oversee a team of monitors and submit all required documentation to the FLA. Because of its emphasis on protecting workers rights, the FLA claims to have a very stringent accreditation process for monitoring organizations and lead auditors. The first step in becoming an FLA-accredited monitor is to submit an application to the FLA board detailing how the monitoring techniques comply with the FLA "Monitoring Guidance and Compliance Benchmarks."¹⁹ These compliance benchmarks are made explicit by the FLA and detail how to spot FLA code violations in factories that are being monitored.

A vital aspect of the application process for an IEM is their commitment to remaining independent from the industries that they monitor. In its charter, the FLA defines independence as not having any business or financial relationships with the affiliate it is monitoring. Nor can the applicant provide services to the affiliates it monitors twenty-four months prior to its assessment accreditation by the FLA (unless the services add up to less than \$100,000 or 25% of its annual revenue).²⁰ These services include, "among other things, monitoring, assessments, remediation, training, or product and quality testing."²¹ Moreover, the charter states that once an IEM submits their application to become an accredited monitor, they must undergo FLA training, as determined by the Board of Directors, and also shadow a trial audit conducted by an accredited FLA monitor.²² Most IEMs are for-profit companies. According to its 2012 Annual Report, in 2012 FLA and its accredited monitors conducted 133 factory assessments covering a total of 206,779 workers.²³

Governance

The FLA Board of Directors currently has 18 members, with one additional chair. Representation is split into three equal parts between the corporate sector, NGOs ("CSOs") and universities.²⁴ First, the chair of the Board of Directors is Kathryn "Kitty" Higgins, who has both public and private sector experience. Most notably, Higgins served as the Deputy Secretary of

¹⁷ [FLA Charter Document, 2013](#)

¹⁸ [FLA Website, Accredited Monitoring Organizations page](#)

¹⁹ [FLA Monitoring Guidance and Compliance Benchmarks, 2007](#)

²⁰ [FLA's Charter, page 17](#)

²¹ [FLA's Charter, page 17](#)

²² [FLA's Charter, page 19](#)

²³ [FLA Annual Report, 2012](#)

²⁴ [FLA Website, Board of Directors page](#)

Labor under President Clinton.²⁵ Second, the list of the members from the corporate world is as follows: Stan Blankenship, Russell Brands/Fruit of the Loom (Russell Brands/Fruit of the Loom's compliance program is [accredited by the FLA](#)); Cara Chacon, Patagonia (Patagonia's compliance program is [accredited by the FLA](#)); Monica Oberkofler Gorman, New Balance (New Balance is [an affiliated of FLA](#), but does not have an accredited compliance program); Brad Grider, Hanesbrands (Hanesbrands' compliance program is [accredited by the FLA](#)); Gregg Nebel, Adidas Group (all of Adidas Group's compliance programs are [accredited by the FLA](#)); Tammy Rodriguez, Esquel Group (Esquel Group manages fifteen factories in six countries and its compliance program is [accredited by the FLA](#)). Third, the six representatives from university affiliates are: Karen Daubert, Washington State University in St. Louis; Bob Durkee, Princeton University; Richard Fairchild, University of Utah; Kathy Hoggan, University of Washington; Michael Low, University of Notre Dame; Maureen Reidel, Penn State University. Finally, there are currently only five representatives from civil society, with one vacant position: Marsha Dickson, Educators for Socially Responsible Apparel Business; Linda Golodner, National Consumers League; Meg Roggensack, Human Rights First; Jim Silk, Yale Law School; Karen Tramontano, Global Fairness Initiative.

In addition to the 19 member Board of Directors, the FLA also has several executive positions and staff members.²⁶ According to Section II of the charter, the executive staff and the Board of Directors have different roles within the association. Whereas the executive staff develops the standards of the association, it is the actual Board of Directors that actually adopts the new standards, and amends the association's bylaws in order to reflect a change in program.²⁷ Of the two entities, the Board of Directors seems to have more power, as the board not only appoints executive staff, but also has the power to accredit IEMs and to also determine if a university, brand or supplier can become part of the association.²⁸

Geographical focus

According to its 2012 Annual Report, the FLA operates in the United States, Canada, Mexico, Guatemala, El Salvador, Honduras, Nicaragua, Haití, Perú, Brasil, Turkey, Egypt, Jordan, Pakistan, India, Sri Lanka, Bangladesh, China, Taiwan, Thailand, Cambodia, Vietnam, Malaysia, Philippines, Indonesia.²⁹ As Mark Anner says in his report, 52 percent of the business done by FLA companies is done in China and Vietnam.³⁰ Thus, while the FLA certainly does operate in almost every region of the world, the bulk of its audits are conducted in these two countries. Furthermore, the FLA has its headquarters in Washington D.C. and it also has offices in China and Europe.

²⁵ [Reuters, *Champion of Workers \[Higgins\]*, 28 March 2011](#)

²⁶ [FLA Website, Staff page](#)

²⁷ [FLA's Charter, pages 9-12](#)

²⁸ [FLA's Charter, page 10](#)

²⁹ [FLA Annual Report, 2012](#)

³⁰ [Mark Anner, *The Limits of Voluntary Governance Programs*, 2013, page 22](#) (Updated version published in *Politics and Society*)

Finances and payment for services

According to FLA's Tax Form 990 from the fiscal year 2011, FLA had three major sources of revenue and funding.³¹ The first, as well as largest source of funding was monitoring, with expenses of \$2,072,03 and revenues of \$2,812,923. According to the Tax Form 990, FLA receives this revenue when companies, licenses or factories become affiliates and are trained in the implementation of all proper forms of compliance. As stated on the FLA company affiliate categories spreadsheet, the average administrative cost of an assessment is \$4,000 for apparel factories and \$6,000 for footwear factories.³² While affiliates do have annual dues, the FLA has not publicized this list. Rather, it claims that affiliates' annual dues are calculated as a percentage of the company's annual gross income.³³ The second form of funding comes from FLA Europe, with expenses of \$1,033,616 and revenues of \$1,406,462. FLA Europe is the European arm of the association, and therefore collaborates with European NGOs ("CSOs"). Finally, the third major source of revenue for FLA was university licensees, with expenses of \$393,834 and revenues of \$520,912. University licensees pay a fee to the FLA based on the size of their collegiate apparel program. This source of funding covers programs and outreach for universities in order for them to ensure that their licensees comply with the FLA code of conduct.

