



Annex

Adidas

1. First letter to Adidas
2. Response from Adidas
3. Second letter to Adidas
4. Additional response from Adidas

Armani

1. First letter to Armani
2. Follow-up letter to Armani

Gap

1. First letter to Gap
2. Gap response
3. Second letter to Gap
4. Gap response to second letter

H&M

1. First letter to H&M
2. H&M response
3. Second letter to H&M

Joe Fresh

1. First letter to Joe Fresh
2. Second letter to Joe Fresh
3. Joe Fresh response

Marks & Spencer

1. First letter to M&S
2. Reminder letter to M&S
3. Second letter to M&S
4. M&S response

Letters to the Cambodian Government

1. November 20, 2014 HRW letter to H.E. Sun Chanthol, Minister of Commerce
2. November 20, 2014 HRW letter to H.E. Ith Sam Heng, Minister of Labor and Vocational Training
3. December 19, 2014 response from H.E. Ith Sam Heng, Minister of Labor and Vocational Training

Adidas

A. Suppliers and related information: We understand that Adidas has disclosed its list of suppliers in Cambodia. Human Rights Watch is interested in learning more about Adidas' approach to factories in the supply chain.

1. When did Adidas first disclose its suppliers in Cambodia and does this include both direct and indirect suppliers?

Answer: We began disclosing factories as early as 2001 in response to specific NGO and trade union enquiries. Our global public disclosure lists for our direct and licensee suppliers have been published since 2007. We have been disclosing our sourcing locations in Cambodia since that date. More recently the Cambodian Centre for Human Rights, a local NGO, has also begun disclosing factory addresses in Cambodia. We have liaised with CCHR to cross-check and confirm the accuracy of their lists with respect to adidas Group' suppliers.

2. How often does Adidas update its supplier list in its disclosure?

Answer: The data presented in our disclosure lists comes from an industry leading website, the Fair Factories Clearinghouse (FFC). We publish two lists concurrently: one for the supplier factories where we hold a direct and active sourcing relationship, and the other of our licensees' active suppliers. These factory lists describe the current status of our "active" business relationships at the date of their publication. The adidas Group conducts annual data cleansing, to cross-check the entries and their accuracy. This is done at the beginning of each year to coincide with our annual Sustainability Report. Our supplier disclosure lists are normally published in the middle of each year.

3. When was the suppliers list last updated?

Answer: Our last published lists were dated 23 and 27 May 2013, respectively. A new and updated list of direct suppliers and licensee suppliers will be made public on 1st June 2014. From 2014 onwards, we are moving to twice yearly disclosure. For your reference we have attached a list of all current active suppliers in Cambodia (direct and indirect), as at 31 March 2014. See Annex 1.

Can you please provide us copies of all of Adidas' supplier lists for facilities in Cambodia since January 2012 indicating whether they are direct or indirect suppliers?

Answer: In Annex 2 we have shared the list of active suppliers from 2012 and 2013 together with the current supplier list as of 31 March 2014.

Since 2012 we have seen a steady increase in the number of direct suppliers, whereas the number of indirect suppliers has fluctuated. The indirect suppliers tend to have much smaller order volumes; some may account for only 1-3 percent of the total annual production capacity of a factory. We encourage the shared use of approved factories and hence there are overlaps between the direct and indirect supply chain.

4. How many of Adidas' direct and indirect Cambodian suppliers fall within the 4C self-governance cluster of factories? Please provide the name of the factory and the year in which it became certified as a 4C-factory.

Answer: None so far.

5. How does the monitoring and supervision of 4C self-governance factories differ from others?

Answer: 4C (and above) Self Governance factories are required to have highly developed and effective HR and HSE management systems, conduct their own annual self-assessments and be committed to continuous improvement – in short, they are expected to develop and deliver best practices. As a result 4C suppliers go through a longer cycle time between KPI assessments and independent performance audits by SEA.

6. How many of Adidas' direct and indirect suppliers from Cambodia are rated as 3C (good or better)? Please provide the name of the factory and the year in which it was certified as 3C.

Answer: Our KPI system for the c-rating of suppliers applies only to long term direct sourcing relationships, where we invest time and effort to support the development of robust management systems and internal supplier capacity. Suppliers within our indirect supply chain fall under a separate system run by our licensees, based on a score card approach for the general supply chain. A list of current 3C rated suppliers is given in Annex 3.

7. Please provide more information on the Single Service Provider system instituted to manage indirect suppliers. Who is the Single Service Provider in Cambodia and since when has the factory been managing indirect suppliers?

Answer: We have a Single Service Provider (SSP) which manages our indirect supply chain monitoring in Asia. The SSP is Openview, a consultancy based in China. The SSP's responsibilities are: to ensure that audit scheduling is completed by the licensees, agents and suppliers in a timely manner and audits are conducted within SEA timeline parameters; to conduct or manage the completion of SEA audits by External Monitors (EM) who are officially authorized as per SEA standards; to perform comprehensive reviews of SEA audit reports and determine the factory's SEA designation; to develop Corrective Action Plans and actively monitor the progress to completion with suppliers and sourcing units; to ensure that factories are properly informed of the requirements and expectations of the requisite corrective actions; to manage effective and efficient compliance communications with business units sourcing from factories under the indirect supply chain model; to ensure the fundamental integrity of compliance data from the covered factories in the Fair Factories Clearinghouse (FFC), the online database used by the adidas Group, by regular and proper maintenance.

The SSP programme was launched in November 2013. Since then, there have been two audits conducted in Cambodia by one of our authorized EMs (The Compliance Network) under the management of the SSP.

8. How frequently does Adidas place orders with its suppliers?

Answer: Orders are being placed as frequently as twice a month, but there may be multiple sourcing entities linked to the supplier factories in Cambodia with different purchasing cycles depending on product type, delivery schedules and end market requirements. Orders may also be placed with the suppliers' parent company, and allocations made between factories across multiple countries, with the decision resting in the hands of the main business partner. Typically, in footwear, orders are allocated based on product complexity and the product mix. Order may also be placed on a "level loading" basis, to reduce down cycles/ seasonal fluctuations.

9. What is the current average purchasing volume from Cambodia?

Answer: This is not readily available. We neither publish nor disclose sourcing volumes at a country level.

10. What information does Adidas seek as part of its due diligence before enlisting a supplier? Please provide a copy (omitting identifiable details if needed) as a sample.

Answer: We have not made our audit tools available publicly. Our Employment, Health and Safety and Environmental Guidelines, against which we pre-screen and approve suppliers, are available and published online, see: <http://www.adidas-group.com/en/sustainability/supply-chain/standards-and-policies/>

Our whole monitoring programme, including pre-screening, auditing and remediation, has been reviewed and accredited by the Fair Labor Association (FLA). The FLA also operates an independent grievance system for third party complaints related to our supply chain.

11. Once a supplier is contracted with, what ongoing due diligence does Adidas conduct and what information is sought as part of such due diligence?

Answer: We have not made our audit tools available publicly. What we have made available are our Employment, Health and Safety and Environmental Guidelines, against which we audit suppliers. The links to our Guidelines are given in our answer to Question 10. Our monitoring programme is independently accredited by the FLA and assessed against the FLA Charter and the FLA's labor standards. See <http://www.fairlabor.org/labor-standards>.

Approved suppliers are monitored for compliance against our Workplace Standards on an on-going basis, they may be visited frequently, or periodically, depending on whether there are remedial actions underway. Normally suppliers are formally audited at least annually. In Cambodia many of suppliers are also enrolled in Better Factories Cambodia and they are also subject to the ILO's independent monitoring programme.

Factories which qualify to be included in our KPI system are subject to annual KPI assessments, which measure the development of internal capacity for self-governance. The parameters include management commitment, HR/HSE management systems, training, worker-management communication, transparency and reporting, and general compliance.

As part of our monitoring process we also have in place a grievance mechanism for workers: they can call a hotline number which is posted in every factory making for us. Our local field staff respond directly to complaints and conduct on-site investigations and worker interviews as needed.

12. Given that Adidas' Workplace Standards forbids suppliers from making subcontracts for Adidas production without prior approval from the brand, what approval process has Adidas put in place for such decisions?

Answer: Any new supplier relationship, whether this is a direct relationship or a subcontracting one, must be disclosed to adidas Group's Social & Environmental Affairs department for its approval. After a factory has been disclosed into the FFC database by the responsible sourcing unit, a pre-screening is undertaken - we term this an Initial Assessment - to approve the supplier. The Initial Assessment can be conducted by SEA staff directly, or by an authorized External Monitor. Orders can only be placed after a factory has been approved by SEA and is designated as such in the FFC database.

13. Does Adidas have a list of authorized subcontractors in Cambodia that all of its suppliers can use?

Answer: All suppliers, whether as a subcontractor or a main factory, must be approved for use. Once a supplier is approved for use (i.e. it meets our labour and HSE requirements), orders can be downloaded by any sourcing unit linking to that supplier in the FFC.

14. Has Adidas received requests from its suppliers to allow subcontracting in the last five years? If yes, how often are such requests made?

Answer: We have only permitted sewing subcontracting twice in the past 5 year and in each case the factories were subject to full labour and HSE compliance audits. We strongly discourage subcontracting of orders to smaller subordinate suppliers; our preference and practice is to have our orders consolidated into larger dedicated factories. There are some specialist suppliers which support our main suppliers, such as embellishers and those supplying packaging materials. They also fall under the coverage of our monitoring programme and are disclosed into the FFC database.

15. How much time does it take for Adidas to process a request for subcontracting?

Answer: After disclosure into the FFC, it would normally take 4-5 month (including a 2-3 month remedial period) to receive approval, or shorter if no non-compliance issues are found. The process for approval for a subcontractor is the same as it is for the main production facility.

16. Under what circumstances can a supplier request subcontracting?

Answer: We strongly discourage subcontracting of orders to smaller subordinate suppliers; our preference and practice is to have our orders consolidated into larger dedicated factories. The supplier would need to set out a compelling business case as to why they need to subcontract orders away from the main production facility.

17. Have any “unauthorized” subcontracts in Cambodia been brought to the attention of Adidas in the last three years?

Answer: In recent years we have had only one case of unauthorized subcontracting.

18. What action does Adidas initiate when an “unauthorized” subcontract is brought to its attention and what remedial measures does it require a supplier to take?

Answer: Normally existing committed orders can be completed, but no further orders can be placed with the facility until approval has been received from SEA. The business entity which has placed orders must officially disclose the factory into the FFC. An Initial Assessment is then carried out to verify working conditions and approve its use as a supplier. In parallel with this, the business entity or supplier who has permitted unauthorized subcontracting will receive a legal warning for breach of contract.

19. Has Adidas undertaken any investigations into specific allegations of “unauthorized” subcontracting by Adidas suppliers in Cambodia? Please provide a copy (removing identifiable details if needed) of an investigation report.

Answer: We have had only one case of unauthorized subcontracting in Cambodia in the past 10 years. The factory where the orders were placed was in the process of closing down, so there was no approval sought from SEA after the case had been reported.

20. How does Adidas ensure that workers in the subcontracting factory are not placed in jeopardy when an “unauthorized subcontract” is disclosed?

Answer: We are concerned with safeguarding worker’s rights, including livelihoods. The presence of unauthorized production would not immediately disqualify a factory from future use, but the facility would have to meet our Workplace Standards if it is to be retained within our supply chain. Normally existing committed orders would continue until the workplace conditions could be assessed, but no further orders would be placed until SEA approval has been given.

21. Has any business relationship been terminated because of “unauthorized” subcontracting in Cambodia? If so, please provide details.

Answer: No, none.

22. Which of its Cambodian suppliers has Adidas discontinued, since when (data since January 2012), and why?

Answer: Since 2012 4 licensee facilities have been discontinued: Reliable Source Industrial (Cambodia) Co., Ltd; Yirong (Cambodia) Knitting Co. Ltd; Yu Fa Garment Industry (Cambodia) Co. Ltd; and Direct Route Co. Ltd. With respect to our direct suppliers, we have had only one supplier which was discontinued: Pou Yuen (Cambodia) Enterprise Ltd. Our internal database system does not record the reasons why factories are discontinued by a sourcing unit. This can be for a variety of reasons related to factory performance (quality, on-time delivery, available capacity, etc.) or product or market requirements, or may relate to the consolidation of orders in another supplier. We can confirm that none of these factories were discontinued due to enforcement action under our Workplace Standards.

C. Labor law and Workplace Standards compliance: As a brand with a stated commitment to ensuring labor compliance and promoting workers' rights throughout the supply chain, we are keen to understand the steps Adidas takes to ensure, enable, and facilitate labor compliance by its suppliers.

23. What capacity-building does Adidas undertake for its Cambodian suppliers and what topics are covered in such capacity-building programs?

Answer: We have been sourcing from Cambodia for more than a decade and there have been various training and capacity building programmes run by adidas Group, as well as in partnership with other brands or with Better Factories Cambodia. Topics have included basic occupational health, chemical safety, fire safety, supervisory training, as well as freedom of association and handling industrial action. Details of the most recent training initiatives are disclosed in Annex 4.

24. Please share some best practices that have emerged in Adidas supplier factories in Cambodia, including the following areas:

a. Use of long-term contracts over shorter term fixed-duration contracts.

Answer: We have organized best practice sharing forums among suppliers and encouraged those factories which use long term contracts to identify the advantage of this practice, especially given the competitive need to attract and retain qualified workers in a tight labour market. We have also conducted extensive worker interviews to understand the expectations and barriers that exist in moving from short term to fixed term contracts; we have found that many workers hold a preference for short term contracts, due to a fixed pay-out of severance at the end of each term. Irrespective of the contract terms, suppliers must provide equal benefits to all and if workers migrate from a short-term to a long-term contract they must secure long service and other benefits from the date they first took up employment in the factory, even if this was initially on a short-term contract.

b. Facilitating the functioning of unions.

Answer: In terms of capacity building, we have engaged with the ILO's Better Factories Cambodia to conduct training on Freedom of Association and have mandated that suppliers allow union officials to attend off-site training on the labour law. Each year, we organize a third party to provide capacity building for Industrial Relations Officers who we require to work as trade union liaison in each factory. We also provide a direct communication channel via our Worker Hotline number and email. Anyone in the factory can report to us their workplace concerns, including trade union members and leaders. And from time to time we do receive grievances from the trade unions which we have addressed. If it is major issue being reported to us, such a fundamental breach of associational rights, or a dismissal, we would start our investigations by making an unannounced visit to the factory concerned, followed by on or off-site interviews with those affected, and interviews with the plant management.

Apart from this, we do maintain a regular dialogue with local NGO and the trade union federations. We are open to receive their input and feedback on our factories performance with respect to Freedom of Association.

Lastly, we engage with the Arbitration Council (AC) which regularly manages and resolves labour disputes through conciliation. The AC provides a monthly update on cases, which we monitor to see if

any of our suppliers have been involved in any industrial conflict which has not been disclosed to us. We will also review the Arbitral Awards – the decision of the Arbitration Panel - and apply the jurisprudence they have developed in our own assessment of FOA complaints which are brought to us for our own direct investigation.

25. What are the main features of the Adidas “Social Compliance Plan” and report card and how does Adidas believe this improves upon more general approaches to auditing? Please provide copies (withholding identifiable details if needed) of at least two social compliance plans and report cards of direct and indirect suppliers.

For direct suppliers who are long term business partners we ask them to develop Strategic Compliance Plans (SCPs). These are rolling 3 year plans that are directly linked to our C-rating system. The SCPs are updated annually based on the feedback to our suppliers from our KPI assessments and performance audits. The SCPs should demonstrate and be regularly updated to show continuous improvement in a supplier’s management systems, policies and practices with the ultimate goal of supporting sustainable compliance. The SCPs are authored by the suppliers and are part of our internal business engagement and are linked with business strategies. We cannot share individual copies with HRW.

For our intermediaries, such as licensees and agents, who manage our indirect suppliers, we have developed higher level Strategic Compliance Plans, which are annually reviewed. The SCP and the Report Card help us track and evaluate the commitment and effectiveness of the business entities’ management in ensuring sound compliance practices across all of their factories. All business entities have to integrate compliance into their sourcing practices from when they start with a new factory until the end of the business relationship. The SCP focuses on the management systems that the business entities have in order to manage compliance within their organization and in their supply chain. After a business entity develops its SCP, the SEA team, together with the business entity’s management team, reviews it and identifies gaps in the plan and/or its implementation.

Integrating compliance into Sourcing Organization’s planning and production systems has a positive impact on the factories and the workers.

26. Please provide the following additional information on the Social Compliance Initiative (SCI) core questions set:

a. Please provide a copy of the SCI core questions set.

Answer: The SCI is still under development. It has been piloted in the Americas, but not yet in Asia. It is not currently available for release.

b. Has the SCI core-questions set been implemented in any Cambodian factories? If yes, please provide a copy of at least one report (withholding identifiable details if needed).

Answer: No. It has yet to be tested in Cambodia.

27. How does Adidas factor in the cost of labor compliance in its business relationships?

Our business partners develop costing information which is submitted to adidas Group. The costing sheets detail fixed and variable costs that make up the operating overheads for their businesses, including labour. These costing sheets are used in price negotiations which are conducted with our

Sourcing divisions – Footwear, Apparel and Accessories - for each season (Spring/Summer and Fall/Winter).

28. What steps is Adidas taking to improve its purchasing practices to reduce production peaks?

Answer: Where we have high volume orders in a factory, we practice “level loading”, delaying or pulling forward orders to balance out order peaks and troughs – this benefits the management of working hours and helps also balance out pay, because it means that the factories don’t idle through the low season. Our general goal is to work with stable, long term supplier partners, and this requires close engagement, understanding each company’s respective business needs and planning processes, to support on-time delivery of product that meets our quality requirements.

29. The Workplace Standards allows excessive working hours beyond 60 hour work weeks under “extraordinary circumstances.” What kind of extraordinary circumstances does Adidas envisage and what steps does it take to ensure that these circumstances do not become frequent or routine

Answer: Typically, these are *force majeure* situations. In other words it refers to floods, earthquakes, fires, social upheaval (such as demonstrations or riots), and outbreaks of disease or ill health, i.e. events which are generally beyond anyone’s control. To control working hours in our direct supply chain we have instituted a Country Manager’s Approval System and a Swap Day Approval system, which require factories to disclose any situations where hours could lead to a breach our Workplace Standards and explain the circumstances for this, as well as cases where there may be a need to swap working days due to extraordinary events. We have done so to ensure transparency about working hours.

In Cambodia, it is rare for us to receive a request from any supplier to work beyond 60 hours. There are several reasons for this. Firstly, under the Arbitration Awards overtime is limited to 2 hours per day; the AC will rule against factories that are challenged over working hours that extend beyond the 2 hour limit. Secondly, under the Prakas (regulation) adopted by the Ministry of Labour, employers seeking additional overtime must obtain permission from the Ministry. Since the second half of 2013, the Ministry of Labour has tightened its control and such permissions are now very difficult to obtain.

30. Does Adidas plan to pilot its special hotline for workers in Cambodia in the immediate future?

Answer: We have been providing a worker hotline service for many, many years in Cambodia. Third party complaints through NGOs or others can also be lodged with SEA directly, or with the FLA. All enquiries or complaints received by adidas Group go through a formal process, as detailed in our complaints handling mechanism. See http://www.adidas-group.com/media/filer_public/2013/11/21/adidas_group_complaint_process_nov_2013.pdf. Supplementing our complaints mechanisms, our SEA field staff are in regular communication with local trade unions – in particular the more vocal free trade unions - human rights and labour rights organisations in Cambodia, including Cambodia Legal Education Center (CLEC), Cambodia Center for Human Rights (CCHR), and the American Center for International Labor Solidarity (ACILS). We also regularly engage with the BFC and the Arbitration Council which is responsible for addressing claims of labor rights and resolving workplace disputes.

31. Has Adidas received any complaints from Cambodian unions on suppliers' non-compliance with decisions of the Arbitration Council? What steps does Adidas take to ensure that its suppliers comply with Arbitration Council awards?

Answer: Yes, we have. We have also handled complaints from suppliers about the union's non-compliance with directions from the Arbitration Court. Whatever the basis for the complaint, we will closely review the grounds and background. We have been strong supporters of the Arbitration Court and encourage its use to resolve intractable issues or breaches of the labour law. It is a credible and independent forum. It is our expectations that our manufacturing partners honour the decisions of the Arbitration body, although the parties entering the system may elect to make the Arbitration Court's decision binding or non-binding.

32. Does Adidas employ third-party auditors to audit Cambodian suppliers? If yes, please provide the following information:

a. Do third-party auditors inspect and report on Adidas' subcontractors or indirect suppliers?

Answer: Third party External Monitors (EMs) are employed only in relation to our indirect suppliers. However if we have significant remedial issues arising from an third party audit, or if we receive a formal complaint through our worker' hotline or some other channel related to an indirect supplier, then our local field staff would conduct the necessary investigations and follow-up directly.

b. Please provide sample reports of third-party audits (withholding identifiable information if needed).

Answer: It is not our policy to release individual factory audit reports to external parties.

33. Please provide copies of social compliance plans developed by Adidas suppliers in pursuance of the Workplace Standards (identifiable details can be withheld if needed).

Answer: These plans cannot be released to external third parties.

34. Does Adidas have an internal policy on response and follow-up to complaints it receives about labor law non-compliance in its supply chain? Please provide details that specify within what period Adidas responds to such complaints and what process it follows to initiate remedial measures.

Answer: Yes. Our policy is detailed in our *Third Party Complaints Process* cited earlier; see answer to Question 30. The timeframe for handling a complaint is dictated by the nature of the complaint and the type of investigation which is required. Normally we would try to reach a conclusion on a case within a matter of weeks. We always provide a complainant – whether a worker or a third party (a union, etc.) with an immediate response to their enquiry, outlining how it will be handled, assuring them of confidentiality and explaining our non-retaliation policy. Please consult with CLEC if you would like independent feedback on two recent cases in Cambodia where we addressed complaints of unfair dismissal.

D. ILO-BFC monitoring reports

35. For which of its suppliers has Adidas purchased factory-level monitoring reports issued by Better Factories Cambodia (BFC) and in which years? Please provide a full list for the last three years. Please provide copies (withholding identifiable details if needed) of BFC reports for at least five long-time suppliers.

Answer: We use the BFC reports to cross-check our own audit findings and annual KPI assessments and to align remedial action plans. In 2012 we purchased 10 such reports and in 2013 we purchased an additional 3 reports for suppliers who had been newly enrolled into BFC. Please see Annex 5. We are unable to share those reports with HRW.

Since October 2013, Better Factories Cambodia has been publicly disclosing information on the compliance performance of factories under its monitoring coverage. See <http://www.betterfactories.org/transparency>. To date, no adidas Group supplier factory, enrolled within BFC, has been listed as facing any critical issue.

36. Does Adidas share a copy of the BFC monitoring report free of cost with its suppliers? Please provide the most recent list of suppliers with whom BFC reports have been shared.

Answer: The BFC monitoring reports are owned by the factories where the audits take place. adidas must pay to access a report from BFC, but only after the respective factory permits adidas to receive a copy for our exclusive use. The factory owns the audit report and receives a copy directly from BFC, not from adidas Group.

37. What steps does Adidas take to make improvements in the areas suggested by the BFC monitoring report?

Answer: We review each report and work with the suppliers to provide Corrective Action Plans to BFC. We also use the BFC reports to review and cross-check our own internal audit findings, where remedial action plans may already be in place.

E. Observations Concerning Women Workers: As a brand with a stated commitment to equality and a clear policy against discrimination based on “personal characteristics or beliefs, such as race, national origin, gender, religion, age, disability, marital status, parental status, association membership, sexual orientation or political opinion.”

38. Does Adidas plan to review its Workplace Standards to forbid discrimination based on pregnancy and include a prohibition against the misuse of short-term fixed term contracts or repeated use of casual contracts to bypass labor law compliance?

Answer: Our policies on discrimination, in relation to pregnancy, maternity and other worker attributes, as well as guidance on the use of short term fixed contracts, is fully detailed in our Employment Guidelines which supplement and support the general principles set out in our Workplace Standards. Please see: http://www.adidas-group.com/media/filer_public/2013/07/31/guidelines_on_employment_standards_english.pdf

39. What best practices have emerged with respect to hiring, treatment, and reasonable accommodation for pregnant women?

Answer: Our guidance on the hiring and treatment of female workers who are pregnant, on maternity, or who are lactating mothers, is given in our Employment Guidelines cited above. The guideline was developed around our practical experience in managing these subject areas.