In addition to these three major sources of funding, the FLA also receives minor grants, such as grants from the U.S. government, amounting to \$9,000 in 2011. Therefore, it is clear that the FLA heavily relies on corporate funding, as the government grants and university fees would not nearly cover the breadth of FLA monitoring services. As discussed later, this reliance on corporate affiliates causes many to question if the FLA is a truly independent monitoring organization.

Role the organization plays in monitoring, costs of inspection, and training of auditors

According to the FLA's charter, monitoring on behalf of the association is done by either FLA monitors or FLA-accredited Independent External Monitors (IEMs).³⁴ Section IX.C of the FLA Charter details how facilities are selected for inspection: "The FLA staff will determine which Facilities will be subject to independent external monitoring and assessments, based on risk factors and using a random sampling methodology, and will schedule and assign the monitoring visits and assessments to Monitors."³⁵ Using this random methodology, FLA aims to make its auditing process more independent, as the auditors and factories are selected using this random sampling methodology.

As mentioned before, the entirety of the funding for FLA and FLA-accredited monitoring comes from the companies they monitor. First, for IEMs, the charter explains that FLA has created a subsidiary called FLA IEM, LLC. When a company is monitored by an IEM, they pay

³¹ [FLA Tax Form 990, 2011](#)

³² [FLA Company Affiliate Categories List, 2013](#)

³³ [FLA Company Affiliate Categories List, 2013](#)

³⁴ [FLA Website, FLA Accredited Monitoring organizations page](#)

³⁵ [FLA's Charter, page 24](#)

the subsidiary directly to cover the costs directly incurred by the FLA in order to proceed with the independent monitoring.³⁶ (Companies pay an assessment fee to cover 5% of their supply chain, \$4,000 for apparel factories and \$6,000 for footwear factories, and are reimbursed any differences between the fees and actual monitoring costs.) Specific data on how much each company paid is unavailable. The FLA states that additional annual dues are determined as a certain percentage of the company's annual gross income; larger companies, such as Apple and Nike, pay more than smaller, lesser-known companies.

Standards and code of conduct

The FLA maintains a code of conduct that is updated every few years.³⁷ All facilities must comply with the principles outlined. This code contains provisions for wages, freedom of association, and other items which are discussed later.

When a company seeks to join the FLA, they must submit documentation of an "Internal Compliance Program."³⁸ The applicant's compliance program must be in accordance with the FLA monitoring principles.³⁹ The applicant identifies which of its facilities produce "Applicable Products" and are considered "Applicable Facilities" subject to monitoring. "Applicable Products" are defined as either the products which account account for more than thirty percent of the company's consolidated revenues, or any product which bears the name or the logo of the company (or University affiliate).⁴⁰ Additionally, in its charter, the FLA also explains that an applicant can identify "De Minimis" facilities, which either have only temporary contracts with the brand or where the brand's orders account for less than ten percent of the factory's production, company's annual revenue and are not subject to inspection.⁴¹ (These must also not account for more than fifteen percent of the facilities used by the company.)

Wage requirements

In Section IX of its Code of Conduct, entitled "Compensation," the FLA requires that workers are paid either the prevailing industry wage in each country or the legally-mandated minimum wage, whichever is higher.⁴² While it does not expressly commit to support a living wage, the code explains that an employee ought to have enough income to accumulate a discretionary income: "Every worker has a right to compensation for a regular work week that is sufficient to meet the worker's basic needs and provide some discretionary income... Where compensation does not meet workers' basic needs and provide some discretionary income, each employer shall work with the FLA to take appropriate actions that seek to progressively

³⁶ [FLA's Charter, page 25](#)

³⁷ [FLA Workplace Code of Conduct and Compliance Benchmarks, 2011](#)

³⁸ [FLA's Charter, page 21](#)

³⁹ [FLA Monitoring Guidance and Compliance Benchmarks, 2007](#)

⁴⁰ [FLA's Charter, pages 21-22](#)

⁴¹ [FLA's Charter, page 6](#)

⁴² [FLA Workplace Code of Conduct and Compliance Benchmarks, 2011, page 34](#)

realize a level of compensation that does.”⁴³ The FLA defines a discretionary income as “The amount of a worker’s wages available for spending or saving after basic needs have been met.”⁴⁴ Also, in addition to supporting either a minimum wage or a prevailing industry wage, the FLA adopted the wage fairness criteria of Daniel Vaughan-Whitehead of the International Labor Organization.⁴⁵ Using this, the FLA claims to have created a self-assessment tool which companies and factories can use to determine if their employees are being paid fair wages.⁴⁶ However, the FLA makes no calculations of wages required to meet workers’ “basic needs” and does not appear to have any binding mechanisms in place; without enforcement, the right to such a wage is not actualized.

While it does not publish reports on the effectiveness of its wage assessments, the FLA does publish assessments of factories, carried out by either the FLA or IEMs, which detail the condition of wages at each factory.⁴⁷ Unfortunately, the FLA does not publish the names of each factory it monitors, so it is difficult to determine the efficacy of these assessments on case-by-case basis.

Interestingly enough, the FLA published a report in 2010 that questioned whether progress has been made in the area of wages.⁴⁸ “Over the past two decades in many parts of the world, wages and benefits have shown little-to-no growth, while profits have grown.”⁴⁹ The FLA seems to admit that its approach to wage fairness has not been effective. However, while it recognized the growing disparity between wages and corporate profits, the FLA has not attempted to significantly change its methods to address the issue.

Attitude towards unions, freedom of association rights, and worker input

In Section Six of its Code of Conduct, entitled “Freedom of Association and Collective Bargaining,” the FLA discusses the right of workers to unionize and collectively bargain. The FLA prohibits any forms of intimidation against employees who seek to express their fundamental rights to organize and bargain.⁵⁰ Moreover, the FLA says that if the right to unionize is illegal in a country, then the employers cannot obstruct legal alternative means of the workers to organize.⁵¹ (Note that in China, where the FLA conducts far more audits than any other country, workers are not legally allowed to strike or form an independent union. According to the FLA, this does not necessarily mean that each factory in China is in violation of the FLA’s code. In his analysis of FLA’s monitoring, Mark Anner discusses how the FLA insufficiently addresses freedom of association in China and Vietnam and how auditing in general systematically neglects to enforce

⁴³ [FLA Workplace Code of Conduct and Compliance Benchmarks, 2011, page 34](#)

⁴⁴ [FLA Workplace Code of Conduct and Compliance Benchmarks, 2011, page 34](#)

⁴⁵ [FLA Website, Wage Fairness page](#)

⁴⁶ [FLA Website, Fair Wage page](#)

⁴⁷ [FLA Website, Tracking Charts page](#)

⁴⁸ [FLA Report, Wages Along the Supply Chain, 2010](#)

⁴⁹ [FLA Report, Wages Along the Supply Chain, 2010, page 2](#)

⁵⁰ [FLA Workplace Code of Conduct and Compliance Benchmarks, 2011, pages 22-25](#)

⁵¹ [FLA Workplace Code of Conduct and Compliance Benchmarks, 2011, page 22](#)

workers' rights.⁵²⁾

FLA requires worker input in the monitoring of facilities. While the charter states that confidential interviews are necessary when auditing a factory, it does not clarify whether these confidential interviews are to be held onsite or offsite.⁵³ The FLA has developed a standardized, confidential survey for interviewing workers called SCOPE, which has been used in a small number of test cases.⁵⁴ In these interviews, workers are taken to a confidential area and are given the survey with questions involving issues as training, job satisfaction, and awareness of procedures. The questions on the survey for the workers parallels the questions on SCAT, the compliance survey designed for managers. The results are sent back to FLA; they analyze the information and send a report back to the factory. The FLA does not have a set percentage of workers that it interviews at each factory, but instead decides how many workers will be interviewed based on the size of the factory.⁵⁵

The FLA allows workers to file grievances through its Third Party Complaint System.⁵⁶ (A "third party" is considered one who is not affiliated with the factory management or brand company.) A union or a relative of a worker can lodge a complaint against a company that does not comply with FLA's code of conduct. According to the FLA charter, the allegations must be reliable and must contain actual evidence of the existence of the noncompliance. Afterwards, the FLA will contact the third party to make a preliminary decision of the third party's legitimacy, and whether to move forward with the complaint. If the third party is deemed illegitimate, then the FLA will notify the third party of its decision not to pursue the noncompliance. Unless the third party wishes to stay anonymous, the FLA will publicly document the identity of the third party.⁵⁷ If the FLA finds a third party source to be legitimate and decides to move forward with the investigation, the company or factory is notified of the alleged noncompliance and they are given forty-five days to explain how it will research the noncompliance and provide a written plan of action to address the noncompliance (or justify whether the complaint is not legitimate). The FLA relays this information to the third party, and if they cannot rebut the conclusions, the process is terminated.⁵⁸ If the FLA believes the case is a legitimate one to pursue, then a monitor assesses the issues of noncompliance and the company must assist the monitor with all prepared documentation relating to the issue of noncompliance. The monitor writes a report on their findings. However, the charter claims that if the brand company or university declines to go through the monitoring process, then the process will be terminated.⁵⁹ Finally, if the monitor finds that there is an issue of noncompliance, the company will be given thirty days to write a remediation report on their methods to fix the noncompliance issue. Within ninety days of receiving the report, the FLA will publicize the report on its website, and continually update it in

⁵² [Mark Anner, *The Limits of Voluntary Governance Programs, 2013*](#) (Updated version published in *Politics and Society*)

⁵³ [FLA's Charter, page 19](#)

⁵⁴ [FLA Website, SCOPE Workers' Surveys page](#)

⁵⁵ [FLA SCOPE Report, 2008](#)

⁵⁶ [Third Party Procedures](#)

⁵⁷ [FLA's Charter, page 30](#)

⁵⁸ [FLA's Charter, page 30-31](#)

⁵⁹ [FLA's Charter, page 31-32](#)

order to show progress on the noncompliance.⁶⁰

The FLA's complaint system has been a source of contention. Excessive burden of proof (and inherent skepticism) is placed on the workers, who must go out of their way to prove their legitimacy (instead of placing responsibility on auditors, whose job it is to monitor the factories). In several instances of factory violations (discussed later), the FLA's complaint system failed to remediate noncompliance. By analyzing the complaints filed, Mark Anner exposed serious limitations and systematic biases in the FLA's Third Party Complaint System.⁶¹

Monitoring protocols

As detailed above, when a company applies to be accredited by the FLA, they submit their own Internal Compliance Program for review. In all internal monitoring programs, the FLA expects all of its Participating Companies to abide by its Code of Conduct. According to the charter, after a Participating Company agrees to subject its facilities to independent monitoring, the FLA staff decides which facilities will be monitored by using random sampling methodology.⁶² The FLA staff also determines if IEMs or FLA monitors will audit the facilities. Regarding the actual monitoring process, the charter and guidance documents do not expressly state that monitors must visit the factories unannounced and do not define the meaning of "announced" or "unannounced" inspections. The FLA does not give specific details about the duration of each audit, but it can be assumed that the length of inspections do not significantly differ from other third party auditing firms.

According to a 2011 report written by the FLA, monitors had conducted nearly 1,300 factory visits since 2002.⁶³ Although this number may seem large, it is eclipsed by the number of factories used by FLA-accredited companies. In 2011, the FLA (and its accredited external auditors) visited 132 factories, which represents 2.9% of the 4,787 factories listed by affiliates.⁶⁴ Of these 132 visits, 73 were repeat inspections conducted at factories where previous violations had been found. These numbers do not allow the FLA to verify conditions of the rest of their affiliates' supply chains with statistical significance.