40. What measures does Adidas advise its suppliers to take to ensure that pregnant women are reasonably accommodated in the workplace?

Answer: Our Guidelines specify how to safeguard the health of pregnant women in the workplace, including a prohibition extended working hours or working with chemicals or other hazardous processes. In addition, we encourage best practices and reward suppliers with higher KPI ratings where they demonstrate their commitment and awareness of the special needs of women, pre- and post-natal. For example, by allowing pregnant workers to take leave each month, without deduction, for doctor visits, or assigning lighter work duties during pregnancy, or allowing pregnant workers to leave the workplace earlier than their peers to avoid congested exits, etc. In addition, we require the factories to educate on-site medical staff on how to monitor and manage the health needs of pregnant workers.

41. How does Adidas ensure that production lines and daily production quotas are not used to indirectly coerce pregnant workers into accepting overtime, or restrict their ability to take bathroom or rest breaks?

Answer: Restriction to the use of bathrooms or rest breaks or forced overtime, are considered to be “Threshold” issues which will lead to immediate enforcement action against a factory. It is recognized that pregnant women do have special needs, and should be assigned lighter work duties and adequate rest breaks.

42. How does Adidas' social compliance mechanism keep track of pregnancy-related concerns (reasonable accommodation, day care center, child care allowance, compliance with maternity-related benefits)?

Answer: We conduct regular audits and check both legal and other voluntary benefits given to workers who fall pregnant, who are granted maternity leave and who are working mothers. See specific guidance on Maternity given in our Employment Guidelines. We also have a dedicated worker's hotline, which is answered by a local staff member who speaks Khmer, who will address any concern raised with them.

The Cambodian Labour Law requires employers to support working mothers. For a child's first year, the mother has the right to one hour per day paid breast-feeding during working hours. The exact timing of the breast-feeding has to be agreed between the mother and her employer. The law also requires factories with more than 100 workers to setup and run a nursing room, as well as a day-care center for children over 18 months of age. Where an employer is not able to operate a day-care center, they must pay their female employees the cost of providing day-care for their children. In conformance with the law, most of our suppliers permit breast feeding breaks, where workers can leave the factory if they wish, as well as providing a nursing room and a day-care center.

43. Has Adidas taken any steps to encourage and support suppliers to institute a policy against sexual harassment at the workplace and provide training to all staff to prevent and respond to sexual harassment at the workplace?

Answer: Factories must establish a policy to prohibit sexual harassment, physical or psychological abuse in the workplace and support this in practice. adidas Group takes immediate action if there is any reported case of harassment or retaliation in the workplace. Evidence of systematic harassment in the workplace is treated as a Zero Tolerance issue. All suppliers are encouraged to run training for their employees on what constitutes harassment and operate grievance channels to enable workers to freely report any form harassment.

44. How does Adidas' social compliance plan and report card address gender-related concerns?

Answer: The SCPs and RC helps Sourcing organizations develop appropriate policies and procedures to manage compliance topics within their organizations and in their supply chain. These plans should be aligned with relevant guidance given in our Employment, Health & Safety and Environmental Guidelines.

ANNEX 1 - LIST OF ALL CURRENT ACTIVE SUPPLIERS IN CAMBODIA (DIRECT AND INDIRECT)

Supplier Disclosure List - Direct Sourcing (31 March 2014)

Factory Name	Location
1. Bowker Garment Factory (Cambodia) Company Limited	National Road no.4, Pong Teuk Village, Bek Chan Commune, Angsnoul District, Kandal Province
2. Can Sports Shoes Co. Ltd.	National Road No. 5 Chamkar Svay Village Sethey Commune Samaky Meanchey Kampong Chnang
3. Crown Yin/Nan Kuang Garment Co. Ltd.	2nd Fl. Dam Nak Thom Village Steang Mean Chey District 12000 Phnom Penh
4. Daqian Textile Co. Ltd.	Phum Trapang Thloeng, Sangkat Chom Chao Khan Donkor, Phnom Penh
5. Din Han Enterprise Co. Ltd.	Duong Ngiep II, Thmey village Stoeung Meanchey quarter Meanchey district Phnom Penh
6. Elite Co. Ltd.	Special Economic Zone of Manhattan Sangkat Bavet Svay Rieng Province
7. FWKK Ltd.	Trapaing Thleung Village Sangkat Chom Chao Khan Porsenchey Phnom Penh
8. Global Apparel Limited	No. 4 Road Sangkat Kombol Kandal Province
9. Grand Twins International Ltd.	Phum Trapang Por Sangkat Chom Chao Khan Dangkor Phnom Penh

10. JIT Textiles Limited	National Road No. 4, Phum Ang Sangkat Chom Chao Khan Dangkor, 12000 Phnom Penh Kandal
11. KKN Apparel Co., Ltd.	Neang Kok Koh Kong Special Economic Zone Neang Kok Village, Pakklong Commune Mondul Seyma District Koh Kong
12. Meng Da Footwear Industrial Co., Ltd.	St. Veng Sreng Phoum Tropeang Thloeng Sangkat Chorm Chao Khan Dangkor, 855 Phnom Penh Kandal
13. New Orient Garment Co. Ltd.	14, 15, 16, 17 Works Canadian Industrial Park 12000 Dangkor Phnom Phnom Penh
14. Papillion Textile Co., Ltd.	Building No. O, Vatanak Industry Park II Road No. 3 Phum Prey Sampor, Sangkat Krangpongro Khan Dangkor, 12401 Phnom Penh
15. Shenzhou Co., Ltd.	Buildings K&L, Soun Ouk Sahakom Vattanac Sangkat Sahakom Chey Khan Mean Chey Phnom Penh
16. Six Plus Industry Co. Ltd.	Phum Kandal, Khum Prek Anhchanh Mockompoul District Phnom Penh
17. Splendor Industry Co., Ltd.	National Road 5, Sangkat Russey Khan Russey Keo Phnom Penh
18. Sportex Industry Co., Ltd.	National Road 5 Phum Spean Kpos Sangkat Kilometre No. 6 Khan Russey Keo Phnom Penh
19. Tien Sung Garment (Cambodia) Co., Ltd.	Preypring Tbuong Village Sangkat Choamchao Khan Porsenchey Phnom Penh
20. Sun Well Shoes Co., Ltd.	Veng Sreng Road Sangkat Choum Chao Srok Dong Kor, 12405 Phnom Penh

21. Suntex Private Limited	No. 8 Street Choam Chao, Sangkat Choam Chao, Khan Por Senchey Phnom Penh
22. Trax Apparel (Cambodia) Co., Ltd.	Phum Chong Thnal Khang Kert, Sangkat Teuk Thla, Khan Sen Sok Phnom Penh
23. Yorks Co., Ltd.	National Road No.1 Tai Seng SEZ Chantrea District Svey Rient

Supplier Disclosure List - Licensees (31 March 201)

Factory Name	Location
1. H&L Apparel (Cambodia) Corp.	Phum Baldomrey, Sangkat Kakb Khan Dangkor Phnom Penh
2. K-22 Knits	Y7 Industrial Park, E6, No. 4 Hwy. Romdal Village Kampong Spoe Samraong District
3. Sheico (Cambodia) Co., Ltd.	Manhattan (Svay Rieng) Special Economic Zone, National Road #1, Bavet Commune, Chan Trea District, Svey Rieng.
4. Dayup Global Co. Ltd.	Phum Prey Sala, Sankat Kakab Khan Posenchey Phnom Penh

Note: Direct Suppliers may also be used by Licensees and other intermediates. However, where Direct Suppliers are being used, they are not named in our Licensee disclosure lists.

ANNEX 2 – ACTIVE SUPPLIERS SINCE JANUARY 2012

Direct Suppliers

Factory Name	2012	2013	2014
1. Bowker Garment Factory (Cambodia) Company Limited			√
2. Can Sports Shoes Co. Ltd.	√	√	√
3. Crown Yin/Nan Kuang Garment Co. Ltd.	√	√	√
4. Daqian Textile Co. Ltd.		√	√
5. Din Han Enterprise Co. Ltd.		√	√
6. Elite Co. Ltd.		√	√
7. FWKK Ltd.		√	√
8. Global Apparel Limited	√	√	√
9. Grand Twins International Ltd.	√	√	√
10. JIT Textiles Limited	√	√	√
11. KKN Apparel Co., Ltd.		√	√
12. Meng Da Footwear Industrial Co., Ltd.	√	√	√
13. New Orient Garment Co. Ltd.	√	√	√
14. Papillion Textile Co., Ltd.	√	√	√
15. Shenzhou Co., Ltd.	√	√	√
16. Pou Yuen Enterprise Co., Ltd.	√	√	
17. Six Plus Industry Co. Ltd.		√	√
18. Splendor Industry Co., Ltd.	√	√	√
19. Sportex Industry Co., Ltd.	√	√	√
20. Tien Sung Garment (Cambodia) Co., Ltd.			√
21. Sun Well Shoes Co., Ltd.	√	√	√
22. Suntex Private Limited			√
23. Trax Apparel (Cambodia) Co., Ltd.		√	√
24. Yorks Co., Ltd.		√	√
25. Yirong Knitting Co. Ltd.	√		

Indirect Suppliers

1. H&L Apparel (Cambodia) Corp.		√	√
2. K-22 Knits		√	√
3. Sheico (Cambodia) Co., Ltd.			√
4. Crown Yin/Nan Kuang Garment Co. Ltd. *		√	
5. Direct Route Co. Ltd.	√	√	
6. Global Apparel Limited*		√	√
7. Grand Twins International Ltd. *	√	√	√
8. JIT Textiles Limited*		√	√
9. Sportex Industry Co. Ltd. *		√	√
10. Yirong Knitting Co. Ltd.	√	√	

11. Yu Fa Garment Industry Co. Ltd.		√	
12. Reliable Source Industrial Co. Ltd.	√		
13. Dayup Global Co. Ltd.			√

**Also a direct sourcing supplier.*

ANNEX 3 - 3C RATED SUPPLIERS IN CAMBODIA

Factory Name	Years of 3C status
Sportex Industries Co., Ltd.	2012, 2013
Grand Twins International (Cambodia) Co., Ltd.	2012, 2013
Splendor Industry Co., Ltd.	2013
JIT Textiles Limited	2013, 2012, 2011
Global Apparel Limited	2013, 2012, 2011
Shenzhou (Cambodia) Co. Ltd.	2012, 2013
Meng Da Footwear Industrial Co., Ltd.	2012, 2013
Six Plus Industry Co. Ltd.	2013
New Orient Co., Ltd.	2013
Daquan (Cambodia) Co., Ltd.	2013
KKN Apparel Co., Ltd.	2013

ANNEX 4 – List of Capacity Buildings for Cambodia suppliers

1. Annual training on Occupational Health and Safety Officer Training:

Background: Cambodia does not have a strict framework on the role and responsibility of the Safety Officers within the workplace. This programme has been designed to upgrade the occupational health knowledge for the Safety Officer via a Registration process. Moreover, it is required various level of employers to ensure they send their staff to attend. This training programme is applied in all our direct and indirect suppliers.

At the same time, we also evaluate the qualification of the safety officers and they play a vital role in managing and delivering the factory's safety performance.

Module I - Basic Occupational Health And Safety					
Course Model	Specific Guidelines /Requirement	Duration	OHS Officer Level		
			Management	Coordinator	Committee
Fire Safety	Sect 2: Architectural Consideration	2hr	▲	▲	▲
	Sect 3: Fire Safety Requirement	4hr	▲	▲	▲
	Sect 5; Flammable Chemical Safety	1hr	▲	▲	▲
	Sect 10: Electrical Hazards	1hr	▲	▲	▲
Machine Safety	Sect 11: Machine Safety and Noise	2hr	▲	▲	▲
	Sect 20: Tag and Lock Out	1hr	▲	▲	▲
Chemical Management and Control	Sect 5: Chemical Management	1hr	▲	▲	▲
	Sect 6: Use of Hazardous Materials in Production	1hr	▲	▲	▲
	Sect 7: Workers exposure to Hazardous Chemicals	1hr	▲	▲	▲
	Sect 16: Personal Protection Equipment	1hr	▲	▲	▲
	Sect 22: Ventilation Design Guidelines	1hr	▲	▲	▲
Basic Ergonomics	Sect 14: Material Storage Area and Ladder Safety	1hr	▲	▲	▲
	Sect 19: Hot Work Environment and Heat Stress	1hr	▲	▲	▲
	Sect 14: Guidance on Lifting and Manual Handling of Materials	1hr	▲	▲	▲
	Sect 21: Ergonomics	1hr	▲	▲	▲
First Aid Readiness	Sect 4: Industrial Health and First Aid Requirements	1 hr	▲	▲	▲

Module II - Risk Assessment & Communication					
Course No.	Subject Heading	Duration	OHS Officer Level		
			Management	Coordinator	Committee
Communication	OHS Officer Requirement	1hr	▲	▲	▲
	Joint HSE Committee Function	3hr	▲	▲	▲
	Safety Inspection	2hr	▲	▲	▲
	Safety Programme Organisation	1hr	▲	▲	▲
	Safety Education & Promotion	1hr	▲	▲	▲
	Incident and Accident Reporting Process	2hr	▲	▲	▲
	Sect 15: Contractor Safety	1hr	▲	▲	▲
	Sect 17: Workers HSE Training Requirement	1hr	▲	▲	▲
Risk Assessment	Sect 18: Occupational Hazards Risk Assessment	1day	▲	▲	

Module III - OHS Management					
Course No.	Subject Heading	Duration	OHS Officer Level		
			Management	Coordinator	Committee
OHS Strategic Compliance Plan	Sustainable Compliance Plan	3hr	▲	▲	
	Sect 1: Management	1hr	▲	▲	
	Legal Liability Under the Factories Act of the Country	2hr	▲	▲	
	Guidelines for Evaluating Your Company's Safety and Health Organization	3hr	▲	▲	
Crisis Management	Emergency Planning	2hr	▲	▲	

2. Industrial Relation Capacity Building Program:

Background: Many of the factories are run by foreign managers. We have therefore seen disputes arise due to cultural and communications gaps with the workers. To close that gap we have implemented Industrial Relations Training in partnership with the Cambodia Federation of Employers and Business Association (CAMFEBA). The training topics are:

- Introduction to Industrial Relations
- Industrial Relations system at the national level, enterprise level
- Basic requirements for a sound industrial relation
- Worker participation and employer involvement in industrial relations
- What is Shop Stewart? What are their rights and obligation?
- Worker-Management Committees

- Grievance Systems
- Union establishment and procedures
- Union rights and obligations
- Special protection for unions under the law

3. Other annual Training

Other annual training includes:

- Basic Health and Safety Training,
- Strategic Compliance Plans Training to improve the KPI Assessment, and
- Human Resource Management System.

ANNEX 5 –ADIDAS GROUP PURCHASES OF BFC AUDIT REPORTS

Factory Name	Buyer	Year
Bowker Garment Factory (Cambodia) Company Limited	adidas	2013
KKN Apparel Co. Ltd. (Single Member Private Limited Company)	adidas	2013
Trax Apparel (Cambodia) Co. Ltd	adidas	2013
Shen Zhou (Cambodia) Co., Ltd.	adidas	2012
Sportex Industry Co., Ltd	adidas	2012
Global Apparels Limited (Formerly Jusca Garments)	adidas	2012
Grand Twins International (Cambodia) Ltd. (formerly QMI)-new IMS reports next visit	adidas	2012
Jit Textiles Limited	adidas	2012
Nan Kuang Garment (Cambodia) Co., Ltd	adidas	2012
New Orient Cambodia Co., Ltd.	adidas	2012
Papillion Textile (Cambodia) Co., Ltd	adidas	2012
Six Plus Industry Co., Ltd.	adidas	2012
Splendor Industry Co., Ltd.	adidas	2012

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300; 917-591-3452

WOMEN'S RIGHTS DIVISION

Liesl Gerntholtz, *Executive Director*
Janet Walsh, *Deputy Director*
Nisha Varia, *Senior Researcher*
Gauri van Gulik, *Global Advocate*
Meghan Rhoad, *Researcher*
Aruna Kashyap, *Researcher*
Agnes Odhiambo, *Researcher*
Amanda Klasing, *Researcher*
Samer Muscati, *Researcher*
Rothna Begum, *Researcher*
Hillary Margolis, *Researcher*
Brenda Akia, *Koenig Fellow*
Camille Pendley, *Associate*
Annerieke Smaak, *Associate*

ADVISORY COMMITTEE

Betsy Karel, *Chair*
Karen Ackman
Mahnaz Afkhami
Helen Bernstein
David Brown
Charlotte Bunch
Ellen Chesler
Judy Gaynor
Adrienne Germain
Marina Pinto Kaufman
Hollis Kurman
Lenora Lapidus
Stephen Lewis
Samuel Murumba
Sylvia Neil
Susan Osnos
Joan Platt
Lynn Povich
Bruce Rabb
Amy Rao
Susan Rose
Pascaline Servan-Schreiber
Lorraine Sheinberg
Donna Slaight
Domna Stanton
Ellen Stone Belic
Ellen Susman
Hilary Thomas Lake
Rita W. Warner
Sarah Zeid
Kathleen Peratis, *Chair Emerita (1991–2005)*

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Deputy Executive Director, Development and Global Initiatives*
Carroll Bogert, *Deputy Executive Director, External Relations*
Iain Levine, *Deputy Executive Director, Program*
Chuck Lustig, *Deputy Executive Director, Operations*

Dinah PoKempner, *General Counsel*
James Ross, *Legal & Policy Director*
Hassan Elmasry, *Co-Chair*
Joel Motley, *Co-Chair*

March 17, 2014

To
Mr. Franke Henke
Global Director, Social and Environmental Affairs
Adidas
via email: [REDACTED]

Re: Adidas operations in Cambodia

Dear Mr. Henke:

Please accept my regards on behalf of Human Rights Watch. As you may know, Human Rights Watch is an independent nongovernmental organization dedicated to defending and protecting human rights. We monitor and report on human rights violations in over 90 countries around world, including Cambodia. Since 1998 we have worked on business and human rights issues across different industries in many countries.

I am writing to you because we are researching the rights of garment workers in Cambodia for a report to be published later this year. To ensure that our reporting is fair and accurate, we are seeking input from you and other leading brands that source from Cambodia (see questions, attached). This information will aid us in deepening our understanding of the business environment in which garment factories and brands operate, and gather information about the steps that brands are taking to address their human rights responsibilities through the supply chain.

We are specifically seeking information concerning Adidas policies, programs, and practices related to human rights obligations and labor law compliance throughout your company's supply chain in Cambodia.

We respectfully request your written response to our questions by April 14, 2014, so that they can be reflected in our report. All responses can be sent to us by email to [REDACTED] or by fax: [REDACTED].

We also request you to kindly permit us to visit some of your direct and indirect suppliers in Cambodia, including any Cambodian factory designated as the Single Service Provider and Trax Apparel (Cambodia) Co. Ltd. between March 24-26 or April 1-9, 2014.

We also hope to schedule a meeting or a phone call at your convenience to discuss these issues.

Thank you for your attention to this matter.

HUMAN
RIGHTS
WATCH

HRW.org

Best regards,



Aruna Kashyap
Researcher, Women's Rights Division, Human Rights Watch

CC: Mr. Harry Nurmansyah, [REDACTED]
Ms. Akkaphan Rammanee, [REDACTED]

Questions

A. Suppliers and related information: We understand that Adidas has disclosed its list of suppliers in Cambodia. Human Rights Watch is interested in learning more about Adidas' approach to factories in the supply chain.

1. When did Adidas first disclose its suppliers in Cambodia and does this include both direct and indirect suppliers?
2. How often does Adidas update its supplier list in its disclosure?
3. When was the suppliers list last updated? Can you please provide us copies of all of Adidas' supplier lists for facilities in Cambodia since January 2012 indicating whether they are direct or indirect suppliers?
4. How many of Adidas' direct and indirect Cambodian suppliers fall within the 4C self-governance cluster of factories? Please provide the name of the factory and the year in which it became certified as a 4C-factory.
5. How does the monitoring and supervision of 4C self-governance factories differ from others?
6. How many of Adidas' direct and indirect suppliers from Cambodia are rated as 3C (good or better)? Please provide the name of the factory and the year in which it was certified as 3C.
7. Please provide more information on the Single Service Provider system instituted to manage indirect suppliers. Who is the Single Service Provider in Cambodia and since when has the factory been managing indirect suppliers?
8. How frequently does Adidas place orders with its suppliers?
9. What is the current average purchasing volume from Cambodia?
10. What information does Adidas seek as part of its due diligence before enlisting a supplier? Please provide a copy (omitting identifiable details if needed) as a sample.
11. Once a supplier is contracted with, what ongoing due diligence does Adidas conduct and what information is sought as part of such due diligence?
12. Given that Adidas' Workplace Standards forbids suppliers from making subcontracts for Adidas production without prior approval from the brand, what approval process has Adidas put in place for such decisions?
13. Does Adidas have a list of authorized subcontractors in Cambodia that all of its suppliers can use?

14. Has Adidas received requests from its suppliers to allow subcontracting in the last five years? If yes, how often are such requests made?
15. How much time does it take for Adidas to process a request for subcontracting?
16. Under what circumstances can a supplier request subcontracting?
17. Have any “unauthorized” subcontracts in Cambodia been brought to the attention of Adidas in the last three years?
18. What action does Adidas initiate when an “unauthorized” subcontract is brought to its attention and what remedial measures does it require a supplier to take?
19. Has Adidas undertaken any investigations into specific allegations of “unauthorized” subcontracting by Adidas suppliers in Cambodia? Please provide a copy (removing identifiable details if needed) of an investigation report.
20. How does Adidas ensure that workers in the subcontracting factory are not placed in jeopardy when an “unauthorized subcontract” is disclosed?
21. Has any business relationship been terminated because of “unauthorized” subcontracting in Cambodia? If so, please provide details.
22. Which of its Cambodian suppliers has Adidas discontinued, since when (data since January 2012), and why?

C. Labor law and Workplace Standards compliance: As a brand with a stated commitment to ensuring labor compliance and promoting workers’ rights throughout the supply chain, we are keen to understand the steps Adidas takes to ensure, enable, and facilitate labor compliance by its suppliers.

23. What capacity-building does Adidas undertake for its Cambodian suppliers and what topics are covered in such capacity-building programs?
24. Please share some best practices that have emerged in Adidas supplier factories in Cambodia, including the following areas:
 - a. Use of long-term contracts over shorter term fixed-duration contracts.
 - b. Facilitating the functioning of unions.
25. What are the main features of the Adidas “Social Compliance Plan” and report card and how does Adidas believe this improves upon more general approaches to auditing? Please provide copies (withholding identifiable details if needed) of at least two social compliance plans and report cards of direct and indirect suppliers.
26. Please provide the following additional information on the Social Compliance Initiative (SCI) core questions set:
 - a. Please provide a copy of the SCI core questions set.
 - b. Has the SCI core-questions set been implemented in any Cambodian factories? If yes, please provide a copy of at least one report (withholding identifiable details if needed).
27. How does Adidas factor in the cost of labor compliance in its business relationships?
28. What steps is Adidas taking to improve its purchasing practices to reduce production peaks?
29. The Workplace Standards allows excessive working hours beyond 60 hour work weeks under “extraordinary circumstances.” What kind of extraordinary circumstances does Adidas

envisage and what steps does it take to ensure that these circumstances do not become frequent or routine.

30. Does Adidas plan to pilot its special hotline for workers in Cambodia in the immediate future?
31. Has Adidas received any complaints from Cambodian unions on suppliers' non-compliance with decisions of the Arbitration Council? What steps does Adidas take to ensure that its suppliers comply with Arbitration Council awards?
32. Does Adidas employ third-party auditors to audit Cambodian suppliers? If yes, please provide the following information:
 - a. Do third-party auditors inspect and report on Adidas' subcontractors or indirect suppliers?
 - b. Please provide sample reports of third-party audits (withholding identifiable information if needed).
33. Please provide copies of social compliance plans developed by Adidas suppliers in pursuance of the Workplace Standards (identifiable details can be withheld if needed).
34. Does Adidas have an internal policy on response and follow-up to complaints it receives about labor law non-compliance in its supply chain? Please provide details that specify within what period Adidas responds to such complaints and what process it follows to initiate remedial measures.