If a factory is found to continually fail to meet the FLA's Code of Conduct, then the facility is placed on "Special Review."⁶⁵ During this time, the brand company's status as a Participating Company is put on a ninety day suspension while the board reviews the company's history of noncompliance. Afterwards, if the ninety days expire, the board can extend the special review period indefinitely. While in this indefinite period, the company's status as a Participating Company is once again reinstated. After both the period of special review and the extended special review, if the company has not addressed the issue of noncompliance, and if the board agrees that there is a continuous issue of noncompliance, the board will permanently terminate

⁶⁰ [FLA Website, Third Party Complaint Tracking Chart page](#)

⁶¹ [Mark Anner, *The Limits of Voluntary Governance Programs, 2013*](#) (Updated version published in *Politics and Society*)

⁶² [FLA's Charter, page 24](#)

⁶³ [FLA Website, Code of Conduct Update page](#)

⁶⁴ [FLA annual report, 2011, page 16](#)

⁶⁵ [FLA's Charter, page 28](#)

the company's status as a Participating Company. It seems that the only punishment for the company is publicly announcing on the FLA website that the company's status as a Participating Company has expired.

While the FLA claims that its processes are transparent, and that one is able to view if a company is under special review on their website, these documents are not easily accessible online. For instance, the FLA only lists one announcement of termination of an affiliated supplier.⁶⁶ Only one other instance of "special review" could be found on their website (and the affiliate was reinstated, not terminated).⁶⁷

Transparency

The FLA claims that full transparency is necessary for accountability in its methods and the only viable way to safeguard workers rights. The FLA's charter describes the "[a]bility and commitment to maintain accountability for information gathered from the monitoring program" as a vital aspect of its monitoring operation.⁶⁸ The FLA dedicates a whole section of its website to transparency and accountability, where it lists Assessments, Tracking Charts, and other Safeguards.^{69 70 71 72}

Unfortunately, while the FLA recognizes the importance of transparency in principle, it does not fully embrace it. The names of the factories on the monitoring reports are kept confidential; rather than stating the names of the factories, the FLA provides a factory code. Because there is no database for these codes, there is no way for a third party to validate the monitoring reports or hold the FLA's affiliates accountable if violations are separately found. (Further, the labyrinthine presentation of the reports prevents concerned consumers from educating themselves about working conditions evaluated by the FLA.) It seems that this refusal to provide the names of the monitored facilities is due to FLA's commitment to protecting the confidentiality of brand companies. The charter states: "To the extent such information is confidential or proprietary for privately owned Companies, Retailers or Suppliers, the Association shall not disclose such information to the public, and shall work with such Companies, Retailers and Suppliers to substitute other meaningful information in the public report which is not confidential or proprietary."⁷³ This includes supply chain information. There is a dissonance between the FLA's transparency and confidentiality of their brand clients; it seems that the FLA's prioritizes corporate trade secrets over accountability that would help safeguard labor rights.

In addition to the transparency of its monitoring process, the FLA also attempts to maintain transparency in its governance and organizational structure. For instance, the charter clearly details the process to become a part of the Board of Directors. As described above, the

⁶⁶ [FLA Website, Termination of Hey Tekstil page](#)

⁶⁷ [FLA Website, El Progreso Factory in Honduras page](#)

⁶⁸ [FLA's Charter, page 19](#)

⁶⁹ [FLA Website, Transparency page](#)

⁷⁰ [FLA Website, Assessments page](#)

⁷¹ [FLA Website, Tracking Charts page](#)

⁷² [FLA Website, Safeguards page](#)

⁷³ [FLA's Charter, page 27](#)

board is comprised of six representatives from the corporate world, six from the universities and six from NGOs, as well as one chair. Each board member has a tenure of three years, and when their term is over, they select their replacement. The selection of the chair is determined by two representatives from each sector, called a “Nominating Committee.” This committee chooses the most qualified of the candidates, and presents their nominations to the full board. Ultimately, the the candidate with the supermajority of the votes of the board becomes the chair.

As a non-profit, the FLA is legally required to disclose its finances annually. This document is not available through the FLA’s website and the FLA does not disclose any additional financial information. (More about the FLA’s finances can be read above in the section entitled “*Finances and payments for services.*”)

Track record

Despite its mission to safeguard worker’s rights on a global scale, the FLA has been involved in numerous controversies surrounding workers rights since its inception.

Kukdong (Mexmode) factory

The first such example came in 2001 at the Kukdong (now known as Mexmode) factory in Mexico, which produced apparel for brands such as Nike. According to research by professors at New Mexico State University (NMSU), an FLA-accredited firm, Verite, audited the factory.⁷⁴ On January 12th, two young women protested terrible conditions at the factory, clear violations of both the FLA’s and Nike’s codes of conduct, when they were severely beaten by the police. Some of these violations included rotten food in the cafeteria, child labor, and abuse from management. The workers also protested for the right to form their own independent union, separate from the management-dominated union (FROC CROC). Regarding the beating by police, the professors at NMSU found that “[n]o newspaper or monitoring report has reported the event,” including the monitoring report done by Verite.⁷⁵ After months of struggle, the workers were able to secure their right to independently unionize, but without the help of the FLA, which took no action during the entire case.