D. ILO-BFC monitoring reports

35. For which of its suppliers has Adidas purchased factory-level monitoring reports issued by Better Factories Cambodia (BFC) and in which years? Please provide a full list for the last three years. Please provide copies (withholding identifiable details if needed) of BFC reports for at least five long-time suppliers.
36. Does Adidas share a copy of the BFC monitoring report free of cost with its suppliers? Please provide the most recent list of suppliers with whom BFC reports have been shared.
37. What steps does Adidas take to make improvements in the areas suggested by the BFC monitoring report?

E. Observations Concerning Women Workers: As a brand with a stated commitment to equality and a clear policy against discrimination based on “personal characteristics or beliefs, such as race, national origin, gender, religion, age, disability, marital status, parental status, association membership, sexual orientation or political opinion.”

38. Does Adidas plan to review its Workplace Standards to forbid discrimination based on pregnancy and include a prohibition against the misuse of short-term fixed term contracts or repeated use of casual contracts to bypass labor law compliance?
39. What best practices have emerged with respect to hiring, treatment, and reasonable accommodation for pregnant women?
40. What measures does Adidas advise its suppliers to take to ensure that pregnant women are reasonably accommodated in the workplace?

41. How does Adidas ensure that production lines and daily production quotas are not used to indirectly coerce pregnant workers into accepting overtime, or restrict their ability to take bathroom or rest breaks?
42. How does Adidas' social compliance mechanism keep track of pregnancy-related concerns (reasonable accommodation, day care center, child care allowance, compliance with maternity-related benefits)?
43. Has Adidas taken any steps to encourage and support suppliers to institute a policy against sexual harassment at the workplace and provide training to all staff to prevent and respond to sexual harassment at the workplace?
44. How does Adidas' social compliance plan and report card address gender-related concerns?

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300; 917-591-3452

WOMEN'S RIGHTS DIVISION

Liesl Gerntholtz, *Executive Director*
Janet Walsh, *Deputy Director*
Nisha Varia, *Associate Director*
Agnes Odhiambo, *Senior Researcher*
Aruna Kashyap, *Senior Researcher*
Heather Barr, *Senior Researcher*
Gauri van Gulik, *Global Advocate*
Meghan Rhoad, *Researcher*
Amanda Klasing, *Researcher*
Samer Muscati, *Researcher*
Rothna Begum, *Researcher*
Hillary Margolis, *Researcher*
Brenda Akia, *Koenig Fellow*
Annerieke Smaak, *Associate*
Alexandra Kotowski, *Associate*

ADVISORY COMMITTEE

Betsy Karel, *Chair*
Joan Platt, *Vice-Chair*
Karen Ackman
Mahnaz Afkhami
Helen Bernstein
David Brown
Charlotte Bunch
Ellen Chesler
Judy Gaynor
Adrienne Germain
Marina Pinto Kaufman
Hollis Kurman
Lenora Lapidus
Stephen Lewis
Samuel Murumba
Sylvia Neil
Susan Osnos
Lynn Povich
Bruce Rabb
Amy Rao
Susan Rose
Pascaline Servan-Schreiber
Lorraine Sheinberg
Donna Slaight
Domna Stanton
Ellen Stone Belic
Ellen Susman
Hilary Thomas Lake
Rita W. Warner
Sarah Zeid
Kathleen Peratis, *Chair Emerita (1991–2005)*

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Deputy Executive Director, Development and Global Initiatives*
Carroll Bogert, *Deputy Executive Director, External Relations*
Iain Levine, *Deputy Executive Director, Program*
Chuck Lustig, *Deputy Executive Director, Operations*

Dinah PoKempner, *General Counsel*
James Ross, *Legal & Policy Director*
Hassan Elmasry, *Co-Chair*
Joel Motley, *Co-Chair*

August 21, 2014

To
Mr. William Anderson
Vice President, Social & Environmental Affairs (Asia Pacific)
Adidas Group
20th Floor Wave Place, 55 Wireless Road
Lumpini, Patumwan
Bangkok 10330
Thailand.

Re: adidas Group operations in Cambodia

Dear Mr. Anderson:

Thank you for the April 16, 2014 email response to our letter dated March 17, 2014 and the detailed information shared with us on the policies and practices of adidas Group (Adidas) in Cambodia. We welcome the opportunity to engage in constructive dialogue with Adidas about garment workers' rights in Cambodia. We hope that Adidas will continue to play an important global role in advocating for and improving the rights of workers throughout the garment supply chain and be a strong public and private advocate of supply chain transparency.

We are writing today to share with you some additional information from our research in a number of Cambodian garment factories, including some producing for Adidas. As noted in our previous correspondence, we visited Cambodia in late 2013 and early 2014 to conduct interviews with workers, union federations, company officials, government officials, and international agencies.

We hope to receive a response before September 17, 2014. Any information provided before September 17, 2014 may be reflected in our report, which we expect to publish in late 2014.

Subcontracting

We acknowledge Adidas' commitment to supply chain transparency and its new policy of moving toward a twice yearly disclosure of its suppliers and subcontractors starting in 2014.

Human Rights Watch has information that indicates that at least one factory that appears on Adidas' 2012 list, which produced for a number of other leading brands, may have further subcontracted work to other smaller factories. We have information that indicates that another factory that appears on Adidas' earlier lists but not on the 2014 list may have continued to produce for Adidas in late 2013 and early 2014. We have information that at least one direct supplier subcontracts parts of the production process to

HUMAN
RIGHTS
WATCH

HRW.org

a small factory that is not listed in the Adidas licensees list. Additionally, we want to draw your attention to a recent report published by the Worker Rights Consortium where two factories listed as having produced for Adidas are not listed in any supplier or licensees list, past or current.¹

We note Adidas' commitment to "safeguarding worker's rights, including livelihoods" in subcontract factories. We also take note of Adidas' approach to unauthorized subcontracting where "[n]ormally existing committed orders can be completed, but no further orders can be placed with the facility until approval has been received from SEA."

We note the importance of Adidas' grievance redress hotline system and the opportunity provided to workers, local labor rights groups, and independent unions to directly complain about working conditions in specific supplier factories.

We would like additional information on the following aspects:

1. Does Adidas have any policy outlining how it encourages receiving whistleblowing information of unauthorized subcontracting arrangements and the protections it offers to workers and unions that serve as whistleblowers? Please provide details.
2. Are there any Adidas suppliers and licensees that are not monitored by Better Factories Cambodia (BFC)? If yes, what are the reasons why such factories remain outside the purview of BFC monitoring?
3. For how many suppliers and licensees has Adidas purchased BFC's year-long Advisory Services to date? Please provide details on month and year.
4. What warning mechanism has Adidas put in place before any business relationship is terminated with a supplier where subcontracts without prior permission are brought to Adidas' attention? How many warnings are allowed before a business relationship is terminated?

The case studies below set out the information we have on subcontracting arrangements. We have not disclosed factory names and locations. Our research and reporting worldwide is conducted in accordance with the principle of informed consent and strives to minimize the risk of retaliation to interviewees who consent to give us information. Therefore, we must evaluate the potential impacts on sources when determining how much information we can divulge.

Factory A²

Factory A was a direct Adidas supplier in the past but it does not appear on the latest 2014 list. Workers who have been working for more than two years in the factory said that their

¹ Worker Rights Consortium, "Update on Ongoing Abuse of Temporary Employment Contracts in the Cambodian Garment Industry," <http://workersrights.org/freports/WRC%20Update%20on%20Misuse%20of%20FDCs%20in%20Cambodia%204.11.14.pdf> (accessed August 19, 2014).

² Please note that this is a temporary code assigned to the factory for the purposes of this letter.

factory regularly subcontracted work to at least three other factories. Some workers from Factory A were periodically sent to do work in those factories during the day.

Human Rights Watch spoke to workers from one of the subcontract factories. Workers there told us they have faced repeated anti-union discrimination and forced overtime. Workers also reported wage deductions that were not explained to them.

While we understand that Adidas will have limited influence in this case because the business relationship has already been terminated, we have provided this example to illustrate that a subcontracting arrangement was likely missed by Adidas' monitoring systems. We believe that if there are whistleblower protections and a strong commitment to improving worker conditions in subcontract factories, such arrangements are more likely be reported to Adidas by third parties.

Factory B³

Factory B is a small unmarked subcontract factory. The workers in the factory were very scared and unwilling to speak at length with Human Rights Watch. However, we did learn that the factory receives a vast majority of its products from two large factories, at least one of which supplies to Adidas and is listed as an Adidas supplier. Workers had no worker IDs and did not know the name of the factory. The factory working conditions were extremely poor. Workers had no contracts and were forced to do overtime work sometimes until as late as 10 p.m. At least one worker who refused overtime work was fired. Nobody working in the factory is allowed to take any leave—if they do their entire attendance bonus and daily wage is cut.

Fixed Duration Contracts

Many factories repeatedly use fixed duration contracts (FDCs) as a method of avoiding labor protections and discouraging unions. A number of suppliers also regularly use fixed duration contracts beyond the two-year period, contrary to the ruling of the Arbitration Council.⁴ The Arbitration Council has held that the repeated use of FDCs violates the labor law.

We cannot estimate how many of Adidas suppliers and subcontractors use FDCs and the extent to which they use FDCs. However, recent information and analysis by the Worker Rights Consortium (WRC), an international labor rights group, published in 2014, provides a list of 127 factories with estimates of the extent to which they use FDCs. Of those Adidas suppliers that appear in the database, at least six are reportedly using only FDCs and four more are cited as having “majority FDC.” Four factories reportedly use “majority UDC” and none are identified as using “only UDC.”⁵

We note that Adidas “KPI system for the c-rating of suppliers applies only to long term direct sourcing relationships,” where Adidas invests “time and effort to support the development

³ Please note that this is a temporary code assigned to the factory for the purposes of this letter.

⁴ Jacqsintex Garment Co. Ltd. and Democratic Union of Jacqsintex, Arbitral Award Case No. 10/03 dated July 23, 2003.

⁵ Worker Rights Consortium, “Update on Ongoing Abuse of Temporary Employment Contracts in the Cambodian Garment Industry,” 2014, <http://workersrights.org/freports/WRC%20Update%20on%20Misuse%20of%20FDCs%20in%20Cambodia%204.11.14.pdf> (accessed August 21, 2014).

of robust management systems and internal supplier capacity.” For the 11 3C factories that appear in Annex 3 of the April 16 response, information available from the 2014 WRC report shows that three factories use “only FDC,” two “majority FDC,” and only one factory uses “majority UDC.”

We note Adidas has conducted extensive worker interviews to “understand the expectations and barriers that exist in moving from short term to fixed term contracts” and that it found that “many workers hold a preference for short term contracts, due to a fixed pay-out of severance at the end of each term.” However, more broadly, based on information from workers in a number of factories supplying to international brands, we found that many factory managers in Cambodia tell workers that they will receive an extra five percent of the wages for fixed duration contracts, providing one-sided information. Workers on FDCs were not aware of the pitfalls of being on such contracts. In some cases, workers reported that they either did not receive the additional five percent when the FDC expired or experienced delayed payments.

We note that Adidas Employment Guidelines recognizes “binding workers under multiple, short-term contracts without proper benefits” as a form of non-compliance with the guidelines.

We would like to reiterate that Human Rights Watch found that fixed duration contracts often underlie anti-union discrimination as well as discrimination against pregnant women. Many workers from a number of factories reported that factory managers did not renew short-term contracts for visibly pregnant workers. Likewise, workers who formed unions told us they found that their contracts were not renewed or were terminated; men said they were issued shorter fixed duration contracts than women because they were seen as more vocal and able to challenge factory managers; and workers were themselves scared of trying to join unions for fear of not having their contracts renewed.

We would like to request the following additional information on fixed duration contracts:

5. Please provide information on the type of contracts (UDCs, FDCs, casual contracts) in each of Adidas’ current supplier and licensees factories and the extent to which such contracts are used. Please also indicate which of these are long-term suppliers and licensees.
6. Please provide any additional information available on the types of scenarios that compel Adidas suppliers and licensees (especially 3C rated factories) in Cambodia to retain large number of its workers on repeated short-term contracts, contrary to Adidas’ guidelines and Cambodian labor law.
7. How does the Adidas KPI system factor in the repeated use of FDCs in its rating?
8. What measures is Adidas taking to ensure that Cambodian suppliers rated 3C do not employ workers on short-term contracts contrary to Cambodian labor law?

Production Quotas

Our research on production quotas is drawn from interviews with workers from a number of factories supplying to international brands.

In general, many workers Human Rights Watch spoke with complained about the adverse impact of production targets on their working conditions. Some workers said production

targets or quotas were used to pressure workers to work faster and workers were threatened that their contracts would not be renewed if they were perceived as “slow” workers. Many said that workers unable to meet the production targets were forced to do overtime work. Workers said managers often refused to give them bathroom and drinking water breaks to make sure they maximized their time at the production line and met targets.

The pressure to meet quotas had an added impact on pregnant workers, who needed more breaks than others to rest or use the bathroom, and felt incapable of meeting the quotas. Some pregnant workers eventually left their jobs because they said they were harassed by managers and singled out as “slow.”

In a few factories, workers reported that their managers constantly raised the quotas making it almost humanly impossible for them to achieve the targets. Only those workers who worked relentlessly without any breaks for rest, water, or bathroom could meet the targets if they worked overtime. Others who were not able to meet their quotas were labeled as unproductive. In some cases, when the minimum wages were increased, the quotas were also increased, effectively making women work more for the wages.

Workers generally wanted a couple of hours of overtime work to supplement their income, but refusing excessive overtime work was difficult and workers who dared to refuse overtime work risked retaliation.

We appreciate the detailed information that Adidas has shared with us about its purchasing practices, including level-loading, in order to curb peaks and troughs in orders. We have noted that “[o]rders may also be placed with the suppliers’ parent company, and allocations made between factories across multiple countries, with the decision resting in the hands of the main business partner,” giving Adidas a more limited role in influencing production cycles that impact overtime work demands. Simultaneously, we acknowledge how Adidas is committed to working with long-term business partners.

Human Rights Watch would welcome additional information on what brands, including Adidas, can do differently to ensure that business pressures do not drive demands for excessive overtime work. In Cambodia, barring brief periods where workers went on strikes demanding an increased minimum wage, we did not document any other “extraordinary circumstances” akin to *force majeure* situations (like floods, earthquakes, fires, outbreaks of disease or ill-health) that drove routine excessive overtime.

We note that Adidas uses the phrase “unreasonable production targets” and welcome the distinction Adidas draws between reasonable and unreasonable targets.⁶ We also note that Adidas will respond to complaints about workplace restrictions that undermine workers’ ability to take rest and other breaks and take “enforcement action.”

In particular, we request additional information on the following aspects:

⁶ adidas Group, “Guidelines on Employment Standards,” February 2010, http://www.adidas-group.com/media/filer_public/2013/07/31/guidelines_on_employment_standards_english.pdf (accessed July 29, 2014), para. 4.2.3, p. 30.

9. Please provide us more details about the distinction between reasonable and unreasonable production targets.
10. How does Adidas encourage its suppliers to set targets respecting workers human needs in 8, 10 or sometimes even 12-hour work days—to rest, drink water, use the restroom, and eat meals especially when doing overtime work? Please provide any example of internal rules, collective bargaining agreements, or any other documentation we may be able to share more widely.
11. What measures does Adidas take to ensure that the suppliers and licensees do not increase production targets to compensate for the rise in statutory minimum wages?
12. What type of “enforcement action” does Adidas take when it receives complaints about workplace pressures that undermine workers’ ability to take rest or other breaks?
13. What kinds of complaints has Adidas received through its grievance hotline and what action has it taken in the supplier factories?
14. Has Adidas purchased BFC Advisory Services for factories it has received grievances from or following BFC monitoring reports? Please provide details.
15. Has Adidas made any other financial contribution towards remediating worker conditions in factories where it receives complaints from unions or workers? Please provide details.

We look forward to hearing from you and discussing more about how Adidas’ current policies and practices can be further improved to protect worker rights. In particular, we would like to discuss the following preliminary recommendations regarding Adidas’ policy and approach to workers’ rights in the supply chain:

On subcontracting and related protections:

- a) Publicly disclose all suppliers and subcontractors on a quarterly or half-yearly basis together with indicating volume—for example—minor, medium, or major supplier.
- b) Create a concrete and written whistleblower protection system for workers and union representatives who alert Adidas to unauthorized subcontracting. Such a whistleblower system should ensure that all workers and union representatives receive appropriate protection for a reasonable period, including legal representation to defend themselves against vexatious suits or criminal complaints filed by factories; monthly wages including minimum wage, reasonable allowances, and overtime pay; and where workers are dismissed from work for having reported on unauthorized subcontracts, possible alternative employment at a nearby location.
- c) As soon as unauthorized subcontracting is brought to light, ensure that the factory is reported to BFC’s monitoring and remediation services where Adidas contributes towards monitoring and remediation for a reasonable period before stopping production.
- d) Going forward, given the nature of subcontracting, Adidas should ensure that all factories that have subcontracted work without authorization over a particular period (for example, one year) are reported to BFC for monitoring and remediation, irrespective of whether the factory currently undertakes subcontracted production for Adidas.

- e) Provide necessary funds sufficient for BFC to expand its monitoring services to include subcontract factories.
- f) Advocate publicly for ILO-BFC to report on brands that are being produced in the factories monitored by them to ensure greater transparency.
- g) Highlight the benefits of and speak publicly about the importance of disclosing the supply chain.
- h) Revise the Code of Conduct to protect workers in subcontract factories.


On labor compliance and industrial relations:

- i) Undertake periodic pricing review and factor in the cost of and make a contribution toward labor compliance in consultation with labor rights lawyers and unions. The cost of labor compliance should include the cost of reasonable accommodation for pregnant workers and maternity benefits.
- j) Limit the use of fixed duration contracts to seasonal or temporary work for all workers and encourage and incentivize the adoption of undetermined duration contracts (UDCs) or permanent contracts in Cambodia. Communicate with all suppliers that employing male workers on shorter term FDCs than their female counterparts is discriminatory.
- k) Ensure that Adidas suppliers do not compensate for rise in minimum wages by raises in production quotas at the expense of workers' rights.
- l) Actively encourage women's participation in union leadership and encourage training, awareness, and factory-level complaints mechanisms against sexual harassment at the workplace.
- m) Ensure that sourcing contracts adequately reflect and incorporate the costs of labor, health, and safety compliance.

We also take this opportunity to request a representative from Adidas to appear in a short video being produced by Human Rights Watch to speak to the importance of supply chain transparency, and the benefits it has had for Adidas over the years.

Once again, we thank you for your detailed and thoughtful engagement with Human Rights Watch for our research and advocacy to promote garment workers' rights in Cambodia.

Best regards,



Senior Researcher
Women's Rights Division
Human Rights Watch

CC:

- 1. Ms. Rammanee Akkaphan, [REDACTED]
- 2. Mr. Harry Nurmansyah, [REDACTED]

Response to Additional Questions Raised by HRW on Cambodia

Introduction

Thank you for bringing to our attention two suspected cases of unauthorized subcontracting.

The first is derived from an apparent mismatch in information: whereby two factories are listed by WRC as having produced for adidas Group, but these do not appear on our published supplier lists. We believe you are referring here to Quint Major Industrial and Beauty Silk. These are not unauthorized subcontractors, as explained below:

1. **Quint Major Industrial Co., Ltd.:** the factory was cited under the Arbitration Council case 11/031. Locally it is known as “QMI-2”. QMI-2 has never produced for adidas, but has been mistakenly named as an adidas supplier in the local media and in past NGO reports. There is another factory owned by the Quint Major group (QMI -1) whose operating name is “Grand Twins International”. We can confirm that Gran Twins, which is located in another part of Phnom Penh, is a long standing business partner.
2. **Beauty Silk Screening:** adidas Group does not have direct commercial relationship with this factory, which is a printing facility used as a subcontractor by several of our primary suppliers in Cambodia. It does not make final product and is not therefore part of our factory disclosure lists. We require our main suppliers to disclose to us their subordinate embellishers and to ensure that these sub-contractors are compliant with the adidas Group Workplace Standards.

The second case has been labelled “Factory B”. With respect to Factory B, did the workers confirm that adidas product was being made in their plant? We ask because we would not prevent an approved supplier from having subcontracting relationships to service other customers, but our production would have to remain at the main, authorized, factory. If adidas production was reportedly made at Factory B we would be grateful if you could disclose the name and location of the plant, so that we can follow-up.

We have set out our responses to your additional questions below.

Unauthorised Subcontracting

Does Adidas have any policy outlining how it encourages receiving whistleblowing information of unauthorized subcontracting arrangements and the protections it offers to workers and unions that serve as whistleblowers? Please provide details.

We do not actively encourage workers to act as whistleblowers with respect to subcontracting or the outsourcing of production activities. We do receive information from time to time from third parties (other brands, suppliers, NGOs, etc.) who suspect unauthorized subcontracting is taking place, or claim that a certain factory is making adidas Group product, when no record of approval can be found in our internal database.

Information disclosed to us by a third party – be it a worker, a union, an NGO, a buyer, or a supplier – regarding unauthorized subcontracting will always be dealt with on a strictly confidential basis, and the complainant is always informed of this. Once a suspected case is brought to our attention we rely on our own direct investigations to substantiate a claim. This means we have to gather documentary and

Response to Additional Questions Raised by HRW on Cambodia

physical evidence to prove a breach of contract, which in turn leads to enforcement action.

Alternatively, our investigations may indicate counterfeit activities are taking place, in which case we may have grounds to pursue a criminal prosecution. Counterfeit cases are dealt with by our Intellectual Property team, unauthorized subcontracting by the Social & Environmental Affairs team, working closely with colleagues in Legal and Sourcing.

The name or particulars of a third party who has reported a suspected case of unauthorized subcontracting are never shared or discussed with the supplier who is the subject of the complaint. This limits the possibility of an individual, or organization, being identified or targeted. If by some other means a supplier comes to know the identity of a complainant, and this leads to intimidation or harassment, then we would take immediate and direct action to remedy this situation, invoking the non-retaliation clause in our manufacturing agreements.

Are there any Adidas suppliers and licensees that are not monitored by Better Factories Cambodia (BFC)? If yes, what are the reasons why such factories remain outside the purview of BFC monitoring?

All of our approved suppliers are monitored by Better Factories Cambodia. This has been the case since 2001. BFC extended the opportunity for footwear factories to join its monitoring programme in 2012 and our two footwear suppliers subsequently joined Better Factories Cambodia.

For how many suppliers and licensees has Adidas purchased BFC's year-long Advisory Services to date? Please provide details on month and year.

It is not mandatory for our suppliers to sign up to the BFC Advisory Services programme. We have had three garment factories and two footwear factories register directly for this Service, as follows:

Factory name	Starting Date	End Date
Shen Zhou Cambodia Co, Ltd	June 2013	October 2014
Daqian Textile (Cambodia) Co., Ltd.	Undergoing registration	Not available
Papillion Textile (Cambodia) Co., Ltd.	May 2014	May 2015
Meng Da Footwear Industrial Co., Ltd.	July 2013	July 2014
Can Sports Shoes Co., Ltd.	January 2014	January 2015

4. What warning mechanism has Adidas put in place before any business relationship is terminated with a supplier where subcontracts without prior permission are brought to Adidas' attention? How many warnings are allowed before a business relationship is terminated?

Our enforcement policy calls for three written warnings to be issued, prior to the termination of an existing supplier relationship. A supplier has to be a "serial offender" before being terminated on the grounds of unauthorised subcontracting. However, if a supplier is found to be involved in a criminal activity - such as aiding and abetting in the production of counterfeit goods - this could lead to an

Response to Additional Questions Raised by HRW on Cambodia

immediate termination of a business relationship. Where we discover counterfeit operations we would normally ask for production to cease immediately, and for all goods to be destroyed.

To date we have had no reported counterfeit cases in Cambodia.

Fixed Duration Contracts

5. Please provide information on the type of contracts (UDCs, FDCs, casual contracts) in each of Adidas' current supplier and licensees factories and the extent to which such contracts are used. Please also indicate which of these are long-term suppliers and licensees.