Primo factory

In 2003, the FLA was implicated in another case involving a labor rights struggle at the Primo factory in El Salvador’s Free Trade Zone (which provided goods for Lands Ends Apparel, an affiliate of FLA). The FLA only became actively involved in resolving the violations after significant pressure from activists and other workers’ rights organizations.⁷⁶ The Worker Rights Consortium (WRC) published a report on Primo in 2003 detailing the factory’s systematic discrimination against union workers, including blacklisting to prevent them from finding

⁷⁴ [Boje, Rosile, and Carrillo, *The Kuk Dong Story, 2001*](#)

⁷⁵ [Boje, Rosile, and Carrillo, *The Kuk Dong Story, 2001*](#)

⁷⁶ [United Students Against Sweatshops, *Comparison of the Workers Rights Consortium \(WRC\) and the Fair Labor Association \(FLA\), 2005*](#)

employment within the Free Trade Zone.⁷⁷ While the FLA had found similar findings to the WRC, it had made no public statement of its findings, making it much more difficult for workers, activists, and concerned consumers to hold companies accountable for the violations.⁷⁸ When confronted with the findings of the WRC report, Lands Ends apparel criticized the WRC and claimed that the FLA had found no such evidence of blacklisting. Eventually, the violations were resolved, but as USAS describes, the FLA would not have taken corrective action without the pressure of the WRC and universities.⁷⁹

PT Victoria factory

The systematic inadequacies of the FLA continued with the mishandling of the PT Victoria case, and Indonesian factory that supplied goods for Eddie Bauer. On December 31, 2003, the PT Victoria factory had closed abruptly after forcing employees to work excessive hours, up to twenty-four hours straight.⁸⁰ After the closure of the factory, the owners and management fled Indonesia to open up factories in Cambodia and Myanmar (an all-too-common practice known as (cutting and running”). After five months of litigation, the Indonesian Court had found the owners of PT Victoria guilty and ordered the factory to pay the workers a severance of one million US dollars. In August 2004, the workers lodged a complaint with both Eddie Bauer and PT Victoria. After months, the FLA had claimed that the Indonesian-based company was unable to pay the workers due to a lack of financial means. However, the factory owners clearly had the ability to pay; they had not filed for bankruptcy and had also opened new factories in other countries. Regardless of the factory owners’ whereabouts, ultimately the contracting brands (Eddie Bauer in this case) bear legal responsibility for conditions in the factories producing their products. As a USAS report puts it, “PT Victoria is, quite simply, attempting to steal over a million dollars from its former Indonesian employees and Eddie Bauer (and the FLA) is doing nothing to prevent it.”⁸¹ To paraphrase USAS, this is yet another scenario in which the FLA uses its position of prominence to make cheap excuses for corporate misdeeds.

PT Dae Joo factory

A similar controversy occurred at the PT Dae Joo factory in Indonesia, which produced apparel for FLA affiliates Adidas and Jansport.⁸² The workers at the Dae Joo factory had an unprecedented degree of rights; they were allowed to effectively unionize and were also provided with comprehensive health care plans. (Employers were mandated to provide healthcare to their workers by Indonesian law, but factory workers were typically denied this.) However, by the early summer of 2004, the factory had begun to close down to shift production to China where labor

⁷⁷ [WRC Report on Primo, 2003](#)

⁷⁸ [United Students Against Sweatshops, *Comparison of the Workers Rights Consortium \(WRC\) and the Fair Labor Association \(FLA\)*, 2005](#)

⁷⁹ [FLA Website, *Primo Factory in El Salvador page*](#)

⁸⁰ [USAS Publication on PT Victoria](#)

⁸¹ [USAS Publication on PT Victoria](#)

⁸² [USAS Publication on Dae Joo](#)

standards were much lower. The FLA did nothing to stop this. Without the help of the FLA, the unions of the fired workers were able to win a severance package that included three additional months of pay. Despite this small victory, the fact that the factory closed down in the first place illustrates the tremendous pressure of the global race to the bottom and consequences for workers' rights. The FLA either is powerless or apathetic in the face of these pressures to cut costs and make global supply chains more efficient.

Lian Thai factory

Again in 2005, the FLA displayed inaction amidst labor violations. An Oxfam report on workers rights entitled "Offside" outlines how Nike and Puma decided to cut ties with the Lian Thai factory in Thailand shortly after the workers' union won a significant victory.⁸³ Not only did these brands disrespect the already-established union by not notifying it of the closure, but they also violated its worker's rights by executing a total shutdown. Both Nike and Puma supposedly made commitments to uphold workers' rights by becoming affiliated with FLA, but the persistence of these brands to cut costs and conduct business as efficiently as (in)humanely possible exposed their hypocrisy. Likewise, the FLA's inaction showed the hollowness of their commitment to safeguarding workers rights around the world, as their relationship with Nike and Puma remained unchanged. Oxfam reports that this factory closure disincentivized workers in the region from fighting for their rights.

Hana Cambodia factory

An additional factory closures involving two FLA affiliates, Top of the World Apparel (a collegiate licensee) and Reebok again showed the unwillingness (or inability) of the FLA to protect workers' rights. According to a WRC report, an inspection of the Hana Cambodia was underway, and the release of the findings would have been impactful; serious violations were found regarding freedom of association, sexual abuse, lack of proper compensation, and occupational safety hazards.⁸⁴ Midway through the monitoring process, PNG, a supplier for Top of the World and Reebok, decided to move the operations for the two FLA affiliates to China, a foolproof method to avoid remediation costs and ensure that workers do not unionize. As the WRC report states "[t]he fact that production was withdrawn in the midst of an investigation and remediation effort is, in the WRC's view, inconsistent with Top of the World's university code of conduct obligations (and inconsistent with the obligations inherent in Reebok's own code of conduct), even if the decision was made in the routine course of business."⁸⁵ Again, the WRC emphasized the lack of accountability on the part of the FLA. Despite the clear violations by both Top of the World and Reebok, the FLA took no action and still listed both of those companies as its affiliates, bolstering activist claims that the FLA is more accountable to brands than to workers and consumers.

⁸³ [Oxfam, Offside, 2006](#)

⁸⁴ [WRC Report on Hana Cambodia](#)

⁸⁵ [WRC Report on Hana Cambodia](#)

BJ&B factory

Yet another controversy egregiously implicating the FLA involved the closing of the BJ&B factory in the Dominican Republic in 2007. As USAS says in its report “Abandoning BJ&B Workers,” the BJ&B factory was the only non-sweatshop factory in the free trade zones of Latin America.⁸⁶ Without the help of FLA, USAS collaborated with the union of the factory (FEDOTRAZONAS) to lobby Nike (who sourced from BJ&B) to arrange for workers to be paid a living wage. The WRC documents in its report saying that it had high remarks for the factory, as, “BJ&B was widely recognized as a stand-out facility in terms of its labor rights compliance and a key example of the positive impact that university codes of conduct can have on workers producing collegiate apparel.”⁸⁷ Unfortunately, as tensions surrounding collective bargaining heightened, there were warning signs that the parent company of BJ&B would soon close down the factory. In 2007, the factory announced that it would close its doors and all of its employees were laid off.