Contract Status for Long Term Direct Suppliers

Factory name	Existing Type of Contract	Remark
Can Sport Shoes Co., Ltd.	UDC	NA
Crown Yin/Nan Kuang Garment (Cambodia) Co. Ltd.	FDC	Union oppose the UDC scheme
Daqian Textile (Cambodia) Co., Ltd.	UDC	NA
Dayup Global Co., Ltd.	UDC	NA
Din Han Enterprise Co., Ltd.	UDC	NA
Elite (Cambodia) Co. Ltd.	FDC	Union oppose the UDC scheme
Grand Twins International (Cambodia) Ltd.	FDC	Union oppose the UDC scheme
KKN Apparel Co., Ltd.	UDC	NA
Meng Da Footwear Industrial Co. Ltd.	UDC	NA
New Orient Garment Co., Ltd.	UDC	NA
Papillion Textile (Cambodia) Co., Ltd.	UDC	NA
Shenzhou (Cambodia) Co., Ltd.	UDC	NA
Six Plus Industry Co., Ltd.	FDC	Union oppose the UDC scheme
Splendor Industry Co., Ltd.	FDC	Workers oppose the UDC scheme
Sportex Industry Co., Ltd.	FDC	Workers oppose the UDC scheme
Suntex Pte Ltd.	FDC	Workers oppose the UDC scheme
Tien Sung Garment (Cambodia) Co., Ltd.	Operated less than 2 year, TBA	To be determined
Trax (Cambodia) Co., Ltd.	Operated less than 2 year, TBA.	To be determined

Response to Additional Questions Raised by HRW on Cambodia

Yorks (Cambodia) Co., Ltd.	UDC	NA
----------------------------	-----	----

Contract Status for Licensees

Factory Name	Existing Type of Contract	Converting to UDC?
Day Up Global Co., Ltd.	FDC	Yes
H&L Apparel (Cambodia) Co., Ltd.	UDC	NA
K-22 Knit Co., Ltd.	FDC	Union oppose the UDC scheme
JIT Textiles Ltd.	FDC	Union oppose the UDC scheme

6. Please provide any additional information available on the types of scenarios that compel Adidas suppliers and licensees (especially 3C rated factories) in Cambodia to retain large number of its workers on repeated short-term contracts, contrary to Adidas' guidelines and Cambodian labor law.

Out of 41,000 workers in Cambodia making our products, 55% are under UDC, 35 % are under FDC and a further 10% are employed in newly established factories, which will gradually apply UDC after the current contract term expire in 2 years.

We fully support a reduction in short term FDCs in favour of UDC across all our suppliers, irrespective of their KPI score. However, we must also acknowledge the challenges facing our suppliers in making such changes.

During the 2008-9 Financial Crisis foreign factory owners fled the country, leaving behind debts, unpaid wages and severance owed to workers. This had a profound effect on the workers' belief in UDCs. Sportex Industry Co, Ltd., which makes product for adidas Group, is a case in point. The factory opened in 1998 and employed the entire workforce on UDCs. However, in 2009 Sportex's workers went on strike calling for the existing UDC to be terminated and paid-out immediately. All workers were then re-hired under short term FDCs, at the request of the union.

Another example is Elite (Cambodia) Co., Ltd which is located in the Manhattan EPZ in Svey Rieng Province. The factory management have proposed use of UDCs, but the union has not been persuaded. All other factories in the EPZ are applying the FDC.

Generally we have seen new start-up factories better able to implement the UDC than the older and long established garment suppliers, where the FDCs are widely accepted by the workforce. Those suppliers often cite the current tight labour market, and their concern that forcing a change in contract terms could increase worker turnover, or even trigger industrial action. Continued engagement is therefore paramount. See our answer to Q.8.

We understand that the independent trade unions are concerned that FDCs create an opportunity for factories to target trade union organisers, given the short-term nature of the contracts. However, even

Response to Additional Questions Raised by HRW on Cambodia

in those factories which currently employ their workers on FDCs we have not seen evidence of any reduction of seniority bonus, pregnancy leave benefits, or in trade union activities.

7. How does the Adidas KPI system factor in the repeated use of FDCs in its rating?

The continue usage of FDC (beyond a maximum 2 year period) is captured as a pending issue in our KPI measurement of Compliance Performance. This lowers the final score and overall rating.

8. What measures is Adidas taking to ensure that Cambodian suppliers rated 3C do not employ workers on short-term contracts contrary to Cambodian labor law?

We actively encourage the use of the UDC across all of our supply chain and more than half of our suppliers in Cambodia have offered permanent employment to their workers. This has been achieved through on-going communication and engagement. We require each of our suppliers to clearly identify the benefits of UDC during their workers' orientation days. We also encourage the Human Resource Manager to engage directly with the factory union reps, to educate them on the use of UDC. Some of our suppliers have gone further and have engaged the local labor authority to provide training for the workers on UDC.

One recent good practice example is Shenzhou (Cambodia) Co., Ltd., which had been using FDCs since 2006. In 2013 they persuaded their entire 4,500 strong workforce to convert to UDCs. This took place as part of their drive to attract and retain long-term employees, which also included the launch of a free lunch programme for workers.

Production Quotas

Please provide us more details about the distinction between reasonable and unreasonable production targets.

The efficiency rate that a worker can achieve is identified using the Garment Sewing Data (GSD) System. This figure is set as the target for factory. To determine a realistic figure of the efficiency expected, the Industrial Engineer in the factory will conduct a study during the first few days when a new production style commences. The efficiency rate will be reviewed in the real production climate for each step in the sewing process.

Reasonable target is defined when the average output from the operators in one production line meets the target set originally and vice versa.

10. How does Adidas encourage its suppliers to set targets respecting workers human needs in 8, 10 or sometimes even 12-hour work days—to rest, drink water, use the restroom, and eat meals especially when doing overtime work? Please provide any example of internal rules, collective bargaining agreements, or any other documentation we may be able to share more widely.

We require all our suppliers to base their order capacity calculation on 8 hours per day, excluding rest days and overtime.

Response to Additional Questions Raised by HRW on Cambodia

In terms of ensuring that human needs are taken into consideration during the target setting, General Sewing Data (GSD) is used. This software program calculates the Standard Minute Value to complete one garment. One of the criteria used under the GSD is the “Relaxation Allowances”.

The Relaxation Allowance is based on the International Labor Organisation framework to achieve a sustainable labour costing. It takes into account personal fatigue levels, environmental conditions and allows the personal needs of workers such as drinking water, rest room breaks, etc.

We require our suppliers to provide a written policy which caps working hours (no more than 60 hours per week) and ensures a rest day as provided by law, with adequate rests and breaks during working hours. These requirements must be stated in the Employee Handbook, a copy of which must be given to each worker during their induction training. These requirements are also normally posted on the Public Notice Board and on the walls of the canteen.

11. What measures does Adidas take to ensure that the suppliers and licensees do not increase production targets to compensate for the rise in statutory minimum wages?

Our costing system sets FOB prices against the manufacturer’s fixed overheads, and is adjusted seasonally. If there is a minimum wages rise there should be no undue pressure to lift production targets, unless the factory is shared with other buyers who are not able or willing to absorb the wage increases in their pricing mechanism.

During the production development process, our contract suppliers set the production target. These are based on data generated by the GSD software. It is the responsibility of the factory’s Industrial Engineer to accurately set the target, one that workers can reasonably achieve. Costing is not a driver to the production system - the actual focus is on product complexity.

12. What type of “enforcement action” does Adidas take when it receives complaints about workplace pressures that undermine workers’ ability to take rest or other breaks?

We treat any restriction on movement whether limiting toilet breaks or requiring, for example, overtime during lunchtime as serious breach of the worker’s labour rights. Once found we would ask the factory to immediately cease these non-compliant practices. If they refuse to take immediate action, they would receive a Warning Letter. Within 3 months SEA would conduct a follow-up audit and if there has been no improvement a 2nd Warning Letter would be issued. At which point, no new production orders could be placed until the factory ends such practices. If the issue is still pending after another 3 months, SEA would recommend to Sourcing to terminate the business relationship. SEA would then issue a third letter, notifying the factory of pending termination.

13. What kinds of complaints have Adidas received through its grievance hotline and what action has it taken in the supplier factories?

We don’t receive a large volume of complaints from workers, due to the effectiveness of the trade union shop stewards, who are highly successful in addressing worker grievances on the factory floor. As a result, it is usually larger scale or intractable issues that are raised with us through our hotline system. Typically, labour disputes.

Response to Additional Questions Raised by HRW on Cambodia

We would normally seek to objectively review the facts and set out a recommended course of action. If, for example, there is a clear breach of FOA, due say to the dismissal of a trade union official, we would normally call for reinstatement. If issues and their resolution are intractable, we would normally direct the parties to follow the available labour dispute mechanism and seek conciliation or mediation through the Labour department, or adjudication through the Arbitration Council.

14. Has Adidas purchased BFC Advisory Services for factories it has received grievances from or following BFC monitoring reports? Please provide details.

We have close ties and an open channel to the trade unions operating in our suppliers and are often called on to address grievances raised directly by them, through investigation and remedial action. The BFC advisory services do not necessarily fit well with these direct activities. However, we often refer to the BFC Monitoring Reports to cross-check any previous findings.

It is generally where we see that the factory needs to improve its whole management systems, especially on basic workers' rights, that we will encourage them to engage BFC Advisory Services.

15. Has Adidas made any other financial contribution towards remediating worker conditions in factories where it receives complaints from unions or workers? Please provide details.

It is the business owners who shoulder the legal responsibility to improve the working conditions in their factories. It is not therefore our policy to provide direct financial aid for remedial actions. However, we do support our suppliers by funding training and capacity building activities, such as supervisory trainings or safety officer training. We have also funded various BFC initiatives in Cambodia. This year, for example, we paid for the promotion of canteen services and the provision of free food to workers. The VDO can be viewed at: <http://betterfactories.org/?p=8329>. Last year we funded BFC's mobile Phone Application project which will allow the public to access the Cambodia Labour Law Guideline in three different languages (English, Khmer and Chinese). This helps build awareness of rights.

Recommendations on policy and practices

Subcontracting and related protection:

- a) Policy disclose all suppliers and subcontractors on a quarterly or half-yearly basis together with indicating volume – for example- minor, medium, or major suppliers.** We have already moved to a twice yearly disclosure process of our main manufacturing partners. We do not disclose sourcing volumes. We view that to be commercially sensitive information. Moreover, it would involve a huge administrative task to maintain up-to-date and accurate data given the size of the supply chain and the fact that volumes vary by season. Our large strategic partners also split order allocations between their approved factories.
- b) Create a concrete and written whistle-blower protection system for workers and union representatives who alert adidas to unauthorized subcontracting. Such a whistle-blower system should ensure that all workers and union representatives receive appropriate protection for a reasonable period, including legal representation to defend themselves against vexatious suits or criminal complaints filed by factories; monthly wages including minimum wage, reasonable**

Response to Additional Questions Raised by HRW on Cambodia

allowances, and overtime pay; and where workers are dismissed from work for having reported on unauthorized subcontracts, possible alternative employment at a nearby location. We do not encourage workers to act as whistle-blowers in relation to subcontractor activities and have no plan to develop a specific policy for that. Any party that lodges a third party complaint or shares other compliance information with us is treated as a confidential source. Their name and particulars are not disclosed. Moreover we already have in place well tested procedures for handling any reported retaliation.

- c) **As soon as unauthorized subcontracting is brought to light, ensure that the factory is reported to BFC's monitoring and remediation services where adidas contributes towards monitoring and remediation for a reasonable period before stopping production.** As mentioned earlier, we have already developed a robust approach to verifying and managing unauthorised sub-contracting that is tied to our legal enforcement mechanism. Orders can be completed and during that time we would normally require an independent audit to be conducted and call for remediation of any identified labour or health and safety issue. Unless the factory was accepted formally into our supply chain, as an approved facility, we would not nominate them to be part of the BFC's monitoring and remediation services.
- d) **Going forward, given the nature of subcontracting, adidas should ensure that all factories that have subcontracted without authorization over a particular period (for example, one year) are reported to BFC for monitoring and remediation, irrespective of whether the factory currently undertakes subcontracted production for adidas.**

We could do so, but unauthorised subcontracting is rare.

- e) **Provide necessary funds sufficient for BFC to expand its monitoring services to include subcontract factories.**

There is a specific funding model for BFC. Your proposals would need to be shared with BFC, who would then have to engage with all buyers, as well as the BFC signatory bodies: the Royal Government of Cambodia, ILO and GMAC.

- f) **Advocate publicly for ILO-BFC to report on brands that are being produced in the factories monitored by them to ensure greater transparency.**

We believe that such Public Disclosure is already an existing policy applied by ILO-BFC. Together with several other prominent brands in Cambodia, adidas Group was actively involved in supporting the re-enforcement of this policy in 2013, including persuading GMAC and government to support disclosure.

- g) **Highlight the benefits of and speak publicly about the importance of disclosing the supply chain.** We will further discuss this topic once we have received the list of questions from HRW.

- h) **Revise the Code of Conduct to protect workers in subcontract factories.**

Response to Additional Questions Raised by HRW on Cambodia

Generally, the adidas Group's Workplace Standards apply across our entire supply chain, whether this is in a main partner factory or in their sub-contractor. This requirement is communicated through the legally binding terms of our manufacturing agreements.

Labour compliance and industrial relations:

- i) Undertake periodic pricing review and factor in the cost of and make contribution toward labour compliance in consultation with labor rights lawyers and unions. The cost of labour compliance should include the cost of reasonable accommodation for pregnant workers and maternity benefits.**

Our costing process already takes into account the costs of legally mandated benefits (including pregnant workers and maternity benefits) in the labor cost calculation.

- j) Limit the use of fixed duration contract to seasonal or temporary work for all workers and encourage and incentivize the adoption of undetermined duration contracts (UDCs) or permanent contracts in Cambodia. Communicate with all suppliers that employing male workers on shorter term FDCs than their female counterparts is discriminatory.**

As we explained earlier, we have been actively engaged with our suppliers calling on them to fully comply with the FDC/UDC law in Cambodia. There has been substantial progress, but there are still obstacles, especially where the plant level unions and/or workers oppose conversion to UFC.

We are not aware of such gender discrimination in the FDC system in our supply chain and would request that HRW share with us any documented evidence of this. We have a clear Non-Discrimination policy in all aspect of employment practice which has been properly communicated to our suppliers.

- k) Ensure that adidas suppliers do not compensate for rise in minimum wages by rises in production quotas at the expense of workers' rights.**

See our earlier response on how productivity is actually applied and measured. Wages don't drive production quotas,

- l) Actively encourage women's participation in union leadership and encourage training, awareness, and factory-level complaints mechanism against sexual harassment at the workplace.**

Typically we have been promoting non-discrimination in our suppliers' employment practices, including recruitment and worker promotions. There may be merit in more women securing leadership positions with the local trade unions, especially given that 80 percent of the workforce in the garment sector is female. It would however be inappropriate for us to engage with the unions over their chosen leadership structures. They may view this as "interfering" with their rights of association.

We have a clear Anti Abuse and Harrasment policy in our Workplace Standards. Sexual harassment is a considered a serious violation. This topic is included in our regular refresher training for our suppliers, and is a topic we raise in our on-site and off-site worker interviews.

Response to Additional Questions Raised by HRW on Cambodia

Currently we are in the process of reviewing and launching a new workers hotline and grievance system for workers using SMS. This new system has been successfully implemented in Indonesia and Vietnam and we believe it encourages workers to more freely and actively share their grievances about workplace conditions, including sensitive cases where sexual harassment may be an issue.

m) Ensure that sourcing contracts adequately reflect and incorporate the costs of labor, health, and safety compliance.

In principle the supplier bears the legal responsibility to ensure their operations are fully compliant with local regulations, labour codes and safety standards. We don't specifically negotiate the 'compliance cost' as we consider the factory's operational expense is already included in their overhead calculation.

Armani

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300; 917-591-3452

WOMEN'S RIGHTS DIVISION

Liesl Gerntholtz, *Executive Director*
Janet Walsh, *Deputy Director*
Nisha Varia, *Senior Researcher*
Gauri van Gulik, *Global Advocate*
Meghan Rhoad, *Researcher*
Aruna Kashyap, *Researcher*
Agnes Odhiambo, *Researcher*
Amanda Klasing, *Researcher*
Samer Muscati, *Researcher*
Rothna Begum, *Researcher*
Hillary Margolis, *Researcher*
Brenda Akia, *Koenig Fellow*
Camille Pendley, *Associate*
Annerieke Smaak, *Associate*

ADVISORY COMMITTEE

Betsy Karel, *Chair*
Karen Ackman
Mahnaz Afkhami
Helen Bernstein
David Brown
Charlotte Bunch
Ellen Chesler
Judy Gaynor
Adrienne Germain
Marina Pinto Kaufman
Hollis Kurman
Lenora Lapidus
Stephen Lewis
Samuel Murumba
Sylvia Neil
Susan Osnos
Joan Platt
Lynn Povich
Bruce Rabb
Amy Rao
Susan Rose
Pascaline Servan-Schreiber
Lorraine Sheinberg
Donna Slaight
Domna Stanton
Ellen Stone Belic
Ellen Susman
Hilary Thomas Lake
Rita W. Warner
Sarah Zeid
Kathleen Peratis, *Chair Emerita (1991–2005)*

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Deputy Executive Director, Development and Global Initiatives*
Carroll Bogert, *Deputy Executive Director, External Relations*
Iain Levine, *Deputy Executive Director, Program*
Chuck Lustig, *Deputy Executive Director, Operations*

Dinah PoKempner, *General Counsel*
James Ross, *Legal & Policy Director*
Hassan Elmasry, *Co-Chair*
Joel Motley, *Co-Chair*

March 25, 2014

To
Ms. Annalisa Pirotta
Press Office
The Armani Group
via email: [REDACTED]

HUMAN
RIGHTS
WATCH

HRW.org

Re: The Armani Group's operations in Cambodia

Dear Ms. Pirotta:

Please accept my regards on behalf of Human Rights Watch. As you may know, Human Rights Watch is an independent nongovernmental organization dedicated to defending and protecting human rights. We monitor and report on human rights violations in over 90 countries around world, including Cambodia. Since 1998 we have worked on business and human rights issues across different industries in many countries.

I am writing to you because we are researching the rights of garment workers in Cambodia for a report to be published later this year. To ensure that our reporting is fair and accurate, we are seeking input from you and other leading brands that source from Cambodia (see questions, attached). This information will aid us in deepening our understanding of the business environment in which garment factories and brands operate and gather information about the steps that brands are taking to address their human rights responsibilities through the supply chain.

We are specifically seeking information concerning Armani's policies, programs, and practices related to human rights obligations and labor law compliance throughout your company's supply chain in Cambodia.

We respectfully request a written response to our questions by April 20, 2014, so that they can be reflected in our report. All responses can be sent to us by email to [REDACTED] or by fax: [REDACTED].

We also request permission for us to visit some of your direct and indirect suppliers in Cambodia between March 25 and April 7, 2014 including Kin Tai Garment Co. Ltd.

We also hope to schedule a meeting or a phone call with relevant officials to discuss these issues.

Thank you for your attention to this matter and we hope you can bring this to the kind attention of relevant officials.

Best regards,

Aruna Kashyap
Researcher, Women's Rights Division, Human Rights Watch

Questions

A. Observations Concerning Women Workers: As a brand with a stated commitment to equality and a clear policy against discrimination based on “race, gender, color, nationality, religion, age, maternity, marital status, social or ethnic origin, sexual orientation, political opinion, disability, affiliation, non-affiliation, or any other status or personal characteristic,” we would appreciate any information you can share concerning the following:

1. How does Armani ensure that its suppliers do not misuse temporary fixed duration contracts, including non-renewal of contracts of pregnant workers?
2. What measures does Armani advise its suppliers to take to ensure that pregnant women are reasonably accommodated in the workplace?
3. How does Armani ensure that production lines and daily production quotas are not used to indirectly coerce pregnant workers into accepting overtime, or restrict their ability to take bathroom or rest breaks?
4. How does Armani advise its suppliers to incorporate pregnancy-related concerns (reasonable accommodation, day care center, child care allowance, compliance with maternity-related benefits)? Please share examples of best practices that have emerged from Armani suppliers in Cambodia.
5. Has Armani taken any steps to encourage and support suppliers to institute a policy against sexual harassment at the workplace and provide training to all staff to prevent and respond to sexual harassment at the workplace?
6. How does Armani's audits address gender-related concerns?

B. Suppliers and related information: Human Rights Watch is interested in learning more about Armani's approach to factories in the supply chain.

7. How frequently does Armani place orders with its suppliers?
8. What is the current average purchasing volume from Cambodia?
9. What information does Armani seek as part of its due diligence before enlisting a supplier? Please provide a copy (omitting identifiable details if needed) as a sample.
10. Once a supplier is contracted with, what ongoing due diligence does Armani conduct and what information is sought as part of such due diligence?
11. Given that the Armani Supplier Code of Conduct states that “[s]uppliers shall provide Armani with full disclosure of subcontracting activity and obtain approval of the use of subcontractors in Armani-related operations,” please provide the following information:
 - a. How often does Armani seek such disclosure from its suppliers?

- b. What approval process has Armani put in place for suppliers to undertake subcontracting?
 - c. Does Armani have a list of authorized subcontractors in Cambodia that all of its suppliers can use?
 - d. Has Armani received requests from its suppliers to allow subcontracting in the last five years? If yes, how often are such requests made?
 - e. How much time does it take for Armani to process a request for subcontracting?
 - f. Under what circumstances can a supplier request subcontracting?
12. Have any “unauthorized” subcontracts in Cambodia been brought to the attention of Armani in the last three years?
 13. What action does Armani initiate when an “unauthorized” subcontract is brought to its attention and what remedial measures does it require a supplier to take?
 14. Has Armani undertaken any investigations into specific allegations of “unauthorized” subcontracting by Armani suppliers in Cambodia? Please provide a redacted version (removing identifiable details if needed) of an investigation report.
 15. How does Armani ensure that workers in the subcontracting factory are not placed in jeopardy when an “unauthorized subcontract” is disclosed?
 16. Has any business relationship been terminated because of “unauthorized” subcontracting in Cambodia? If so, please provide details.
 17. Has Armani ever publicly disclosed a list of suppliers and their subcontractors in Cambodia?
 - a. If no, what are the reasons Armani has not publicly disclosed its suppliers and subcontractors’ lists? Does Armani plan to disclose these in the near future?
 - b. If suppliers’ and their subcontractors’ names have been disclosed, kindly provide us a copy of the data and let us know how frequently the data is updated.
 18. Which of its Cambodian suppliers has Armani discontinued, since when (data since January 2012), and why?

C. Labor law and Code of Conduct compliance: As a brand with a stated commitment to ensuring labor compliance and promoting workers’ rights throughout the supply chain, we are keen to understand the steps Armani takes to ensure, enable, and facilitate labor compliance by its suppliers.

19. Given that the Armani Supplier Code of Conduct states that “[t]he use of contract, temporary or other non-full-time employment schemes shall not be used to systematically avoid the payment of worker benefits,” please provide a list of all Armani suppliers and the proportion of fixed-duration contracts (by contract duration) used in each of the supplier factories.
20. What are the main features of Armani’s supply chain monitoring?
21. What capacity-building initiatives does Armani take for its supply chain to facilitate labor law compliance?
22. What costs does Armani factor towards labor compliance in its business relationships and how are these calculated?
23. What steps is Armani taking to improve its purchasing practices to reduce production peaks?
24. How has Armani’s pricing model been revised to factor in the cost of labor? How does Armani calculate the cost of labor in its pricing models?

25. Has Armani received any complaints from Cambodian unions on suppliers' non-compliance with decisions of the Arbitration Council? What steps does Armani take to ensure that its suppliers comply with Arbitration Council awards?
26. Given that the Armani Supplier Code of Conduct requires suppliers to put in place a grievance redress mechanism, please provide examples of grievance redress mechanisms instituted by Armani suppliers.
27. Does Armani employ third-party auditors to audit Cambodian suppliers?
 - a. Do third-party auditors inspect and report on Armani's subcontractors or indirect suppliers?
 - b. Please provide sample reports of third-party audits (withholding identifiable information if needed).
28. Does Armani have an internal policy on response and follow-up to complaints it receives about labor law non-compliance in its supply chain? Please provide details that specify within what period Armani responds to such complaints and what process it follows to initiate remedial measures.

D. ILO-BFC monitoring reports

29. For which of its suppliers has Armani purchased factory-level monitoring reports issued by Better Factories Cambodia (BFC) and in which years? Please provide a full list for the last three years. Please provide redacted copies (withholding identifiable details if needed) of BFC reports for at least five long-time suppliers.
30. Does Armani share a copy of the BFC monitoring report free of cost with its suppliers? Please provide the most recent list of suppliers with whom BFC reports have been shared.
31. What steps does Armani take to make improvements in the areas suggested by the BFC monitoring report?

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300; 917-591-3452

WOMEN'S RIGHTS DIVISION

Liesl Gerntholtz, *Executive Director*
Janet Walsh, *Deputy Director*
Nisha Varia, *Associate Director*
Agnes Odhiambo, *Senior Researcher*
Aruna Kashyap, *Senior Researcher*
Heather Barr, *Senior Researcher*
Gauri van Gulik, *Global Advocate*
Meghan Rhoad, *Researcher*
Amanda Klasing, *Researcher*
Samer Muscati, *Researcher*
Rothna Begum, *Researcher*
Hillary Margolis, *Researcher*
Brenda Akia, *Koenig Fellow*
Annerieke Smaak, *Associate*
Alexandra Kotowski, *Associate*

ADVISORY COMMITTEE

Betsy Karel, *Chair*
Joan Platt, *Vice-Chair*
Karen Ackman
Mahnaz Afkhami
Helen Bernstein
David Brown
Charlotte Bunch
Ellen Chesler
Judy Gaynor
Adrienne Germain
Marina Pinto Kaufman
Hollis Kurman
Lenora Lapidus
Stephen Lewis
Samuel Murumba
Sylvia Neil
Susan Osnos
Lynn Povich
Bruce Rabb
Amy Rao
Susan Rose
Pascaline Servan-Schreiber
Lorraine Sheinberg
Donna Slaight
Domna Stanton
Ellen Stone Belic
Ellen Susman
Hilary Thomas Lake
Rita W. Warner
Sarah Zeid
Kathleen Peratis, *Chair Emerita (1991–2005)*

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Deputy Executive Director, Development and Global Initiatives*
Carroll Bogert, *Deputy Executive Director, External Relations*
Iain Levine, *Deputy Executive Director, Program*
Chuck Lustig, *Deputy Executive Director, Operations*

Dinah PoKempner, *General Counsel*
James Ross, *Legal & Policy Director*
Hassan Elmasry, *Co-Chair*
Joel Motley, *Co-Chair*

August 22, 2014

To
Graziano de Boni
Chief Executive Officer
The Armani Group
Giorgio Armani Corporation
450 W 15th St
New York, NY 10014

Re: The Armani Group's operations in Cambodia

Dear Mr. de Boni:

We are writing today to share with you additional information from Human Rights Watch's research in Cambodia that pertains to one of Armani's suppliers in Cambodia.

As noted in Human Rights Watch's previous correspondence to Armani Group on March 25, 2014, we visited Cambodia in late 2013 and early 2014 to conduct interviews with workers, union federations, government officials, company officials, and international agencies.

Unlike other brands, we note that Armani has not provided a written response to our March 25 letter. We hope that Armani will provide written responses to this letter, as well as to our previous letter, and make a representative available to discuss Armani's policies and issues concerning workers' rights in Cambodia. Any responses sent to Human Rights Watch before September 17, 2014 may be reflected in a report that will be published in late 2014.

Our research and reporting worldwide is conducted in accordance with the principle of informed consent and strives to minimize the risk of retaliation to interviewees who consent to give us information. Therefore, we must evaluate the potential impacts on sources when determining how much information we can divulge and have not disclosed the name and location of the factory.

Factory A1¹

Factory A1 supplies to Armani and we understand that complaints about its working conditions may have been brought to Armani's attention before. The factory repeatedly hires its workers on fixed duration contracts (FDC) for three months, and each new contract is given a fresh work start date rather than reflecting past service in the factory. Workers are hired on a

¹ Please note that this is a temporary code assigned to the factory name for the purposes of this letter.

HUMAN
RIGHTS
WATCH

HRW.org

daily wage basis in the interim until a fresh contract is issued. Workers were not promptly paid the additional five percent of their wages as severance as required under Cambodian labor law. The factory also hires workers repeatedly on two-month fixed duration contracts. Pregnant workers or other workers who appear unwell are dismissed or find that their short-term contracts are not renewed, especially if they request exemption from overtime work or ask for sick leave.

In general, we note that workers from factories producing for a number of leading brands told us that their factories used fixed duration contracts beyond the two-year period, contrary to rulings issued by the Arbitration Council.² The Arbitration Council has held that the repeated use of FDCs violates the labor law.

Managers provided one-sided information to workers about an extra five percent of the wages to be paid at the end of fixed duration contracts. Most workers were unaware of the possible pitfalls of being on a fixed duration contract.

Human Rights Watch's research has found in that, in general, fixed duration contracts facilitate discriminatory practices against union supporters and pregnant workers. Many workers reported that factory managers did not renew short-term contracts for visibly pregnant workers. Likewise, workers who formed unions found that their contracts were not renewed or were terminated; men said they were issued shorter fixed duration contracts than women because they were seen as more vocal and able to challenge factory managers; and workers were themselves scared of trying to join unions for fear of not having their contracts renewed.

Please provide us additional information on the following aspects:

- a. The types of contracts (undetermined, fixed duration, or casual contracts) used in each of Armani's supplier factories in Cambodia and the extent to which such contracts are used. Also indicate for how many years each of these factories have supplied to Armani.

Transparency in the Supply Chain

We urge Armani to disclose its global supplier and subcontractor lists publicly and ensure that these are periodically updated on a half-yearly basis. Armani's lack of transparency in its supply chain places it outside of good practice in the industry and makes it more difficult for concerned Armani consumers, worker organizations, and other corporate social responsibility advocates to track and report labor rights violations in its supply chain.

Other brands including H&M and Adidas have disclosed their supplier and subcontractor lists and periodically update it. H&M began publicly disclosing its supplier and subcontractor lists in 2013 with an annual update and Adidas started publicly disclosing its supplier and licensees lists in 2007 and moved to a twice yearly disclosure starting in 2014.

² Jacqsintex Garment Co. Ltd. and Democratic Union of Jacqsintex, Arbitral Award Case No. 10/03 dated July 23, 2003.

We would like to learn how Armani addresses various problems in factories of its suppliers. Please provide the following information:

- b. Please tell us how Armani addresses reports of unauthorized subcontracts, the steps put in place to encourage whistleblowing of unauthorized subcontracting arrangements, and the protections offered to workers who serve as whistleblowers.
- c. How does Armani support remediation of worker conditions in subcontract factories? Please provide information on Armani's procedures with any examples.
- d. In which year did Armani start purchasing Better Factories Cambodia's (BFC) factory-level monitoring reports?
- e. Does Armani purchase BFC factory monitoring reports for subcontracting factories?
- f. How many BFC factory monitoring reports has Armani purchased to date and what measures does it take to address the labor rights violations that are reported in the factory reports? Please provide details.
- g. Has Armani contributed to the cost of remediation in supplier or subcontractor factories in response to findings in BFC factory reports?
- h. To date, has Armani purchased BFC's Advisory Services for its supplier and subcontractor factories? Please provide details of names of factories and the year of purchase.
- i. With regard to any unauthorized subcontract factories that Armani may have uncovered, has Armani referred them to the ILO's BFC program or provided time for monitoring and remediation to ensure that workers' incomes were not impacted adversely by the whistleblowing?
- j. What warning mechanism has Armani put in place before any business relationship is terminated with a supplier who subcontracts without prior permission?

Production Quotas

Our research on production quotas is drawn from interviews with workers from a number of factories producing for international brands.

Many workers with whom Human Rights Watch spoke complained about how production targets were used to undermine their working conditions, making it difficult for them to take rest breaks or other breaks to use the rest room, drink water, or take sick leave. Some workers said production targets or quotas were used to pressure workers to work faster and workers were threatened that their contracts would not be renewed if they were perceived as "slow" workers.

Workers said managers often refused to give them bathroom and drinking water breaks to make sure they maximized their time at the production line. Alternatively, workers—especially those on fixed duration contracts—said they were afraid to ask for such breaks for fear that they would be perceived as "unproductive." Workers said they were also denied sick leave or rest breaks due to production quota pressures. Alternatively, where sick leave was granted, many workers reported that a disproportionate amount was deducted from their monthly attendance bonus.

The pressure to meet quotas had an added impact on pregnant workers, who needed more breaks than others to rest or use the bathroom, and felt incapable of meeting the quotas. Some pregnant workers eventually left their jobs because they said they were too scared to ask for breaks and be humiliated as "slow" workers.

In a few factories, workers reported that their managers constantly raised the quotas making it almost humanly impossible for them to achieve the targets. Only those workers who worked relentlessly without any breaks for rest, water, or bathroom could meet the targets if they worked overtime. Others who were not able to were labeled as unproductive. In some cases, when the minimum wages were increased, the quotas were also increased, effectively making women work more for their wages.

Workers generally wanted a couple of hours of overtime work to supplement their income, but refusing excessive overtime work was difficult and workers who dared to refuse overtime work risked retaliation.

We would like additional information to understand the following:

- k. Does Armani draw a distinction between reasonable and unreasonable production targets? If yes, please provide details.
- l. How does Armani encourage its suppliers to set targets respecting workers' human needs in 8, 10, or sometimes even 12-hour work days—to rest, drink water, use the restroom, and eat meals especially when doing overtime work? Please provide any examples of internal rules, collective bargaining agreements, or any other documentation we may be able to share more widely.

We look forward to hearing from you and discussing how Armani's current policies and practices can be further improved to protect worker rights. In particular, we would like to discuss the following recommended changes to Armani's policy and approach to workers' rights in the supply chain:

On subcontracting and related protections:

- 1. Publicly disclose all suppliers and subcontractors on a quarterly or half-yearly basis together with indicating volume—for example—minor, medium, or major supplier.
- 2. Create a concrete and written whistleblower protection system for workers and union representatives who alert Armani to unauthorized subcontracting. Such a whistleblower system should ensure that all workers and union representatives receive: appropriate protection for a reasonable period, including legal representation to defend themselves against vexatious suits or criminal complaints filed by factories; monthly wages including minimum wage, reasonable allowances, and overtime pay; and where workers are dismissed from work for having reported on unauthorized subcontracts, possible alternative employment at a nearby location.
- 3. As soon as unauthorized subcontracting is brought to light, ensure that the factory is reported to BFC's monitoring and remediation services where Armani contributes towards monitoring and remediation for a reasonable period before stopping production.
- 4. Given the nature of subcontracting, Armani should ensure that all factories that have subcontracted work without authorization over a particular period (for example, one

- year) are reported to BFC for monitoring and remediation, irrespective of whether the factory currently undertakes subcontracted production for Armani.
5. Provide necessary funds sufficient for BFC to expand its monitoring services to include subcontracting factories.
 6. Advocate publicly for BFC to report on brands that are being produced in the factories monitored by them to ensure greater transparency.
 7. Revise the Code of Conduct to protect workers in subcontract factories.

On labor compliance and industrial relations:

8. Undertake periodic and regular pricing review that factors in the cost of and makes a contribution toward labor compliance in consultation with labor rights lawyers and unions. The cost of labor compliance should include the cost of reasonable accommodation for pregnant workers and maternity benefits.
9. Review the Code of Conduct and include a clause that forbids the use of casual contracts and fixed duration contracts contrary to local laws or as a method of bypassing labor protections. Limit the use of fixed duration contracts to seasonal or temporary work for all workers and encourage and incentivize the adoption of undetermined duration contracts (UDCs) or permanent contracts in Cambodia. Communicate with all suppliers that employing male workers on shorter term FDCs than their female counterparts is discriminatory. Ensure that Armani's suppliers do not compensate for a rise in minimum wages by raising production quotas at the expense of workers' rights.
10. Actively encourage women's participation in union leadership and encourage training, awareness, and factory-level complaints mechanisms against sexual harassment at the workplace.
11. Ensure that sourcing contracts adequately reflect and incorporate the costs of labor, health, and safety compliance.

Best regards,



Senior Researcher
Women's Rights Division
Human Rights Watch

CC:

1. Mr. Luca Galvani, [REDACTED]
2. Ms. Cecilia Dessalles, [REDACTED]
3. Mr. Franco Sonnino, [REDACTED]
4. Mr. Lorenzo Dovesi, [REDACTED]
5. Mr. Luca Pastorelli, [REDACTED]
6. [REDACTED]

Encl: Human Rights Watch letter to Armani, March 25, 2014.

Gap

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300; 917-591-3452

WOMEN'S RIGHTS DIVISION

Liesl Gerntholtz, *Executive Director*
Janet Walsh, *Deputy Director*
Nisha Varia, *Senior Researcher*
Gauri van Gulik, *Global Advocate*
Meghan Rhoad, *Researcher*
Aruna Kashyap, *Researcher*
Agnes Odhiambo, *Researcher*
Amanda Klasing, *Researcher*
Samer Muscati, *Researcher*
Rothna Begum, *Researcher*
Hillary Margolis, *Researcher*
Brenda Akia, *Koenig Fellow*
Camille Pendley, *Associate*
Annerieke Smaak, *Associate*

ADVISORY COMMITTEE

Betsy Karel, *Chair*
Karen Ackman
Mahnaz Afkhami
Helen Bernstein
David Brown
Charlotte Bunch
Ellen Chesler
Judy Gaynor
Adrienne Germain
Marina Pinto Kaufman
Hollis Kurman
Lenora Lapidus
Stephen Lewis
Samuel Murumba
Sylvia Neil
Susan Osnos
Joan Platt
Lynn Povich
Bruce Rabb
Amy Rao
Susan Rose
Pascaline Servan-Schreiber
Lorraine Sheinberg
Donna Slaight
Domna Stanton
Ellen Stone Belic
Ellen Susman
Hilary Thomas Lake
Rita W. Warner
Sarah Zeid
Kathleen Peratis, *Chair Emerita (1991–2005)*

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Deputy Executive Director, Development and Global Initiatives*
Carroll Bogert, *Deputy Executive Director, External Relations*
Iain Levine, *Deputy Executive Director, Program*
Chuck Lustig, *Deputy Executive Director, Operations*

Dinah PoKempner, *General Counsel*
James Ross, *Legal & Policy Director*
Hassan Elmasry, *Co-Chair*
Joel Motley, *Co-Chair*

March 19, 2014

To
Ms. Bobbi Silten
Senior Vice President, Global Sourcing
Gap Inc.
via email: [REDACTED]
Re: Gap Inc. operations in Cambodia

Dear Ms. Silten:

Please accept my regards on behalf of Human Rights Watch. As you may know, Human Rights Watch is an independent nongovernmental organization dedicated to defending and protecting human rights. We monitor and report on human rights violations in over 90 countries around world, including Cambodia. Since 1998 we have worked on business and human rights issues across different industries in many countries.

I am writing to you because we are researching the rights of garment workers in Cambodia for a report to be published later this year. To ensure that our reporting is fair and accurate, we are seeking input from you and other leading brands that source from Cambodia (see questions, attached). This information will aid us in deepening our understanding of the business environment in which garment factories and brands operate and gather information about the steps that brands are taking to address their human rights responsibilities through the supply chain.

We are specifically seeking information concerning Gap Inc.'s policies, programs, and practices related to human rights obligations and labor law compliance throughout your company's supply chain in Cambodia.

We respectfully request your written response to our questions by April 12, 2014, so that they can be reflected in our report. All responses can be sent to us by email to [REDACTED] or by fax: [REDACTED].

We also request you to kindly permit us to visit some of your direct and indirect suppliers in Cambodia on any of these dates: March 24–March 26, or April 1–April 9, 2014.

We also hope to schedule a meeting or a phone call at your convenience to discuss these issues.

Thank you for your attention to this matter.

Best regards,

Aruna Kashyap

HUMAN
RIGHTS
WATCH

HRW.org

Aruna Kashyap
Researcher, Women's Rights Division, Human Rights Watch

Questions

A. P.A.C.E program: We are aware that Gap Inc. has initiated the Personal Advancement and Career Enhancement (P.A.C.E) program to empower women garment workers. We wish to learn more about the program and its features, especially how it addresses gender-based discrimination at the workplace. In particular, we would like to learn in which Cambodian factories Gap Inc. has piloted this program, the month/year in which the program started, and any examples where workers have effectively negotiated better support for pregnant workers, maternity benefits, women's participation in unions, and against sexual harassment at the workplace.

B. Suppliers and related information: Human Rights Watch is interested in learning more about Gap Inc.'s approach to factories in the supply chain.

1. How frequently does Gap Inc. place orders with its suppliers?
2. What is the current average purchasing volume from Cambodia? What information does Gap Inc. seek as part of its due diligence before enlisting a supplier? Please provide a copy (omitting identifiable details if needed) as a sample.
3. Once a supplier is contracted with, what ongoing due diligence does Gap Inc. conduct and what information is sought as part of such due diligence?
4. Given that Gap Inc.'s Code of Vendor Conduct applies to suppliers, their divisions, affiliates, and agents, what monitoring mechanism does Gap Inc. have in place to keep track of its vendors' divisions, affiliates, and agents?
5. Does Gap Inc. have a list of authorized subcontractors in Cambodia that all of its suppliers can use?
6. Has Gap Inc. received requests from its suppliers to allow subcontracting in the last five years? If yes, how often are such requests made?
7. How much time does it take for Gap Inc. to process a request for subcontracting?
8. Under what circumstances can a supplier request subcontracting?
9. Have any "unauthorized" subcontracts in Cambodia been brought to the attention of Gap Inc. in the last three years?
10. What action does Gap Inc. initiate when an "unauthorized" subcontract is brought to its attention and what remedial measures does it require a supplier to take?
11. Has Gap Inc. undertaken any investigations into specific allegations of "unauthorized" subcontracting by Gap Inc. suppliers in Cambodia? Please provide a redacted version (removing identifiable details if needed) of an investigation report.
12. How does Gap Inc. ensure that workers in the subcontracting factory are not placed in jeopardy when an "unauthorized subcontract" is disclosed?
13. Has any business relationship been terminated because of "unauthorized" subcontracting in Cambodia? If so, please provide details.

14. Has Gap Inc. ever publicly disclosed a list of suppliers and their subcontractors in Cambodia?
 - a. If no, what are the reasons Gap Inc. has not publicly disclosed its suppliers and subcontractors' lists? Does Gap Inc. plan to disclose these in the near future?
 - b. If suppliers' and their subcontractors' names have been disclosed, kindly provide us a copy of the data (indicating brand names) and let us know how frequently the data is updated.
15. Which of its Cambodian suppliers has Gap Inc. discontinued, since when (data since January 2012), and why?

C. Labor law and Code of Conduct compliance: As a brand with a stated commitment to ensuring labor compliance and promoting workers' rights throughout the supply chain, we are keen to understand the steps Gap Inc. takes to ensure, enable, and facilitate labor compliance by its suppliers.

16. The Code of Vendor Conduct allows excessive working hours beyond 60 hour work weeks under "extraordinary business circumstances." What kind of extraordinary business circumstances does Gap Inc. envisage and what steps does it take that these circumstances do not become frequent or routine?
17. What are the main features of Gap Inc.'s supply chain monitoring and how does this monitor subcontracting?
18. How does Gap Inc. factor in the cost of labor compliance in its business relationships?
19. What steps is Gap Inc. taking to improve its purchasing practices to reduce production peaks?
20. How has Gap Inc.'s pricing model been revised to factor in the cost of labor? How does Gap Inc. calculate the cost of labor in its pricing models?
21. Has Gap Inc. received any complaints from Cambodian unions on suppliers' non-compliance with decisions of the Arbitration Council? What steps does Gap Inc. take to ensure that its suppliers comply with Arbitration Council awards?
22. Does Gap Inc. employ third-party auditors to audit Cambodian suppliers?
 - a. Do third-party auditors inspect and report on Gap Inc.'s subcontractors or indirect suppliers?
 - b. Please provide sample reports of third-party audits (withholding identifiable information if needed) of suppliers.
23. Does Gap Inc. have an internal policy on response and follow-up to complaints it receives about labor law non-compliance in its supply chain? Please provide details that specify within what period Gap Inc. responds to such complaints and what process it follows to initiate remedial measures.

D. ILO-BFC monitoring reports

24. For which of its suppliers has Gap Inc. purchased factory-level monitoring reports issued by Better Factories Cambodia (BFC) and in which years? Please provide a full list for the last three years. Please provide redacted copies (withholding identifiable details if needed) of BFC reports for at least five long-time suppliers.

25. Does Gap Inc. share a copy of the BFC monitoring report free of cost with its suppliers?
Please provide the most recent list of suppliers with whom BFC reports have been shared.
26. What steps does Gap Inc. take to make improvements in the areas suggested by the BFC monitoring report?

E. Observations Concerning Women Workers: As a brand with a stated commitment to equality and a clear policy against discrimination based on “race, color, gender, nationality, religion, age, maternity, marital status, indigenous status, social origin, disability, sexual orientation, membership in workers’ organizations including unions, or political affiliation” we would appreciate any information you can share concerning the following:

27. Given that Gap Inc. specifies that “the factory shall not modify or terminate workers’ contracts for the sole purpose of avoiding the provision of benefits,” how does Gap Inc. ensure that its suppliers do not misuse temporary fixed duration contracts, including terminating contracts of pregnant workers?
28. What measures does Gap Inc. advise its suppliers to take to ensure that pregnant women are reasonably accommodated in the workplace?
29. How does Gap Inc. ensure that production lines and daily production quotas are not used to indirectly coerce pregnant workers into accepting overtime, or restrict their ability to take bathroom or rest breaks?
30. How does Gap Inc.’s recommendation for a factory-level policy on social accountability incorporate pregnancy-related concerns (reasonable accommodation, day care center, child care allowance, compliance with maternity-related benefits)?
31. Has Gap Inc. taken any steps to encourage and support suppliers to institute a policy against sexual harassment at the workplace and provide training to all staff to prevent and respond to sexual harassment at the workplace?
32. How do Gap Inc.’s audits address gender-related concerns?

Gap Inc. Response

Re: Garment Workers' Rights in Cambodia

A. P.A.C.E. Program

We launched [Gap Inc. P.A.C.E.](#) (Personal Advancement & Career Enhancement) in 2007 to help the female garment workers who make our clothes advance at work and in life. The centerpiece of the program is 65-80 hours of instruction on up to eight learning modules that focus on building women's life and professional skills.

To date, more than 25,000 women in seven countries have participated in the program. Key implementing partners include CARE and Swasti Health Resource Centre. The International Center for Research on Women (ICRW) is the global P.A.C.E. evaluation partner.

Cambodia is the second country P.A.C.E. entered after launching in India. We partner with CARE Cambodia and also have a local P.A.C.E. team member based in Phnom Penh. After starting operations there in 2009, we expanded the program to three additional facilities in 2013. Participation in P.A.C.E. is voluntary for vendors, factories and workers. When selecting participants for P.A.C.E., factory managers include representatives from all unions at the facility with each batch of participants.

Globally, the share of women at all P.A.C.E. facilities reporting high levels of self-esteem, self-efficacy, work efficacy and workplace influence increased in a range from 49 to 150 percent, according to an evaluation by ICRW. There was a 40 percent increase in P.A.C.E. participants in Cambodia who felt their production level was high and a 66 percent higher retention rate compared to all female garment workers in the factory.

In 2013, P.A.C.E. expanded beyond the boundaries of garment factories into local communities. We piloted this new community concept with 200 women across 24 villages throughout India and Cambodia.

B. Suppliers and Related Information; C. Labor Law and Code of Conduct Compliance; D. ILO-BFC Monitoring Reports

Tiered Approach to Vendor Engagement & Monitoring

Our work with the factories that make our branded apparel and other products is based on a three-tiered approach that seeks to safeguard workers' well-being and build sustainable human rights practices in garment factories by demonstrating the value we can create for a broad set of stakeholders.

- Monitoring and Remediation – Our factory monitoring program seeks to create value by helping apparel factories meet a baseline standard of working conditions by complying with our [Code of Vendor Conduct](#) (COVC).

- Capacity Building – We seek to help vendors and factories take ownership of social responsibility by internalizing many of the practices we audit against in our monitoring program.
- Shared Value - Programs such as P.A.C.E. help factories go beyond monitoring and capacity building by creating value through investing in workers' life and professional skills.

Better Factories Cambodia

In 2001, we helped form the International Labour Organization's (ILO) [Better Factories Cambodia](#) (BFC) program, which later expanded into the global [Better Work](#) program. This partnership between the ILO and the International Finance Corporation (IFC) seeks to help governments, workers and companies achieve compliance with the ILO's core labor standards as well as national labor laws. In 2012, our Vice President of Social & Environmental Responsibility was elected to a two-year term representing U.S. buyers on Better Work's Advisory Committee.

Supplier Types

In countries such as Cambodia where Better Work programs are established, we subscribe to Better Work assessment reports and have stopped our own monitoring of the factories that make our branded apparel at Better Work's request. This allows us to deploy our internal monitoring team more strategically, with a focus on remediation and capacity-building efforts.