Herein lies the controversy surrounding the FLA. While the WRC was on the ground to investigate why exactly this seemingly ideal factory had closed down, the FLA issued a report saying, amongst other things, that the closure was not only in accordance with Dominican law, but that the workers union had also agreed with the necessity to close down the factory.⁸⁸ In his “Response to FLA Report on BJ&B,” Scott Nova of the WRC lists a plethora of details exposing the falsities of FLA’s methods.⁸⁹ For instance, Nova brings up the fact that Dr. Milton Ray Guevara, who investigated the closure by the FLA, came from the Dominican apparel industry, and had previously represented Grupo M, the region’s largest manufacturer of apparel. This violates FLA’s charter, as Dr. Guevara is not a monitor fully independent from the apparel industry. Likewise, The FLA report states that the union was in agreement that the factory should be closed. However, according to Nova, 60% of the workforce had signed a petition demanding the factory remain opened. There was no mention of this petition in Dr. Guevara’s reports. The vast contrast between the reports of the FLA and the WRC demonstrate who is actually accountable to whom. With one-third of its board coming from the corporate world, the FLA seems unlikely to be accountable to any parties other than the executives of large, multinational corporations.

Response to the Designated Suppliers Program

In response to repeated instances of “cutting and running” which made achieving workers’ rights unsustainable in the “race to the bottom,” USAS activists proposed the Designated Suppliers Program (DSP) with the support of the WRC in September of 2005. Under the DSP, universities could require their collegiate licenses to source apparel from factories that

⁸⁶ [USAS. *Abandoning BJ&B Workers*](#)

⁸⁷ [WRC Report on BJ&B](#)

⁸⁸ [FLA Report on BJ&B](#)

⁸⁹ [Response to FLA Report on BJ&B, 2006](#)

had been verified (by the WRC) to be compliant with the universities' codes of conduct. This program was staunchly opposed by the FLA; the FLA took action to prevent implementation of the program, which was effectively delayed indefinitely.⁹⁰ The FLA was the first party to challenge the DSP. Despite the legal opinion from Columbia University law professor Mark Barenberg, who indicated that this program would not violate any federal labor laws, the FLA sent letters to all of its affiliated universities claiming legal actions would ensue if universities acted to implement the DSP. The letter contained misinformation about the program. FLA president Aurret van Heerden claimed that there would be no progress on labor rights if organizations such as USAS made requirements of brands as illustrated in the DSP and did not involve the collaboration of brands. After revisions to the program, USAS and the WRC recruited the advice of former head of the Antitrust Division of the US Department of Justice, Donald Baker, to clarify the legality of the matter. After many years of deliberation, the US Department of Justice issued an official legal opinion and confirmed that the program did not pose an anti-trust risk. By this time, anti-sweatshop activists had moved on to other campaigns, although the DSP may emerge again in the future. The FLA's opposition to the DSP exposed their resistance towards any change to the status quo, especially changes that would make binding requirements of FLA affiliates.

Jerzees de Honduras factory

In past cases of factory closures, the FLA mostly displayed inaction. In the 2008 closure of a Russell Brands factory, Jerzees de Honduras (JDH), the FLA actually acted as an obstacle to efforts to protect the rights of workers. The factory closed as a direct response to workers' efforts to unionize, leaving nearly 1,200 workers unemployed with no legally-mandated severance or unemployment benefits.⁹¹ USAS criticized the FLA's inaction regarding the closure, citing its lack of independence from corporate influence.⁹² The FLA initially found that "Russell's decision to close JDH was principally a business decision determined by economic factors."⁹³ Later, after significant pressure from other organizations and a nation-wide campaign run by USAS, the FLA was forced to reevaluate the factory's circumstances. USAS writes, "Unlike other cases where the FLA did nothing, in this case, the FLA was an active obstacle, mocking our universities' Codes of Conduct and whitewashing Russell's sweatshop abuses."⁹⁴ Workers were able to win their employment back not with the help of the FLA, but of the WRC.⁹⁵ It was the WRC that identified the root of the closure, and from its reporting, it was able to push Jerzees de Honduras to negotiate with the workers' union and effectively reopen.

Hugger and Vision Text factories

⁹⁰ Wegemer, *Universities as Global Actors in the Apparel Supply Chain*, 2014

⁹¹ [USAS Report on Jerzees de Honduras](#)

⁹² [FLA Report on Jerzees de Honduras](#)

⁹³ [USAS Report on Jerzees de Honduras](#)

⁹⁴ [FLA Report on Jerzees de Honduras](#)

⁹⁵ [Pitt No Sweat Coalition, Pitt and the Workers Rights Consortium, 2013](#)

In 2009, two factories in Honduras (Hugger and Vision Tex) closed, illegally displacing 1,800 workers with no severance pay. Both heavily sourced collegiate apparel for Nike, an affiliate of the FLA, which pulled its collegiate contracts from these two factories.⁹⁶ The failure to pay severance was a blatant violation of Honduran law. USAS writes that the FLA was paralyzed in action and could not force either Nike or the factories to pay the workers what they were owed. The WRC, as detailed in its report on the two factories, found that Hugger and Vision Tex owed their workers a combined two million dollars in severance fees in addition to a week's worth of pay.⁹⁷ WRC worked in solidarity with the former employees of these factories (and in conjunction with a nation-wide campaign of USAS) to successfully pressure Nike to not only pay workers \$1.54 million dollars in severance packages, but also provide the workers and their families with year-long health care coverage.⁹⁸ After this momentous win for workers rights, the FLA released a statement that used this victory as evidence of its commitment to workers rights.⁹⁹ This statement also praised their major affiliate, Nike, for its commitment to negotiating and compromising with workers. To paraphrase USAS again, this is yet another example of the FLA taking credit where it is not due, as it showed no support during the campaigns of USAS and WRC.