Our factory monitoring efforts are complemented by a non-apparel policy that requires all suppliers of Gap Inc. branded product to sign a compliance agreement stating their commitment to abide by our COVC. In Cambodia and elsewhere, our Vendor Engagement & Monitoring team continues to audit other supporting factories that perform embroidery, screen printing and laundry functions. In order to focus our resources where we can have the greatest impact, we begin monitoring non-apparel suppliers once their volume reaches an agreed-upon threshold.

Key Monitoring Principles

Two key principles guide our approach to monitoring the factories that make our branded apparel and other products:

- We believe that what gets measured gets managed. We monitor factories against the consistent standards of our COVC, and we rate their performance over time so that we can more effectively address issues.
- We work to fix what we find. The value of monitoring extends far beyond uncovering problems; it includes all of the actions we take to facilitate remediation in a sustainable way. Rather than terminate relationships with suppliers, we prefer to stay and try to improve working conditions because we

believe this approach is better for the garment workers who depend on these jobs to support themselves and their families.

Vendor Monitoring Program

Our vendor monitoring program includes the following stages:

- **Approval** – Before any factory can manufacture apparel branded by Gap Inc., it must undergo an initial audit assessing its working conditions. Based on this audit, the factory either earns approval or is placed in a pending status while it addresses outstanding issues. In select cases, a factory that has resolved all identified major issues may be granted a one-time, conditional approval, even though it may still have a few minor issues to resolve.
- **Monitoring** – We assess working conditions throughout the entire duration of our relationship with a given vendor and monitor current and emerging issues.
 - **BFC factories** – BFC audits the factories that supply our branded apparel in Cambodia. We incorporate the findings of BFC reports into our own vendor management system so that we can conduct factory approvals, track performance and ensure factories complete any remediation that may be required.
 - **Supporting factories** – Our team conducts announced and unannounced audits of supporting factories. We tailor the frequency of visits to a factory's unique needs. For example, a factory that is not performing well may require more visits than a high-performing factory.
- **Rating** – During factory audits, our team reviews more than 700 performance indicators to determine a factory's rating, which helps to track and remediate any COVC compliance issues.
- **Remediation** – We emphasize remediation, and we do not allow COVC violations to go unaddressed. When we learn of or find violations at BFC and support factories, we work with factory management to agree on specific time-bound improvement plans. We monitor progress through follow-up visits and on-site meetings with unions if they are present in a factory.

Vendor Capacity Building

We are in the process of implementing a case management approach to Vendor Engagement, moving beyond the "one size fits all" approach that has driven many industry efforts to date. These tailored programs are being rolled out in factories that are of strategic importance to our business.

Subcontracting

We receive periodic requests from suppliers for subcontracting to augment their production capacity. Our vendor monitoring program extends to all authorized subcontractors at the cut-and-sew level. We only permit subcontracting at factories that comply with our COVC and have successfully completed the approval process

described above. The approval process typically takes 1-3 months, depending on production needs and the time that may be required for remediation.

If we find a case of unauthorized subcontracting (UAS), the Monitoring and Remediation Specialist (MRS) escalates the incident to the Vendor Engagement & Monitoring manager and director in accordance with our Issue Escalation Policy for High Risk Incidents. The local MRS advises the factory to immediately stop production and ensures all goods (finished or unfinished) are returned to an approved Gap Inc. factory, segregated and held until the issue is resolved. An investigation is conducted at the factory to determine whether there are any critical issues.

Working Hours

While it is understood that overtime is often required in garment production, factories are monitored to ensure they carry out their operations in ways that limit overtime to a level that ensures humane and productive working conditions. To try to prevent instances of excessive overtime, we work with factories to improve their management systems, analyze overtime causes and implement a production tracking system. Under our COVC, workers may refuse overtime without any threat of penalty, punishment or dismissal.

Arbitration Council

The Garment Manufacturers Association of Cambodia and the eight major union confederations and federations negotiated a two-year Memorandum of Understanding (MOU) that went into effect on October 3, 2012. The MOU tasks an independent Arbitration Council (AC) with reviewing and arbitrating labor disputes between workers and factory owners. We have actively supported the AC as a platform for peaceful dispute resolution that benefits workers and suppliers. When Cambodian unions have raised concerns about suppliers' non-compliance with AC decisions, we have communicated to factory management our expectation that they respect and follow any AC awards.

Purchasing Practices and Business Integration

We place orders with suppliers in Cambodia on an ongoing basis in accordance with business needs. As we work with factories to address issues outlined in our COVC, we seek to build our own knowledge of how our decisions affect theirs. In 2011, we created a Brand Integration and Vendor Performance project team to leverage vendor data and improve business decisions, including order placement.

Other initiatives to better align our purchasing practices with our social objectives include:

- Meeting with leaders in Gap Inc.'s Sourcing department to examine any issues related to working conditions that may have stemmed from decisions at

headquarters.

- Developing a virtual training tool to help employees understand our company's social and environmental responsibility efforts, with a focus on how purchasing decisions can impact local communities around the world.
- Training all new hires in inventory management, merchandising, production, and sourcing on the importance of responsible purchasing practices.

We continue to improve the alignment between our global business strategy and social and environmental responsibility efforts. One prime example is the shift we began making in 2012 to a sourcing strategy centered on category management. This approach emphasizes collaboration—across brands, geographies, internal teams, and other stakeholders throughout our supply chain. By sourcing across brands in shared categories such as denim and knits, we are putting greater emphasis on creating deeper relationships with our vendors worldwide. We have found these relationships support our efforts to improve working conditions, as we can help vendors implement—and own—solutions to such issues.

E. Observations Concerning Women Workers

Zero Tolerance for Discrimination, Harassment and Retaliation

Our [Code of Business Conduct](#) includes a zero tolerance policy for discrimination, harassment and retaliation. This policy applies to our directors, employees, applicants, customers and business partners (including independent contractors, vendors and suppliers).

Our COVC prohibits factories from engaging in any form of discrimination against workers. This policy governs hiring, employing, promoting, terminating and providing access to training and retirement to workers. It also applies to the payment of wages and benefits. In particular, factories are strictly prohibited from discriminating against workers in any of these areas with regard to race, color, gender, nationality, religion, age, maternity, marital status, indigenous status, social origin, disability, sexual orientation, membership in workers' organizations including unions, or political affiliation.

Factory Monitoring of Gender-related Concerns

The detailed guide and checklist that our Vendor Engagement & Monitoring team uses to ensure compliance with our COVC incorporates several items that specifically address the needs and treatment of pregnant women, including:

- The facility must comply with legal requirements on working environment for pregnant, post-partum and breastfeeding women.
- Pregnancy testing should not influence or be conducted as part of the hiring process or employment decisions.

- Workers should not be dismissed because of their pregnancy status.
- The facility is required to conduct a risk assessment to determine and address any specific risks to pregnant, post-partum and nursing women.
- The facility must make reasonable accommodations in job conditions for pregnant women (such as job reassignments to non-hazardous or lighter work, provision of seating, extended breaks, etc.).
- The factory must not allow pregnant workers to engage in unhealthy spot cleaning or chemical handling for the duration of their pregnancy.

Our monitoring guide contains suggested questions for factory management and workers as well as background information and tips for evaluating gender-related concerns and the treatment of pregnant workers. MRS are also instructed to check for any signs of discrimination in factory documentation such as hiring criteria in job postings and applications, any tests or medical exams workers are asked to take and payroll records. The guide provides examples of prohibited pregnancy discrimination, including: verbal abuse, firing, job reassignment not for legal, health or safety reasons, and refusing to hire a woman because she is pregnant. The guide also identifies common risks for pregnant or nursing women and best practices for ensuring their well-being, including: re-arranging working hours; adjusting overtime hours; and offering greater flexibility for break times.

If we encounter any violations through our own audits or BFC assessment reports, we make sure these issues are addressed with factory management and fixed through appropriate remediation.

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300; 917-591-3452

WOMEN'S RIGHTS DIVISION

Liesl Gerntholtz, *Executive Director*
Janet Walsh, *Deputy Director*
Nisha Varia, *Associate Director*
Agnes Odhiambo, *Senior Researcher*
Aruna Kashyap, *Senior Researcher*
Heather Barr, *Senior Researcher*
Gauri van Gulik, *Global Advocate*
Meghan Rhoad, *Researcher*
Amanda Klasing, *Researcher*
Samer Muscati, *Researcher*
Rothna Begum, *Researcher*
Hillary Margolis, *Researcher*
Brenda Akia, *Koenig Fellow*
Annerieke Smaak, *Associate*
Alexandra Kotowski, *Associate*

ADVISORY COMMITTEE

Betsy Karel, *Chair*
Joan Platt, *Vice-Chair*
Karen Ackman
Mahnaz Afkhami
Helen Bernstein
David Brown
Charlotte Bunch
Ellen Chesler
Judy Gaynor
Adrienne Germain
Marina Pinto Kaufman
Hollis Kurman
Lenora Lapidus
Stephen Lewis
Samuel Murumba
Sylvia Neil
Susan Osnos
Lynn Povich
Bruce Rabb
Amy Rao
Susan Rose
Pascaline Servan-Schreiber
Lorraine Sheinberg
Donna Slaight
Domna Stanton
Ellen Stone Belic
Ellen Susman
Hilary Thomas Lake
Rita W. Warner
Sarah Zeid
Kathleen Peratis, *Chair Emerita (1991–2005)*

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Deputy Executive Director, Development and Global Initiatives*
Carroll Bogert, *Deputy Executive Director, External Relations*
Iain Levine, *Deputy Executive Director, Program*
Chuck Lustig, *Deputy Executive Director, Operations*

Dinah PoKempner, *General Counsel*
James Ross, *Legal & Policy Director*
Hassan Elmasry, *Co-Chair*
Joel Motley, *Co-Chair*

August 21, 2014

To
Mr. Glenn Murphy
Chairman and Chief Executive Officer
Gap Inc.

Re: Gap Inc. operations in Cambodia

Dear Mr. Murphy:

Thank you for the April 11, 2014 email response to our letter dated March 19, 2014 and the additional information shared with us on the policies and practices of Gap Inc. (Gap) in Cambodia. We hope that like other brands that have responded to Human Rights Watch, Gap will provide a more detailed response to each of the questions we have asked in our March 19, 2014 letter, especially those queries related to transparency in Gap's supply chain and its response to unauthorized subcontracting.

We welcome the opportunity to engage in constructive dialogue with Gap about garment workers' rights in Cambodia. We hope that Gap will continue to play an important global role in advocating for garment workers' rights, including through its support for better monitoring of garment factories as evidenced by its continuous support for the Better Factories Cambodia (BFC) program and the Better Work program.

We are writing today to share some additional information from our research in Cambodia pertaining to labor rights violations in a number of factories, including some that produced garments for Gap in the past year. As noted in our previous correspondence, we visited Cambodia in late 2013 and early 2014 to conduct interviews with workers, union federations, company officials, government officials, and international agencies.

We request you to kindly respond to this letter and the questions in our previous letter with more details before September 17, 2014. Any information provided to us before September 17, 2014 may be reflected in a report that will be published in late 2014.

Subcontracting

Human Rights Watch has information about one subcontract factory that was producing for Gap in 2013. We have additional information that indicates that at least four more factories supplying to Gap brands may have been periodically subcontracting parts of their production to smaller factories.

HUMAN
RIGHTS
WATCH

HRW.org

Because we have no official information on Gap suppliers and subcontractors, we are unable to determine whether these were authorized suppliers or subcontractors. Regardless, our research, as described below, suggests that subcontract factories are engaging or have engaged in practices that violate Cambodian labor laws and are inconsistent with Gap's Code of Vendor Conduct (COVC).

We appreciate Gap's commitment to ensure that the COVC standards are complied with in all apparel factories irrespective of their production threshold and in non-apparel supporting factories that reach an agreed-upon threshold of production. We take note of Gap's commitment to remediation. We support efforts to inspect worksites for safety and rights violations with the aim of bringing about improvements.

We were concerned to learn that where an unauthorized subcontract comes to Gap's attention, the local Monitoring and Remediation Specialist (MRS) "advises the factory to immediately stop production and ensures all goods (finished or unfinished) are returned to an approved Gap Inc. factory, segregated and held until the issue is resolved." Such an approach, we have found, directly harm workers who badly need the earnings from their jobs and yet can play a critical whistleblowing function that serves brand's interests by exposing unauthorized subcontracts. Human Rights Watch is concerned this policy can mean that detailed disclosures will put workers' jobs or incomes at risk because the sourcing relationship may be severed by Gap instead of working to address the problems and improve conditions in those factories.

Even though the COVC says that "the factory shall not modify or terminate workers' contracts for the sole purpose of avoiding the provision of benefits," our information shows that suppliers may have avoided labor laws and monitoring through repeated use of fixed duration contracts. In some cases, we believe that some Gap suppliers may have bypassed labor protections and monitoring by entering into subcontracting arrangements.

We strongly urge Gap to disclose its supplier and subcontractor lists publicly and ensure that these are periodically updated on at least a half-yearly basis. A lack of transparency in Gap's supply chain places it outside of good practice in the industry and makes it more difficult for concerned Gap consumers, worker organizations, and other corporate social responsibility advocates to track and report labor rights violations in your supply chain, especially through subcontracting arrangements.

Other leading brands including H&M and Adidas have commendably disclosed their supplier and subcontractor lists, and periodically update them. H&M began publicly disclosing its supplier and subcontractors list in 2013 with an annual update and Adidas started publicly disclosing its supplier and licensees lists in 2007 and has moved to a twice yearly disclosure starting in 2014.

We request additional information on Gap's approach to subcontracting and overall use of BFC reports;

- a. Does Gap have any policy outlining how it encourages receiving whistleblowing information of unauthorized subcontracting arrangements and the protections it offers to workers and unions that serve as whistleblowers? Please provide details.

- b. Has Gap referred any unauthorized subcontract factories it has found in its supply chain to the BFC program for monitoring, advisory services, or both? Please provide details of BFC services purchased to date in response to a report of unauthorized subcontracting, giving month/year of purchase and type of service purchased.
- c. Where Gap does not report unauthorized subcontract factories to BFC's monitoring and advisory services, how does Gap provide adequate time for monitoring and remediation to ensure that workers' incomes in the subcontract factory are not impacted adversely by the whistleblowing?
- d. Please provide examples of how Gap's commitment to remediation has benefited subcontract factories and its workers where unauthorized subcontracting has been brought to Gap's attention.
- e. Are there any Gap suppliers and subcontractors that are not monitored by BFC? What are the reasons why such factories remain outside the purview of BFC monitoring?
- f. For how many suppliers and subcontractors has Gap purchased BFC's factory monitoring reports to date? Please provide year-wise breakdown.
- g. For how many suppliers and subcontractors has Gap purchased BFC's year-long Advisory Services to date? Please provide year-wise breakdown.
- h. What warning mechanism has Gap put in place before any business relationship is terminated with a supplier who subcontracts without prior permission? How many warnings are allowed before a business relationship is terminated?

The case studies below set out the information we have on subcontracting arrangements. We have not disclosed factory names and locations. Our research and reporting worldwide is conducted in accordance with the principle of informed consent and strives to minimize the risk of retaliation to interviewees who consent to give us information. Therefore, we must evaluate the potential impacts on sources when determining how much information we can divulge.

Factory AA¹

This is a small subcontract factory producing for Gap. The workers in this factory worked for more than two years and periodically received new ID cards indicating a new start date in the factory but are not given nor made to sign any contracts. Management did not provide workers with any information about the terms of their employment. The managers of the factory had previously managed another factory that had taken a hostile approach to unions, and this was known to workers who told Human Rights Watch they were scared of forming a union or openly organizing within factory premises.

The working conditions were poor. The factory discriminated against pregnant workers at the time of hiring. Pregnant workers were not given maternity pay even when they worked for more than a year. Workers were forced to do overtime work until 7:30 p.m. and sometimes until 8 p.m. The workers we interviewed had seen a colleague dismissed for refusing overtime work and therefore they rarely refused overtime work. Workers were made to work continuously from 12:30 p.m. until closing time without a break—they were not allowed any break for meals during this time.

¹ Please note that this is a temporary code assigned to the factory for the purposes of this letter.

Factory BB²

Factory BB produced for a number of international brands including Gap.

Factory BB periodically subcontracted work to a number of smaller factories—at least four factories that Human Rights Watch is aware of. We believe that these factories may have been involved in subcontracts for Gap from time to time.

In addition to the four subcontract factories mentioned above, we believe that at least three other subcontract units exist.³ Workers from these three subcontract factories were able to give concrete information that demonstrated that their work was tied to and managed by factory BB. Workers from one of the three subcontract factories faced multiple problems: repeated use of short-term contracts, casual contracts, child labor, anti-union discrimination, forced overtime or overtime work without payment of overtime wages, and discrimination against pregnant workers. Workers from the two other subcontract factories faced a number of problems related to their working conditions, primarily, with respect to the nature of contracts, payment of wages, and other benefits.

Factory B⁴

Factory B is a small unmarked subcontract factory. The workers in the factory were very scared and unwilling to speak at length with Human Rights Watch. However, we did learn that the factory receives a vast majority of its products from two large factories, at least one of which supplies to Gap. Workers had no worker IDs and did not know the name of the factory. The factory working conditions were extremely poor. Workers had no contracts and were forced to do overtime work sometimes until as late as 10 p.m. At least one worker who refused overtime work was fired. Nobody working in the factory is allowed to take any leave—if they do their entire attendance bonus and daily wage is cut.

We would like to underline that our research was not an investigation of subcontracting per se and we were unable to delve into the full scope of the problem. However, our research shows that subcontracting is pervasive enough to render ineffective the distinction Gap and other brands draw between “authorized and unauthorized subcontracting.” Further, the approach to tackling unauthorized subcontracting appears to defeat workers’ rights if brands do not commit to contributing towards the cost of remediation and also fail to report subcontract factories to the Better Factories Cambodia program, giving them a reasonable time for remediation and follow-up monitoring.

Fixed Duration Contracts

In general in Cambodia, many factories repeatedly use fixed duration contracts (FDCs) as a method of avoiding labor protections and discouraging unions. A number of suppliers repeatedly use fixed duration contracts beyond the two-year period, contrary to what has been laid down by the Arbitration Council.⁵ The Arbitration Council has held that the repeated use of FDCs violates the labor law.

² Please note that this is a temporary code assigned to the factory for the purposes of this letter.

³ These are different from the four subcontract factories.

⁴ Please note that this is a temporary code assigned to the factory for the purposes of this letter.

⁵ Jacqsintex Garment Co. Ltd. and Democratic Union of Jacqsintex, Arbitral Award Case No. 10/03 dated July 23, 2003.

We cannot at this time estimate how many Gap suppliers and subcontractors use FDCs and the extent to which they use FDCs. However, recent information and analysis by the Worker Rights Consortium, an international labor rights group, published in 2014, provides a list of 127 factories with estimates of the extent to which they use FDCs. Of those Gap suppliers that appear in the database, at least 13 are reportedly using only FDCs and 6 more are cited as having “majority FDC.” In contrast, only five factories use “majority UDC” and none identified as using “only UDC.”⁶

More broadly, based on information from workers in a number of factories supplying to international brands, we found that many factory managers in Cambodia tell workers that they will receive an extra five percent of the wages for fixed duration contracts, providing one-sided information. Workers on FDCs were not aware of the pitfalls of being on FDCs. In some cases, workers reported that they either did not receive the additional five percent when the FDC expired or experienced delayed payments.

We would like to reiterate that Human Rights Watch found that fixed duration contracts often underlie anti-union discrimination as well as pregnancy discrimination. Many workers reported that factory managers did not renew short-term contracts for visibly pregnant workers. Likewise, workers who formed unions found that their contracts were not renewed or were terminated; men said they were issued shorter fixed-duration contracts than women because they were seen as more vocal and able to challenge factory managers; and workers were themselves scared of trying to join unions for fear of not having their contracts renewed.

We request additional information on the use of FDCs and other casual contracts by Gap suppliers and subcontractors:

- i. Please provide information on the type of contracts (UDCs, FDCs, casual contracts) in each of Gap’s supplier and subcontractor factories and the extent to which such contracts are used. Please also indicate which of these factories are long-term suppliers/subcontractors.
- j. Please indicate how Gap’s Vendor Monitoring Program and the 700 performance indicators factor into the use of repeated short-term contracts and other casual arrangements (daily wage workers for example).
- k. How does a factory’s rating get impacted by the repeated use of short-term contracts contrary to Cambodian labor law and international standards?
- l. What remedial measures has Gap initiated to address the use of short-term contracts contrary to Cambodian labor law and international standards?

Production Quotas

Our research on production quotas is drawn from interviews with workers from a number of factories, only some of which were supplying to Gap.

⁶ Worker Rights Consortium, “Update on Ongoing Abuse of Temporary Employment Contracts in the Cambodian Garment Industry,” <http://workersrights.org/freports/WRC%20Update%20on%20Misuse%20of%20FDCs%20in%20Cambodia%204.11.14.pdf> (accessed August 19, 2014).

Many workers with whom Human Rights Watch spoke complained about how production targets were used to undermine their working conditions, making it difficult for them to take rest breaks or other breaks to use the rest room, drink water, or take sick leave. Some workers said production targets or quotas were used to pressure workers to work faster and workers were threatened that their contracts would not be renewed if they failed to meet quotas. Many said that workers unable to meet the production targets were forced to do overtime work. Workers said managers often refused to give them bathroom and drinking water breaks to make sure they maximized their time at the production line and met targets.

The pressure to meet quotas had an added impact on pregnant workers who needed more breaks than others to rest or use the bathroom, and felt incapable of meeting the quotas. Some pregnant workers eventually left their jobs because they said they were harassed and singled out as “slow.”

In some factories, workers reported that their managers constantly raised the quotas making it almost humanly impossible for them to achieve the targets. Only those workers who worked relentlessly without any breaks for rest, water, or bathroom could meet the targets if they worked overtime. Others who were not able to were labeled as unproductive. Refusing overtime work became harder. In some cases, when the minimum wages were increased, the quotas were also increased, effectively making women work more for the wages.

We would like the following additional information on production targets:

- m. Does Gap draw a distinction between reasonable and unreasonable production targets and what is this distinction?
- n. How does Gap encourage its suppliers to set targets respecting workers’ human needs in 8, 10 or sometimes even 12-hour work days—to rest, drink water, use the restroom, and eat meals especially when doing overtime work? Please provide any examples of internal rules, collective bargaining agreements, or any other documentation we may be able to share more widely.
- o. What measures does Gap take to ensure that the suppliers and subcontractors do not increase production targets to compensate for the rise in statutory minimum wages?

We look forward to hearing from you and discussing more about how Gap’s current policies and practices can be further improved to protect workers’ rights. In particular, we would like to discuss the following recommended changes to Gap’s policy and approach to workers’ rights in the supply chain.

On subcontracting and related protections:

- 1. Publicly disclose all suppliers and subcontractors on at least a half-yearly basis together with indicating volume—for example, minor, medium, or major supplier—as well as the status of inspections by independent monitors as of the date of disclosure.
- 2. Create a concrete and written whistleblower protection system for workers and union representatives who alert Gap to unauthorized subcontracting. Such a whistleblower

system should ensure that all workers and union representatives receive: appropriate protection for a reasonable period, including legal representation to defend themselves against vexatious suits or criminal complaints filed by factories; monthly wages including minimum wage, reasonable allowances, and overtime pay; and where workers are dismissed from work for having reported on unauthorized subcontracts, possible alternative employment at a nearby location.

3. As soon as unauthorized subcontracting is brought to light, ensure that the factory is reported to BFC's monitoring and remediation services where Gap contributes towards monitoring and remediation for a reasonable period before stopping production.
4. Given the nature of subcontracting, Gap should ensure that all factories that have subcontracted work without authorization over a particular period (for example, one year) are reported to BFC for monitoring and remediation, irrespective of whether the factory currently undertakes subcontracted production for Gap.
5. Provide necessary funds sufficient for BFC to expand its monitoring services to include subcontracting factories.
6. Advocate publicly for ILO-BFC to report on brands that are being produced in the factories monitored by them to ensure greater transparency.
7. Revise the COVC to protect workers in subcontract factories.

On labor compliance and industrial relations:

8. Undertake periodic and regular pricing review and ensure that such a process factors in the cost of, and makes a contribution toward, labor compliance in consultation with labor rights lawyers and unions. The cost of labor compliance should include the cost of reasonable accommodation for pregnant workers and maternity benefits.
9. Limit the use of fixed duration contracts to seasonal or temporary work for all workers and encourage and incentivize the adoption of undetermined duration contracts (UDCs) or permanent contracts in Cambodia. Communicate with all suppliers that employing male workers on shorter term FDCs than their female counterparts is discriminatory.
10. Ensure that Gap suppliers do not compensate for a rise in minimum wages by raising production quotas at the expense of workers' rights.
11. Actively encourage women's participation in union leadership and encourage training, awareness, and factory-level complaints mechanisms against sexual harassment at the workplace.
12. Ensure that sourcing contracts adequately reflect and incorporate the costs of labor, health, and safety compliance.

Best regards,



Senior Researcher, Women's Rights Division, Human Rights Watch

CC: Ms. Bobbi Silten, Senior Vice President, Global Sourcing, [REDACTED]

Encl: Human Rights Watch letter to Ms. Bobbi Silten, March 19, 2014.

Gap Inc. Response, September 16, 2014

Re: HRW Inquiry about Activities in Cambodia dated August 21, 2014

We have prepared this written response to HRW's inquiry dated August 21, 2014 about Gap Inc.'s activities in Cambodia. As HRW's letter suggests, we would value the opportunity to engage in a constructive dialogue that would contribute to protecting workers' rights and well-being in Cambodia.

We are very concerned about the unauthorized subcontracting allegations that HRW has detailed, and while we would typically conduct internal investigations to better understand the cause of such issues, we do not have the factory locations to be able to do so. Therefore, we welcome a phone conversation to discuss next steps regarding how to best address the matter.

Please see below for more details about unauthorized subcontracting, as well as responses to HRW's remaining questions.

For additional background, we previously provided a response on April 14, 2014 to an earlier inquiry from HRW about our activities in Cambodia dated March 19, 2014. More information about our policies, programs and practices is provided in that response as well as our most recent [2011-12 Social & Environmental Responsibility Report](#).

Better Factories Cambodia

The International Labour Organization's (ILO) [Better Factories Cambodia](#) (BFC) program conducts monitoring and evaluation at the third-party garment factories that make our branded apparel in Cambodia. Gap Inc. helped form BFC in 2001, which later expanded into the global [Better Work](#) program. This partnership between the ILO and the International Finance Corporation (IFC) seeks to help governments, workers and companies achieve compliance with the ILO's core labor standards as well as national labor laws. A senior member of Gap Inc.'s Social & Environmental Responsibility team currently sits on the board of the Better Work program.

Gap Inc. subscribes to BFC reports for all of our approved garment factories in Cambodia. We also support and collaborate directly with BFC on a number of specific initiatives, as described below.

1. [Training](#) – Gap Inc. works with BFC to provide capacity building training to factory management on management systems, compensation and benefits. Gap Inc. has fully sponsored these training programs in order to reduce the recurrence of issues cited in BFC reports.
2. [Experts by Experience Program](#) – Gap Inc. helped to fund the Experts by Experience Initiative, which was established in 2012 as part of BFC's response to incidents of group fainting in Cambodia's garment factories. The program objectives are twofold: 1) help workers understand the issue and disseminate knowledge on prevention and appropriate responses; and 2) develop

mechanisms to understand worker perspectives and insights. Under the program, certain workers act as “Experts by Experience” and worker ambassadors, giving a voice to workers’ experiences in discussions with external diplomats, media and buyers.

3. 2013 Worker Helpful Hints Calendar – BFC developed the Worker Helpful Hints Calendar to distribute to workers as a means to promote worker health and a more productive workplace. Gap Inc. supported this initiative by encouraging suppliers to take part in the program.
4. Food Provision Program – Gap Inc. also supports the BFC’s Study of Food Provision on Garment Workers’ Health and Productivity. The research focuses on assessing the impact of food provisions on workers’ health and productivity in the garment industry, with the objective of establishing scientific and empirical links between nutrition and productivity.
5. One Change Campaign – Gap Inc. helped fund and strongly encouraged suppliers to participate in BFC’s One Change Campaign, which involved factories adopting one or more changes in management practices from a BFC-designed list.

Labor-Management Relations and Issue Resolution

Gap Inc. understands that workers’ ability to raise concerns about factory policies, practices or conditions without fear of reprisal is an important aspect of protecting workers’ rights and well-being. Our [Code of Vendor Conduct](#) (COVC) protects workers’ rights to freedom of association and collective bargaining. In addition, we support efforts that enable factory workers to raise issues when they occur and seek timely and effective resolutions. Examples include:

- Since 2012, Gap Inc. has funded the Arbitration Council’s work to resolve labor disputes for garment workers, unions and businesses in Cambodia.
- In 2014, Gap Inc. and its suppliers supported the Arbitration Council’s radio learning program, which increases awareness among garment workers and employers about the prevention and resolution of labor disputes in Cambodia.

Subcontracting and Remediation

When we encounter COVC violations at the factories that make our branded apparel, we try to work with factory management to fix what we find by supporting the development and implementation of corrective actions plans. We believe that this approach to continuous improvement contributes to improving workers’ well-being, the garment industry and our business.

We have conducted training on “Prevention of Unauthorized Subcontracting (UAS)” with

BFC at all of our approved factories in Cambodia. Most recently, our Vendor Engagement & Monitoring team provided a training update on UAS prevention to all our approved factories in July, 2014.

When we become aware of potential UAS issues, we investigate and take appropriate action to resolve the situation in a manner that protects workers' rights and well-being. Where possible, we engage management to take corrective actions and meet our requirements for approved suppliers. In cases where factories close or are no longer able to employ workers, we ensure that any appropriate wages or severance are paid by the vendor to the factory employees.

Fixed Duration Contracts

Fixed duration contracts (FDCs) are a common practice in Cambodia. We require any factories that use FDCs to maintain each worker's original start date to ensure the factories provide workers' entitlements to maternity leave, attendance and seniority bonuses, and/or annual leave. In addition, severance pay equal to at least five percent of the total wages for the FDC contract period must be paid to workers at the end of each contract.

Gap Inc. aligns with BFC's position that FDCs may only be renewed if the total length of the employment contract does not exceed two years. If an FDC is extended or renewed and exceeds two years, the contract is expected to automatically become an unspecified duration contract (UDC). Gap Inc.'s and BFC's stance on FDCs is also aligned with the Arbitration Council's guidelines.

Production Targets and Wages

Gap Inc. does not own or operate any of the factories where our clothes are made and, accordingly, is not in a position to set wages or production quotas at the factories. Our COVC requires factories to comply with or exceed legal requirements in the country and prohibits discrimination in the payment of workers' wages and benefits. If a BFC factory report indicates that quotas are repeatedly being missed by workers, we support corrective actions at the factory level to review and adjust production quotas to meet the applicable wage requirements.

Women's Representation and Advancement

Our COVC prohibits any form of discrimination on the basis of gender, maternity, marital status, sexual orientation or other personal characteristics or beliefs. To protect workers' rights and well-being, we regularly encourage freedom of association in our vendor and stakeholder engagement in Cambodia. If we encounter any violations through BFC assessment reports or our own audits, we make sure these issues are addressed with factory management and fixed through appropriate remediation.

As explained in more detail in our previous response, Gap Inc. has partnered with

Gap Inc.

CARE to implement the Gap Inc. P.A.C.E. (Personal Advancement & Career Enhancement) program for female garment workers in Cambodia since 2009. The program was expanded to three additional facilities in 2013. Participation in P.A.C.E. is voluntary for vendors, factories and workers. When selecting participants for P.A.C.E., factory managers include representatives from all unions at the facility with each batch of participants. Through P.A.C.E., women receive 65-80 hours of instruction on up to eight learning modules that focus on building women's life and professional skills.

Globally, the graduates of P.A.C.E. report increased levels of self-esteem, self-efficacy, work efficacy and workplace influence in a range from 49 to 150 percent, according to an evaluation by the International Center for Research on Women. There was a 40 percent increase in P.A.C.E. participants in Cambodia who felt their production level was high as a result of the program and a 66 percent higher retention rate compared to all female garment workers in the factory.

H & M

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300; 917-591-3452

WOMEN'S RIGHTS DIVISION

Liesl Gerntholtz, *Executive Director*
Janet Walsh, *Deputy Director*
Nisha Varia, *Senior Researcher*
Gauri van Gulik, *Global Advocate*
Meghan Rhoad, *Researcher*
Aruna Kashyap, *Researcher*
Agnes Odhiambo, *Researcher*
Amanda Klasing, *Researcher*
Samer Muscati, *Researcher*
Rothna Begum, *Researcher*
Hillary Margolis, *Researcher*
Brenda Akia, *Koenig Fellow*
Camille Pendley, *Associate*
Annerieke Smaak, *Associate*

ADVISORY COMMITTEE

Betsy Karel, *Chair*
Karen Ackman
Mahnaz Afkhami
Helen Bernstein
David Brown
Charlotte Bunch
Ellen Chesler
Judy Gaynor
Adrienne Germain
Marina Pinto Kaufman
Hollis Kurman
Lenora Lapidus
Stephen Lewis
Samuel Murumba
Sylvia Neil
Susan Osnos
Joan Platt
Lynn Povich
Bruce Rabb
Amy Rao
Susan Rose
Pascaline Servan-Schreiber
Lorraine Sheinberg
Donna Slaight
Domna Stanton
Ellen Stone Belic
Ellen Susman
Hilary Thomas Lake
Rita W. Warner
Sarah Zeid
Kathleen Peratis, *Chair Emerita (1991–2005)*

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Deputy Executive Director, Development and Global Initiatives*
Carroll Bogert, *Deputy Executive Director, External Relations*
Iain Levine, *Deputy Executive Director, Program*
Chuck Lustig, *Deputy Executive Director, Operations*

Dinah PoKempner, *General Counsel*
James Ross, *Legal & Policy Director*
Hassan Elmasry, *Co-Chair*
Joel Motley, *Co-Chair*

March 4, 2014

To
Ms. Helena Helmersson
Member, Executive Management Team (Sustainability)
H & M Hennes & Mauritz AB
via email: [REDACTED]

Re: H & M Hennes & Mauritz AB (H & M) operations in Cambodia

Dear Ms. Helmersson:

Please accept my regards on behalf of Human Rights Watch. As you may know, Human Rights Watch is an independent nongovernmental organization dedicated to defending and protecting human rights. We monitor and report on human rights violations in over 90 countries around world, including Cambodia. Since 1998 we have worked on business and human rights issues across different industries in many countries.

I am writing to you because we are researching the rights of garment workers in Cambodia for a report to be published later this year. To ensure that our reporting is fair and accurate, we are seeking input from you and other leading brands that source from Cambodia (see questions, attached). This information will aid us in deepening our understanding of the business environment in which garment factories and brands operate and gather information about the steps that brands are taking to address their human rights responsibilities through the supply chain.

We are specifically seeking information concerning H & M's policies, programs, and practices related to human rights obligations and labor law compliance throughout your company's supply chain in Cambodia.

We respectfully request your written response to our questions by March 31, 2014, so that they can be reflected in our report. All responses can be sent to us by email to [REDACTED] or by fax: [REDACTED].

We also hope to schedule a meeting or a phone call at your convenience to discuss these issues.

Thank you for your attention to this matter.

Best regards,

Aruna Kashyap
Researcher, Women's Rights Division, Human Rights Watch

HUMAN
RIGHTS
WATCH

HRW.org

Questions

A. Model Factory program: We are aware that H & M has initiated a Model Factory program in 2013 that it has piloted in at least one factory in Cambodia. We wish to learn more about the program and its features. In particular, we would like to learn in which Cambodian factories H & M has piloted this program, the month/year in which the program started, the minimum wage being given to workers (for workers on temporary or fixed duration contracts, as well as for permanent or undetermined-duration contracts) and the nature of contracts workers are on.

B. Suppliers and related information: We understand that H & M has disclosed its list of suppliers in Cambodia. Human Rights Watch is interested in learning more about H & M's approach to factories in the supply chain.

1. When did H & M first disclose its suppliers in Cambodia?
2. How often does H & M update its supplier list in its disclosure?
3. When was the suppliers list last updated? Can you please provide us copies of all of H & M's supplier lists for facilities in Cambodia since January 2012 indicating brand names?
4. How frequently does H & M place orders with its suppliers?
5. What is the current average purchasing volume from Cambodia? What information does H & M seek as part of its due diligence before enlisting a supplier? Please provide a redacted copy (omitting identifiable details if needed) as a sample.
6. Once a supplier is contracted with, what ongoing due diligence does H & M conduct and what information is sought as part of such due diligence?
7. Given that H & M's code of conduct forbids suppliers from making subcontracts for H & M production without prior approval from the brand, what approval process has H & M put in place for such decisions?
8. Does H & M have a list of authorized subcontractors in Cambodia that all of its suppliers can use?
9. Has H & M received requests from its suppliers to allow subcontracting in the last five years? If yes, how often are such requests made?
10. How much time does it take for H & M to process a request for subcontracting?
11. Under what circumstances can a supplier request subcontracting?
12. Have any "unauthorized" subcontracts in Cambodia been brought to the attention of H & M in the last three years?
13. What action does H & M initiate when an "unauthorized" subcontract is brought to its attention and what remedial measures does it require a supplier to take?
14. Has H & M undertaken any investigations into specific allegations of "unauthorized" subcontracting by H & M suppliers in Cambodia? Please provide a redacted version (removing identifiable details if needed) of an investigation report.
15. How does H & M ensure that workers in the subcontracting factory are not placed in jeopardy when an "unauthorized subcontract" is disclosed?
16. Has any business relationship been terminated because of "unauthorized" subcontracting in Cambodia? If so, please provide details.

17. Which of its Cambodian suppliers has H & M discontinued, since when (data since January 2012), and why?

C. Labor law and Code of Conduct compliance: As a brand with a stated commitment to ensuring labor compliance and promoting workers' rights throughout the supply chain, we are keen to understand the steps H & M takes to ensure, enable, and facilitate labor compliance by its suppliers.

18. What are the main features of the 2006 Full Audit Program and in which factories in Cambodia is the full audit conducted? Please provide a redacted copy (withholding identifiable details if needed) of a full audit report in at least one factory from Cambodia.
19. How does H & M factor in the cost of labor compliance in its business relationships?
20. What steps is H & M taking to improve its purchasing practices to reduce production peaks as outlined in its Roadmap to Fair Living Wage?
21. How has H & M's pricing model been revised to factor in the "true cost of labor?" How does H & M calculate the "true cost of labor" in its pricing models?
22. Has H & M received any complaints from Cambodian unions on suppliers' non-compliance with decisions of the Arbitration Council? What steps does H & M take to ensure that its suppliers comply with Arbitration Council awards?
23. Does H & M have an internal policy on response and follow-up to complaints it receives about labor law non-compliance in its supply chain? Please provide details that specify within what period H & M responds to such complaints and what process it follows to initiate remedial measures.
24. Please provide a copy of H & M's Code of Conduct Guidance for Implementation of Good Labour Practice.

D. ILO-BFC monitoring reports

25. For which of its suppliers has H & M purchased factory-level monitoring reports issued by Better Factories Cambodia (BFC) and in which years? Please provide a full list for the last three years. Please provide redacted copies (withholding identifiable details if needed) of BFC reports for at least five long-time suppliers.
26. Does H & M share a copy of the BFC monitoring report free of cost with its suppliers? Please provide the most recent list of suppliers with whom BFC reports have been shared.
27. What steps does H & M take to make improvements in the areas suggested by the BFC monitoring report?

E. Observations Concerning Women Workers: As a brand with a stated commitment to equality and a clear policy against discrimination based on "sex, race, colour, age, pregnancy, sexual orientation, religion, political opinion, nationality, ethnic origin, disease or disability," we would appreciate any information you can share concerning the following:

28. How does H & M ensure that its suppliers do not misuse temporary fixed duration contracts, including terminating contracts of pregnant workers?

29. What measures does H & M advise its suppliers to take to ensure that pregnant women are reasonably accommodated in the workplace?
30. How does H & M ensure that production lines and daily production quotas are not used to indirectly coerce pregnant workers into accepting overtime, or restrict their ability to take bathroom or rest breaks?
31. How does H & M's Full Audit mechanism keep track of pregnancy-related concerns (reasonable accommodation, day care center, child care allowance, compliance with maternity-related benefits)?
32. Has H & M taken any steps to encourage and support suppliers to institute a policy against sexual harassment at the workplace and provide training to all staff to prevent and respond to sexual harassment at the workplace?
33. How does H & M's Full Audit mechanism address gender-related concerns?

Questions from Human Rights Watch March 2014

A. Model Factory program: We are aware that H & M has initiated a Model Factory program in 2013 that it has piloted in at least one factory in Cambodia. We wish to learn more about the program and its features. In particular, we would like to learn in which Cambodian factories H & M has piloted this program, the month/year in which the program started, the minimum wage being given to workers (for workers on temporary or fixed duration contracts, as well as for permanent or undetermined-duration contracts) and the nature of contracts workers are on.

The Role Model Factory is a project to showcase that leadership in sustainability goes well together with good performance in all other areas. We will test different models and practices to find best practice examples which should set the standard for our whole industry. There are several areas that are addressed: environment, quality, business and social, where the social part contains testing of the Fair Wage method/12 dimensions.

The first Role Model Factory startup was in Cambodia in October 2013 and consists of one factory, and our first evaluation of the project will be done early autumn 2014. A baseline has been drawn in order to make a proper follow up evaluation.

A precondition for the supplier enrolling in the project is that H&M is committing to take 100% of the capacity for the next 5 years. This is a very strong commitment but we wanted to make sure the factory was given proper time and secured business in order to fully test and innovate in the different areas.

As we are currently in the starting up phase, we are not disclosing any details about the factories in Cambodia and Bangladesh.

Please see link to Fair Wage Network for more in details information of the Fair Wage method:
<http://www.fair-wage.com/>

B. Suppliers and related information: We understand that H & M has disclosed its list of suppliers in Cambodia. Human Rights Watch is interested in learning more about H & M's approach to factories in the supply chain.

1. When did H & M first disclose its suppliers in Cambodia?

March 2013.

2. How often does H & M update its supplier list in its disclosure?

On annual basis. Next update is planned for April 2014.

3. When was the suppliers list last updated? Can you please provide us copies of all of H & M's supplier lists for facilities in Cambodia since January 2012 indicating brand names

The supplier list was last updated May 2013. The supplier list was first published in 2013, so we cannot provide any public supplier list from years prior to that.

4. How frequently does H & M place orders with its suppliers?

We cannot disclose this information due to our confidentiality policy.

5. What is the current average purchasing volume from Cambodia? What information does H & M seek as part of its due diligence before enlisting a supplier? Please provide a redacted copy (omitting identifiable details if needed) as a sample.

We cannot disclose information about purchasing volumes due to our confidentiality policy.

Before entering into a business relationship with a supplier, we conduct a due diligence that includes both sustainability and business aspects to ensure that the supplier will be able to meet our requirements. In Cambodia all suppliers and its subcontractors for stitching, washing, embroidery

and printing are monitored by H&M's Full Audit Program or BFC's monitoring program. Please also see our comments under question 6.

6. Once a supplier is contracted with, what ongoing due diligence does H & M conduct and what information is sought as part of such due diligence?

H&M's Full Audit Program runs in a two year cycle. An initial Head Audit (covering our Code of Conduct requirements) is then followed by a number of follow up audits (where progress on the suppliers' efforts to implement their action plan is assessed) which then is followed by a Head Audit. During the audits we assess the suppliers' compliance against our Code of Conduct that includes requirements regarding for example labor rights, working conditions, chemical handling and waste water treatment. In addition to our audits, we also help provide the supplier with capacity building and training in various sustainability areas. We also have specific supplier projects that aim to address industry challenges. One recent example is our Industrial Relations project that is run in collaboration with ILO, IF Metall and SIDA. The project aims to further strengthen the existing industrial relations in Cambodia. Focus will be on collective bargaining in good faith leading to collective agreement between the employees and employers concerning work place related issues (including wages). In addition our office on ground in Cambodia has an ongoing engagement with local stakeholders such as civil society, NGO's and the Trade Union Community. One example of our stakeholder engagement in Cambodia is that we during 2013 set up a whistle blowing system concerning unauthorized production. We distributed a detailed supplier lists in Khmer to the trade unions so that they can contact our office in Phnom Penh if they find any production performed by their members in a factory not mentioned in the lists.

7. Given that H & M's code of conduct forbids suppliers from making subcontracts for H & M production without prior approval from the brand, what approval process has H & M put in place for such decisions?

All our supplier top management and the middle management have been trained in workshops concerning H&M's policy concerning subcontracting. The last workshop was conducted in P.P May 2013. We welcome our suppliers to expand their production capacity by adding for example buildings or separate factories, but any additional such unit must be applied through our proper channels, inspected by the sustainability auditors and other departments, and approved before we allow any H&M production to take place there.

8. Does H & M have a list of authorized subcontractors in Cambodia that all of its suppliers can use?

No, each supplier must apply to H&M concerning use of subcontractors that has to be monitored by H&M/BFC before any production can start.

9. Has H & M received requests from its suppliers to allow subcontracting in the last five years? If yes, how often are such requests made?

Yes, we receive such requests from time to time.

10. How much time does it take for H & M to process a request for subcontracting?

From when we receive the application it takes us about 1month to process, which includes sustainability compliance audits as well as quality audits and trainings.

11. Under what circumstances can a supplier request subcontracting?

Our suppliers would take the decision to expand their production capacity, usually due to increased business from H&M or other buyers. The first step of the process to get a new subcontracted facility approved is an application, in which we ask the supplier to themselves ensure that all basic requirements are met. If this is deemed to be the case, we process the application and begin the audit process.

12. Have any “unauthorized” subcontracts in Cambodia been brought to the attention of H & M in the last three years?

Yes.

13. What action does H & M initiate when an “unauthorized” subcontract is brought to its attention and what remedial measures does it require a supplier to take?

H&M requires that the suppliers presents an action plan which shall include an management system with a clear policy, well documented and fully implemented and communicated routines, designated responsible staff, and a control and follow up mechanism to prevent repeated violation. If the supplier cannot present a sustainable action plan or is not willing to do so it can lead to a termination of the business relation. And or if repeated violation occurs it can lead to a termination of the business relation. If so a detailed phase out plan is worked out in order not to jeopardize the well being of the workforce (the supplier is given time to find new buyers to avoid layoffs of workers).

14. Has H & M undertaken any investigations into specific allegations of “unauthorized” subcontracting by H & M suppliers in Cambodia? Please provide a redacted version (removing identifiable details if needed) of an investigation report.

Yes, however the internal investigation reports are confidential due to H&M’s policy.

15. How does H & M ensure that workers in the subcontracting factory are not placed in jeopardy when an “unauthorized subcontract” is disclosed?

Our Code of Conduct is applicable even if the unit used by our supplier is unauthorized, which means that H&M conducts an audit when an unauthorized subcontractor is disclosed. After the audit, an action plan is required from the responsible supplier.

16. Has any business relationship been terminated because of “unauthorized” subcontracting in Cambodia? If so, please provide details.

Yes, but we cannot disclose this information due to our confidentiality policy. Please also see answer under question 13.

17. Which of its Cambodian suppliers has H & M discontinued, since when (data since January 2012), and why?

We cannot disclose this information due to our confidentiality policy

C. Labor law and Code of Conduct compliance: As a brand with a stated commitment to ensuring labor compliance and promoting workers’ rights throughout the supply chain, we are keen to understand the steps H & M takes to ensure, enable, and facilitate labor compliance by its suppliers.

For more in depth information about our monitoring program and our efforts of upholding labor rights please see following links:

<http://hm.com/monitoring> <http://supplychain> <http://hm.com/beyondmonitoring>

18. What are the main features of the 2006 Full Audit Program and in which factories in Cambodia is the full audit conducted? Please provide a redacted copy (withholding identifiable details if needed) of a full audit report in at least one factory from Cambodia.

All suppliers and it’s subcontractors as defined under question B are monitored by H&M’s Full Audit Program / BFC’s monitoring program. Please see question 6 for further details about our Full Audit Program.

19. How does H & M factor in the cost of labor compliance in its business relationships?

We measure our supplier factories' sustainability performance with the help of an index. We call this the Index Code of Conduct (ICoC). It gives every supplier a score (max. 100%) based on their level of compliance with our requirements. This allows accurate benchmarking of our supplier factories and helps them to identify priorities for further improvements. The index is also one part of our supplier grading, which serves as a tool for us to rewarding better performing partners.