PT Kizone factory

The next controversy involves the closure of the PT Kizone factory in Indonesia in 2011. As the WRC details in its report on the closure, the owner of the factory fled Indonesia, displacing more than 2,800 workers, and stealing about \$3.3 million in legally-mandated severances fees.¹⁰⁰ The factory sourced for Nike, Adidas, and the Dallas Cowboys; while Nike and the Dallas Cowboys decided to pay their portion of the severance fees, Adidas refused to give the unemployed workers what they were owed. After considerable pressure, Adidas decided instead to offer the workers food vouchers instead of paying the full legal amount.¹⁰¹ (This was problematic for several reasons. The food vouchers are only valid for one chain of markets akin to 7/11 in the United States, which workers do not patronize because they are considered overpriced. Vouchers were given in large denominations and must be used at once with no change back. Adidas did not give anywhere near the \$1.8 million which they owed to workers in the form of these overvalued vouchers. Most importantly, this was condescending, as workers are not traditionally paid in food vouchers, but rather, money, so that they can have the freedom to spend their money on what they choose.) The Adidas group is an affiliate of FLA. The FLA sponsored a summit in Switzerland to allow Adidas to attempt to coax university and collegiate licenses away from dropping their contracts with Adidas, who had clearly violated university codes of conduct.¹⁰² In response to a nation-wide USAS campaign, universities began to cut

⁹⁶ [USAS. *Ignoring Nike Worker's Pleas for Support in Honduras*](#)

⁹⁷ [WRC Report on Hugger and Vision Tex](#)

⁹⁸ [New York Times. *Pressured, Nike to Help Workers*, 2010](#)

⁹⁹ [FLA Report on Hugger and Vision Tex](#)

¹⁰⁰ [WRC Report on PT Kizone](#)

¹⁰¹ [WRC memo on PT Kizone](#)

¹⁰² [USAS Report on PT Kizone](#)

Adidas' contracts, and with pressure mounting, Adidas was forced to pay the workers the severance in full. The FLA once again showed where its priorities lay, as it continued to facilitated the weak excuses and broken promises perpetuated by the big brands.

Foxconn factories

Most recently, the FLA's foray into the electronics industry garnered much public criticism. The FLA accredited Apple and their major subcontractor, Foxconn, as affiliates. In August 2012, FLA published the results of its inspection of three Foxconn factories, claiming it to be "one of the most comprehensive and detailed assessments in the history of manufacturing" and established a "15-month action plan."¹⁰³ The FLA published a second verification report in order to ensure that Foxconn had completed all remediation steps.¹⁰⁴ The second verification extolls the success of the factories, as independent assessors concluded that Foxconn had completed "70 of the remaining 76 action items, for a combined verified completion rate of 98.3 percent... Action was continuing with respect to six items, pertaining to hours of work."¹⁰⁵

However, in their report on the FLA's Foxconn inspections, "Still Polishing Apple," Scott Nova and Isaac Shapiro make a compelling case that what FLA seems to characterize as full progress is at best only partial progress, and in some instances, the violations were worse after the FLA verification. Some violations that the FLA initially outlined, such as providing back pay for uncompensated time, were not even mentioned in the FLA's follow up.¹⁰⁶ The FLA praises improvements in union representation at Foxconn, stating that there were "[n]otable increases in the participation of workers in the union committees and a corresponding decline in management participation in such committees."¹⁰⁷ However, as Nova and Shapiro dutifully point out, this overlooks the fact that the unions in the three factories were still dominated by management, with workers composing only a minority of union membership at all three Foxconn factories.

The FLA also says that there had been considerable progress for overtime hours in the three factories, as Foxconn had successfully been "reducing hours to 60 per week (including overtime) consistent with FLA and Apple's code standards, with the goal of reaching full compliance with the Chinese legal limit of 40 hours per week plus an average of 9 hours of overtime per week while protecting worker compensation."¹⁰⁸ Students and Scholars Against Corporate Misbehavior (SACOM) painted a different picture. SACOM reported that "[m]onthly overtime hours have been between 80-100 hours in some of the production lines at Foxconn. These high levels often exceed the levels reported by the FLA in its recent progress report, and are two to three times that allowed by Chinese law."¹⁰⁹

¹⁰³ [FLA Website, Fair Labor Association Finds Progress at Apple Supplier Foxconn page](#)

¹⁰⁴ [FLA Second Foxconn Verification Report](#)

¹⁰⁵ [FLA Second Foxconn Verification Report, page 3](#)

¹⁰⁶ [FLA Announcement on Apple commitments, 2012](#)

¹⁰⁷ [FLA Second Foxconn Verification Report, page 4](#)

¹⁰⁸ [FLA Second Foxconn Verification Report, page 5](#)

¹⁰⁹ [SACOM, New iPhone, Old Abuses: Have working conditions at Foxconn in China improved?, 2012](#)

The FLA's investigations only covered a small portion of Foxconn's operations; Erick Mack explained that there were more than a dozen Foxconn factories employing 1.3 million workers by 2011.¹¹⁰ Nova and Shapiro, as well as a 2012 study by the Students and Scholars Against Corporate Misbehavior (SACOM), showed that the three Foxconn factories inspected by the FLA were not representative of all of the factories that produced for Apple and ongoing abuses occurred at other factories, routinely ignored by the FLA.¹¹¹ Of particular concern to SACOM was the continuous neglect of the ongoing violations at the Zhengzhou factory. Because Foxconn jobs were so low-paying, there was a very low demand for assembly line jobs, so many vocational schools sent their students to work at Foxconn, sometimes threatening to block their graduation if they did not comply. On this issue of forced student labor, Isaac Shapiro said:

Student workers are still being forced to work there, including 16-year old students who said their teachers told them they would not earn their diplomas if they refused to participate in a three-month "internship" which amounted to assembly line work, including night shifts. The students also believed their scholarships were at risk. Their parents tried to stop this arrangement, to no avail."¹¹²

In its second verification of the three aforementioned Foxconn factories, the FLA reported that student interns had not been working in the factories since January 2013. Nothing was mentioned about the other nine or so factories that were operated by Foxconn.

In each of these instances, the FLA failed to provide a constructive role, instead displaying inaction and inability, and in worst cases, the FLA actually proved to be an obstacle to securing rights of workers or a shield for corporate misbehavior. The FLA monitoring scheme seems to be critically flawed. In his in-depth research of the FLA titled, "The Limits of Voluntary Governance Programs," labor scholar Mark Anner quantifies and documents some of the systematic failures of the FLA's monitoring approach.¹¹³ He finds that the FLA addresses issues that pose a serious public relations risk, such as wage violations and child labor, but seriously neglects issues that would provide workers with an actual voice and weaken the power of the brands, such as freedom of association. He finds that only five percent of all violations detected by FLA were related to freedom of association rights, in contrast with the WRC and the FLA's own internal complaint system, which reports dramatically more freedom of association violations.¹¹⁴ Among other issues, Anner discusses the bias inherent in the FLA's third-party complaint system, the flaws in the FLA's remediation strategy, the failure of the FLA's code to protect rights of workers in China and Vietnam, and the role of the FLA in several of the cases mentioned here.

¹¹⁰ [Eric Mack, *Just How Big is Foxconn?*, 2011](#)

¹¹¹ [SACOM, *New iPhone, Old Abuses: Have working conditions at Foxconn in China improved?*, 2012](#)

¹¹² [Isaac Shapiro, Economic Policy Institute blog](#)

¹¹³ [Mark Anner, *The Limits of Voluntary Governance Programs*, 2013](#) (Updated version published in *Politics and Society*)

¹¹⁴ [Mark Anner, *The Limits of Voluntary Governance Programs*, 2013 page 2](#) (Updated version published in *Politics and Society*)

In 2012, the FLA spent \$2 million over its budget of approximately \$5 million.¹¹⁵ This resulted in a 20 percent salary loss for FLA workers, leading to a giant uproar amongst its staff over the hypocrisy of the FLA's mission to protect workers rights. The Huffington Post quotes a letter written by the disgruntled staff to the board of directors as saying, "[a]s an organization that prides itself on 'protecting workers' rights worldwide, we hope that the Board will provide the leadership necessary to ensure that the same protections FLA advocates are offered to its own employees."¹¹⁶ Specifically, the Post reports that the affected staff of the FLA have expressed outrage over the lack of outreach on the side of the board to include the staff in any turnaround plan. As the staff point out, worker involvement is a tenet of FLA's philosophy, something that seemed to be extremely lacking in this financial mess. While this particular controversy does not have to do with the rights of workers abroad, it certainly pertains to the rights of workers at the FLA and exposes the FLA's attitudes towards treatment of workers. This mismanagement also raises serious questions about the organization's ability to oversee complex global operations involving thousands of independent facilities.

Despite its missteps related to unionization and safeguarding workers rights, the FLA still sees itself as the torchbearer for a new kind of socially accountable global supply chain based on "respect for human beings and the environment."¹¹⁷ According to van Heerden, there is a growing trend of companies who are realizing that it is not only profitable but also morally right to respect workers rights. With this trend, the FLA seeks to spread its compliance program across the globe. The FLA sees its methodology as successfully addressing the root causes of labor violations:

Over the last four years, FLA has concentrated efforts and resources on moving past factory audits to its Sustainable Compliance methodology (SCI). SCI focuses on the root causes of code violations rather than checklist audits of observable factory conditions. The methodology concentrates primarily on understanding the lifecycle of a worker's employment in a factory and all the risks embedded in that employment relationship, from hiring to termination.¹¹⁸

FLA seems to imply that the root cause of workers rights violations as a product of ignorance and misunderstanding between companies and their subcontractors, inherent in global supply chains. As Michael H. Posner says in his foreword to the FLA's 2012 annual report, "Many American and other global companies are now struggling to find the right path to operate in an increasingly complicated global economy."¹¹⁹ Therefore, the FLA sees itself as the provider of clarity in this complex global economy and the organization most capable of addressing root causes of labor violations. Van Heerden writes that the "FLA remains the only multi-stakeholder

¹¹⁵ [Huffington Post, Fair Labor Association, Watchdog To Big Retailers, Sows Its Own Worker Discontent In Budget Crunch, 3 August 2013](#)

¹¹⁶ [Huffington Post, Fair Labor Association, Watchdog To Big Retailers, Sows Its Own Worker Discontent In Budget Crunch, 3 August 2013](#)

¹¹⁷ [FLA 2012 Annual Report, page 4](#)

¹¹⁸ [FLA 2012 Annual Report, page 20](#)

¹¹⁹ [FLA 2012 Annual Report, page 2](#)

initiative where all the components essential to real change are in place.”¹²⁰ Regardless of how compellingly and charismatically the FLA touts its work, the reality for workers on the ground tells a different story. The third party auditing system is weak and flawed, and without fundamental changes, workers’ rights will not be safeguarded. The types of changes necessary would require more commitments from brands and factories; the FLA would be unlikely to implement these changes because corporations effectively hold veto power over the FLA’s board. Van Heerden himself recognized corporate power and the FLA’s catering to it, saying: “Let’s face it, the contract of a multinational supplier, a major brand, has much more persuasive value than the local labor law, environmental regulation, the local human rights standards.”¹²¹ Amid its failings, the FLA does seem to have good intentions, but the past decade and a half of its operations have proved little more than this.

¹²⁰ [FLA 2012 Annual Report, page 4](#)

¹²¹ [Mark Anner, *The Limits of Voluntary Governance Programs*, 2013 page 13](#) (Updated version published in *Politics and Society*)