20. What steps is H & M taking to improve its purchasing practices to reduce production peaks as outlined in its Roadmap to Fair Living Wage?

By 2015 guideline for improved order and production planning should be in place. The guideline should help to reduce our suppliers' production peaks and enable them to better prepare the right capacity in the factory.

21. How has H & M's pricing model been revised to factor in the "true cost of labor?" How does H & M calculate the "true cost of labor" in its pricing models?

We work with an open costing model with our suppliers. This model needs to be further improved to ensure the labor cost of the product is properly measured and calculated. Our goal as stated in our Road Map, is work that should be finished during 2015.

22. Has H & M received any complaints from Cambodian unions on suppliers' non-compliance with decisions of the Arbitration Council? What steps does H & M take to ensure that its suppliers comply with Arbitration Council awards?

H&M's policy concerning the verdicts of the A.C is that our suppliers shall follow it, and we expect the verdicts to respected and followed by other parties (in the conflict) as well.

23. Does H & M have an internal policy on response and follow-up to complaints it receives about labor law non-compliance in its supply chain? Please provide details that specify within what period H & M responds to such complaints and what process it follows to initiate remedial measures.

The responds and the remedial process can vary from case to case due to the nature and degree of severity. One example is how we work with violations regarding child labor where we have a routine that can be summarized as:

- Secure with the management that the individual is not fired.
- Agree with the supplier on an action plan, stretching in time at least up until when the child is of legal age. This action plan should ensure economic safety for the child, and be designed according to individual needs.
- External support is sought when possible.
- The implementation of the action plan is followed up on until its conclusion.

24. Please provide a copy of H & M's Code of Conduct Guidance for Implementation of Good Labour Practice.

Please note that below enclosed guideline is not fully up date and is under review and we are planning to launch our new guideline 2015.

CODE OF CONDUCT

Guidance for Implementation of Good Labour Practice



D. ILO-BFC monitoring reports

25. For which of its suppliers has H & M purchased factory-level monitoring reports issued by Better Factories Cambodia (BFC) and in which years? Please provide a full list for the last three years. Please provide redacted copies (withholding identifiable details if needed) of BFC reports for at least five long-time suppliers.

In Cambodia H&M has in place a routine in which the BFC assessment reports are integrated in our internal auditing cycle. We regularly conduct full audits at all our direct suppliers, followed on a regular basis by follow-up audits. At the conclusion of an audit cycle, roughly 12-18 months, a new full audit is performed. Each year we purchase BFC assessment reports for the factories in Cambodia due for a full audit. The BFC assessment report then forms the basis of our internal full audit report, which is completed to also cover areas currently not covered by the BFC assessment methodology. The final report is then sent to our suppliers (containing both BFC and H&M findings), who are asked to create an action plan to remediate all findings.

26. Does H & M share a copy of the BFC monitoring report free of cost with its suppliers? Please provide the most recent list of suppliers with whom BFC reports have been shared.

As per BFC requirements we are not allowed to share externally assessment reports that we purchase.

27. What steps does H & M take to make improvements in the areas suggested by the BFC monitoring report?

See question 25. For each full audit we purchase the BFC assessment report, and internalize the findings (of non-compliance) into our internal audit report. This is sent to the supplier who is asked to create an action plan (addressing systems as well as individual non compliance findings), which should contain a root cause analysis of the finding, a clear timeframe and a designated responsible person. Through regular supplier meetings and on-site follow up audits we follow up on the progress of the suppliers own action plan. To facilitate improvements we also regularly introduce external service providers to our suppliers, including the BFC advisory services, complemented by internally designed and performed capacity building activities (trainings on improving recruitment systems for example).

E. Observations Concerning Women Workers: As a brand with a stated commitment to equality and a clear policy against discrimination based on “sex, race, colour, age, pregnancy, sexual orientation, religion, political opinion, nationality, ethnic origin, disease or disability,” we would appreciate any information you can share concerning the following:

28. How does H & M ensure that its suppliers do not misuse temporary fixed duration contracts, including terminating contracts of pregnant workers?

H&M never accepts any cases of discrimination in the workplace, including but not limited to discrimination based on gender or directed against pregnant workers. During our internal audits we check the absence of cases of discrimination by for example worker interviews, but also by assessing the suppliers own management systems, when their policies, routines and organizations in place to prevent and handle cases of discrimination and other cases of rights abuse are assessed. We require our suppliers to have in place functioning and safe grievance channels, and likewise regularly assess these systems. We also provide our suppliers with trainings aimed at improving the same management systems, and follow up on their performance on a regular basis.

29. What measures does H & M advise its suppliers to take to ensure that pregnant women are reasonably accommodated in the workplace?

H&M asks our suppliers in all markets to have in place management systems to ensure that operations are legal and workers are ensured their rights. Our full audit methodology contains

questions specifically addressing the rights and conditions of pregnant women. For actions we take please see question 28.

30. How does H & M ensure that production lines and daily production quotas are not used to indirectly coerce pregnant workers into accepting overtime, or restrict their ability to take bathroom or rest breaks?

Through our internal audits where worker interviews are conducted, and by our continuous efforts on assessing and supporting the improvement of our suppliers own management systems. Please see question 28.

31. How does H & M's Full Audit mechanism keep track of pregnancy-related concerns (reasonable accommodation, day care center, child care allowance, compliance with maternity-related benefits)?

Our full audit method includes questions addressing the rights of pregnant women. Any violation of these rights is included in the audit report and sent to the supplier, who is asked to create an action plan to solve the violation (see question 27).

32. Has H & M taken any steps to encourage and support suppliers to institute a policy against sexual harassment at the workplace and provide training to all staff to prevent and respond to sexual harassment at the workplace?

All our suppliers are required to have in place a documented management system to prevent sexual harassment. These systems are assessed on a regular basis, and our suppliers work on improving them is followed up during audits, please see question 28 for details.

33. How does H & M's Full Audit mechanism address gender-related concerns?

There are specific questions in our full audit methodology addressing various gender-related concern, and we also require our suppliers to have well documented management systems (such as grievance procedures, anti-harassment policies and routines) addressing the same. For details please see question 28.

August 6, 2014

Mr. Karl-Johan Persson
Managing Director and Chief Executive Officer
H & M Hennes & Mauritz AB

[REDACTED]
[REDACTED]
SWEDEN
[REDACTED]

H U M A N
R I G H T S
W A T C H

HRW.org

Re: H & M Hennes & Mauritz AB operations in Cambodia

Dear Mr. Persson:

Thank you for H&M's April 1, 2014 email response to our letter dated March 4, 2014 and the additional information shared with us on the policies and practices of H & M Hennes & Mauritz AB (H&M) in Cambodia. We welcome the opportunity to engage in constructive dialogue with H&M about garment workers' rights in Cambodia and hope that H&M can be a trendsetter in its approach to workers' rights throughout the supply chain.

As noted in our previous correspondence, we visited Cambodia in late 2013 and early 2014 to conduct interviews with workers, union federations, company officials, government officials, and international agencies. We are writing today to share with you some additional information from our research in Cambodia pertaining to labor rights violations in a number of factories, including some that produced garments for H&M in the past year. We also want to bring to your attention the problems faced by workers when they play a whistle-blowing role exposing unauthorized subcontracts and business relationships are severed.

Subcontracting

Thank you for disclosing H&M's supplier list in March 2013 and for sharing copies of it with local union federations with the aim of setting up what H&M describes as a "whistle blowing system" to identify unauthorized subcontracting. We also appreciate H&M's efforts to update its website with more detailed information about suppliers and subcontractors in 2014.

Human Rights Watch has information that at least three factories supplying to H&M were subcontracting parts of the production process to smaller factories that were not on H&M's list of authorized suppliers and subcontractors. At least 10 factories that do not appear to be included in H&M's 2013 and 2014 factory lists were periodically involved in subcontract work. Our information indicates that at least 6 more factories that do not appear to be included in the 2013 and 2014 H&M factory lists may have been periodically involved in subcontract work.

Our research and reporting worldwide is conducted in accordance with the principle of informed consent and strives to minimize the risk of retaliation to interviewees who consent to give us information. Therefore we must evaluate the potential impacts on sources when determining how much information we can divulge.

A key concern is that H&M may sever its relationships with suppliers instead of working to ensure conditions improve. That is partly informed by H&M's existing policy and approach toward "unauthorized subcontracting." In its April 1 letter, H&M stated: "Our Code of Conduct is applicable even if the unit used by our supplier is unauthorized, which means that H&M conducts an audit when an unauthorized subcontractor is disclosed. After the audit, an action plan is required from the responsible supplier."

We appreciate H&M's efforts to avoid unauthorized subcontracts. However, we believe that H&M and other brands should address the problems based on the principle of improving human rights for workers in factories that were producing for the companies. That approach should seek to only sever relations with the facility as a last resort since that unduly harms the workers.

Our inquiries indicate that there have recently been occasions when unauthorized subcontracts from factories supplying to H&M were brought to its attention, production for H&M in the subcontract factories appears to have ceased within a couple of months of these reports. But conditions in those factories remained largely unchanged. In this case, the factory from where work was being subcontracted no longer appears on H&M's 2014 suppliers' list. Human Rights Watch was not able to secure meetings with the factory to understand why the business relationship was terminated. We welcome additional information on the circumstances under which H&M would terminate the relationship with a supplier and any warning system it has in place before such termination.

We have further information that after an "unauthorized subcontract" was brought to H&M's attention in 2013, the factory suspended workers on reduced pay for a prolonged period.

We would welcome any information about how H&M addresses unauthorized subcontracting. For example, did the company refer those factories to the ILO's Better Factories Cambodia (BFC) program or whether it provided for time for monitoring and remediation in accordance with BFC's standards in order to ensure that workers incomes were not impacted adversely by the whistleblowing.

We support efforts to inspect worksites for safety and rights violations with the aim of bringing about improvements. But the above examples are cause for concern that the level of so-called "whistleblower protection" that H&M offers to unions and workers who report "unauthorized subcontracting" may be inadequate and does little to take a longer-term approach to promoting and protecting worker jobs and rights in subcontract factories that have produced for H&M. A number of factories appearing on H&M's supplier list are not registered with the BFC for monitoring and remediation.

Factory 1

Factory 1 subcontracts work to many other smaller factories.¹ Workers reported to us that the factory produces most of its clothes for H&M. We believe none of the subcontract factories

¹ Human Rights Watch interviewed more than twenty workers in separate groups on different days in November and December 2013 and April 2014.

appear on H&M's 2013 and 2014 lists but cannot confirm because in most subcontract factories, workers were only able to identify their factory by a nickname.

According to workers who spoke with Human Rights Watch, since 2013 factory 1 has not provided regular opportunities for 8-hour work days and higher-paid overtime work, which are important sources of income and supplementary income respectively. When workers complained to the factory management about a "lack of work" caused by subcontracting, the factory managers apparently told them that it was the only way they could meet production deadlines and maintain business relationships.

Based on interviews, Human Rights Watch understands that team leaders consistently encouraged workers to seek work in subcontract factories to supplement income by working night shifts, Sundays, and holidays; only one worker that we interviewed declined to undertake such work. Other workers said they responded to such recruitment calls to compensate for what they believed was a loss of income brought on by subcontracting.

In November 2013, Human Rights Watch went to a subcontractor, whose workers said that H&M was one of the brands. According to information we gathered, the subcontracts to this factory were ongoing in April 2014.

This factory appeared to be violating a number of labor law provisions. It had no visibly displayed name board. Workers identified the factory using a nickname. The subcontract factory managers did not issue workers identity cards on the days they worked there and according to them none of the other workers had worker identity cards. No written contracts were issued to workers.

Workers from the main factory can go to subcontractors, sometimes at the behest of managers. In one case reported by workers, team leaders in the factory relayed messages to workers that they should work Sundays at an unauthorized subcontractor to help meet production targets. The working conditions there may have violated labor laws. Since the subcontract factory did not have a union, the workers found it more difficult to have any recourse to any redress. According to workers, a typical Sunday in a subcontract factory involved work from 7 a.m. to 6 p.m. with a one-hour lunch break with no other allowance for food or overtime wages as stipulated under Cambodian labor law.² This allowed factory 1 to bypass labor laws governing overtime wages and compensatory day off for night shifts or Sunday work for their workers.³

Human Rights Watch spoke to five workers from one subcontract factory where workers reported that they were supplying to factory 1 or one of its branches. In this factory, workers were aware that their factory was "sharing business" and knew they were producing for H&M because the managers had discussed the brand name and designs with workers. The factory had no union because workers were fearful of forming a union. The factory did not issue worker identification cards or written contracts. The workers said they did not provide

² Labor Law, art. 139. "If workers are required to work overtime for exceptional and urgent jobs, the overtime hours shall be paid at a rate of fifty percent higher than normal hours. If the overtime hours are worked at night or during weekly time off, the rate of increase shall be one hundred percent."

³ Labor Law, arts. 147-8.

maternity leave and engaged in child labor. Children worked as hard as the adults, they said, including on Sundays, nights for overtime work, and public holidays when there were rush orders.

Factory 2

Factory 2 was on H&M's factory list in 2013 but does not appear in the updated April 2014 list.

In 2013, factory 2 periodically subcontracted work to several smaller factories, of which we have information that at least one factory produced clothes for H&M. We believe that three more factories may have been involved in subcontracts for H&M from time to time.

In addition to the four subcontract factories mentioned above, we believe that at least several other subcontract units were reported to H&M in 2013.

In one of the subcontract factories where workers saw H&M labels, the labels stopped appearing soon after the subcontract was brought to H&M's attention. But the working conditions did not change. Subsequently, workers complained that they were not getting "enough work" in the factory. We would like to learn whether H&M is aware of such consequence to workers in the subcontract factory and what steps it takes to ensure that workers are not harmed for assisting with whistleblowing.

Workers in the factory cited multiple problems: repeated use of short-term contracts, casual contracts, child labor, anti-union discrimination, forced overtime, and discrimination against pregnant workers. None of these problems were resolved in April 2014 when we checked to see if reporting the factory's working conditions to H&M had benefited workers under H&M's "whistleblowing" scheme.

Workers from the two other subcontract factories gave concrete information that demonstrated that their work was tied to and managed by factory 2, but were not able to recall brand names of the products they produced. We believe that H&M products may have also been produced in these factories from time to time. They too faced a number of problems related to their working conditions, primarily, with respect to the nature of contracts, payment of wages and other benefits.

Factory 3

A subcontract factory has produced for H&M and sent garments to factory 3, which is a direct supplier of H&M and continues to appear on its 2014 supplier list. Within two months of reporting the unauthorized subcontract to H&M, the brand labels stopped appearing in the factory and the workers no longer get the option of doing overtime work, which is an important source of income. The working conditions remained largely unchanged and included delays in paying maternity benefits, citing a lack of money and union discrimination. Periodic forced overtime has declined and the workers said they suspect that is because the overall work load reduced since H&M's products stopped appearing in the factory.

Other Information Suggesting Subcontracting

Independently, Human Rights Watch received information from a local human rights organization that H&M brand labels were collected in at least two more factories that do not appear on H&M's supplier lists in 2013, but we were unable to speak to workers from these factories and understand where these materials are sent.

We would like to underline that our research was not an investigation of subcontracting per se and we were unable to delve into the full scope of the problem. However, our research suggests that subcontracting is pervasive enough to reduce the effectiveness of the distinction H&M and other brands draw between "authorized and unauthorized subcontracting," and further, that the approach to tackling "unauthorized" subcontracting appears to undercut workers' rights when H&M does not commit to contributing towards the cost of remediation, nor reporting the subcontract factories to the Better Factories Cambodia program and giving them a reasonable timeline for remediation.

Fixed Duration Contracts

A number of H&M suppliers repeatedly use fixed-duration contracts (FDC) for three or six months beyond the two-year period, contrary to what has been laid down by the Arbitration Council.⁴ The Arbitration Council has held that the repeated use of FDCs violates the labor law. We cannot estimate how many of H&M suppliers and subcontractors use FDCs and the extent to which they use FDCs. However, recent information and analysis by the Worker Rights Consortium, an international labor rights group, published in 2014, provides a list of 127 factories with estimates of the extent to which they use FDCs. Of those H&M suppliers that appear in the database, at least nine are reportedly using only FDCs and eleven more are cited as having "majority FDCs." In contrast, only one factory uses undetermined duration contracts or UDCs exclusively and another five factories use "majority UDC."

We welcome additional information on the type of contracts (UDCs, FDCs, casual contracts) in each of H&M's supplier factories and the extent to which such contracts are used.

More broadly, based on information from workers in a number of factories supplying to international brands, we found that many factory managers in Cambodia tell workers that they will receive an extra 5 percent of the wages for fixed-duration contracts, furnishing them information that appears beneficial to workers. Workers on FDCs were not aware of the pitfalls of being on such contracts. In some cases, workers reported that they either did not receive the additional 5 percent when the FDC expired or experienced delayed payments.

Fixed duration contracts often underlie anti-union discrimination as well as pregnancy discrimination. Many workers reported to us that factory managers did not renew short-term contracts for visibly pregnant workers. Likewise, workers who formed unions said that they found that their contracts were not renewed or were terminated; men said they were issued shorter fixed-duration contracts than women because they were seen as more vocal and able to challenge factory managers; and workers were themselves scared of trying to join unions for fear of not having their contracts renewed.

⁴ Jacqsintex Garment Co. Ltd. and Democratic Union of Jacqsintex, Arbitral Award Case No. 10/03 dated July 23, 2003.

Production Quotas

Our research on production quotas is drawn from interviews with workers from a number of factories, only some of which were supplying to H&M.

Many workers with whom Human Rights Watch spoke complained about the adverse impact of production targets on their working conditions. Some workers said production targets or quotas were used to pressure workers to work faster and workers were threatened that their contracts would not be renewed if they were perceived as “slow” workers. A group of workers from one of H&M’s supplier factories told Human Rights Watch that students were researching on behalf of H&M to increase production quotas, making it more difficult for them to take rest breaks.

Workers said managers often refused to give them bathroom and drinking water breaks to make sure they maximized their time at the production line. Alternatively, workers—especially those on fixed-duration contracts—said they were afraid to ask for such breaks for fear that they will be perceived as “unproductive.” Workers said they were also denied sick leave or rest breaks due to production quota pressures. Alternatively, where sick leave was granted, many workers reported that a disproportionate amount was deducted from their monthly attendance bonus.

The pressure to meet quotas had an added impact on pregnant workers, who needed more breaks than others to rest or use the bathroom, and felt incapable of meeting the quotas. Some pregnant workers eventually left their jobs because they said they were too scared to ask for breaks and were being humiliated as “slow” workers.

In a few factories, workers reported that their managers constantly raised the quotas making it almost humanly impossible for them to achieve the targets. Only those workers who worked relentlessly without any breaks for rest, water, or bathroom could meet the targets if they worked overtime. Others who were not able to meet their quotas were labeled unproductive. In some cases, when the minimum wages were increased, the quotas were also increased, effectively making women work more for the wages.

Workers generally wanted a couple of hours of overtime work to supplement their income, but refusing excessive overtime work was difficult and workers who dared to refuse overtime work risked retaliation.

We look forward to hearing from you and discussing more about how H&M’s current policies and practices can be further improved to protect worker rights.

We welcome additional information about H&M’s Role Model Factory program in Cambodia and results from its first evaluation, especially regarding how it addresses the concerns outlined in this letter. We hope to hear from you before August 31, 2014. We will include any relevant information obtained from M&S in our report to be published in late 2014.

In particular, we would like to discuss the following recommended changes to H&M's policy and approach to workers' rights in the supply chain:

On subcontracting and related protections:


1. Publicly disclose all suppliers and subcontractors on a half-yearly basis together with indicating volume—for example—minor, medium, or major supplier— as well as the status of inspections by independent monitors as of the date of disclosure.
2. Create a concrete and written whistleblower protection system for workers and union representatives who alert H&M to unauthorized subcontracting. Such a whistleblower system should ensure that all workers and union representatives receive appropriate protection for a reasonable period, including legal representation to defend themselves against vexatious suits or criminal complaints filed by factories; monthly wages including minimum wage, reasonable allowances, and overtime pay, and where workers are dismissed from work for having reported on are dismissed from work, and possible alternative employment at a nearby location.
3. As soon as unauthorized subcontracting is brought to light, ensure that the factory is reported to BFC's monitoring and remediation services where H&M contributes towards monitoring and remediation for a reasonable period before stopping production.
4. Given the nature of subcontracting, H&M should ensure that all factories that have subcontracted work without authorization over a particular period (example, one year) are reported to BFC for monitoring and remediation, irrespective of whether the factory currently undertakes subcontracted production for H&M.
5. Provide necessary funds sufficient for BFC to expand its monitoring services to include subcontracting factories.
6. Advocate publicly for ILO-BFC to report on brands that are being produced in the factories monitored by them to ensure greater transparency.
7. Highlight the benefits of and speak publicly about the importance of disclosing the supply chain.
8. Revise the Code of Conduct to protect workers in subcontract factories.

On labor compliance and industrial relations:

9. Ensure that the ongoing pricing review mechanism factors in the cost of, and makes a contribution toward, labor compliance in consultation with labor rights lawyers and unions. The cost of labor compliance should include the cost of reasonable accommodation for pregnant workers and maternity benefits.
10. Review the Code of Conduct and include a clause that forbids use of casual contracts and fixed duration contracts contrary to local laws or as a method of bypassing labor protections. Limit the use of fixed duration contracts to seasonal or temporary work for all workers and encourage and incentivize the adoption of undetermined duration contracts (UDCs) or permanent contracts in Cambodia. Communicate with all suppliers that employing male workers on shorter term FDCs than their female counterparts is discriminatory.
11. Ensure that H&M suppliers do not compensate for rise in minimum wages by raises in production quotas at the expense of workers' rights.

12. Actively encourage women's participation in union leadership and encourage training, awareness, and factory-level complaints mechanisms against sexual harassment at the workplace.
13. Ensure that sourcing contracts adequately reflect and incorporate the costs of labor, health, and safety compliance.

Best regards,



Senior Researcher for women's rights in Asia
Women's Rights Division
Human Rights Watch

CC:

1. Ms. Helena Helmersson, [REDACTED]
2. Mr. Basirun Nabi, [REDACTED]
3. Mr. Jonah Wigerhall, [REDACTED]
4. Mr. Lars-Ake Bergqvist, [REDACTED]

Joe Fresh

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300; 917-591-3452

WOMEN'S RIGHTS DIVISION

Liesl Gerntholtz, *Executive Director*
Janet Walsh, *Deputy Director*
Nisha Varia, *Senior Researcher*
Gauri van Gulik, *Global Advocate*
Meghan Rhoad, *Researcher*
Aruna Kashyap, *Researcher*
Agnes Odhiambo, *Researcher*
Amanda Klasing, *Researcher*
Samer Muscati, *Researcher*
Rothna Begum, *Researcher*
Hillary Margolis, *Researcher*
Brenda Akia, *Koenig Fellow*
Camille Pendley, *Associate*
Annerieke Smaak, *Associate*

ADVISORY COMMITTEE

Betsy Karel, *Chair*
Karen Ackman
Mahnaz Afkhami
Helen Bernstein
David Brown
Charlotte Bunch
Ellen Chesler
Judy Gaynor
Adrienne Germain
Marina Pinto Kaufman
Hollis Kurman
Lenora Lapidus
Stephen Lewis
Samuel Murumba
Sylvia Neil
Susan Osnos
Joan Platt
Lynn Povich
Bruce Rabb
Amy Rao
Susan Rose
Pascaline Servan-Schreiber
Lorraine Sheinberg
Donna Slaight
Domna Stanton
Ellen Stone Belic
Ellen Susman
Hilary Thomas Lake
Rita W. Warner
Sarah Zeid
Kathleen Peratis, *Chair Emerita (1991–2005)*

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Deputy Executive Director, Development and Global Initiatives*
Carroll Bogert, *Deputy Executive Director, External Relations*
Iain Levine, *Deputy Executive Director, Program*
Chuck Lustig, *Deputy Executive Director, Operations*

Dinah PoKempner, *General Counsel*
James Ross, *Legal & Policy Director*
Hassan Elmasry, *Co-Chair*
Joel Motley, *Co-Chair*

March 24, 2014

To
Mr. Bob Chant
Senior Vice President, Corporate Affairs
Loblaw Cos. Ltd.
via email: [REDACTED]

HUMAN
RIGHTS
WATCH

HRW.org

Re: Loblaw Cos. Ltd.'s garment suppliers in Cambodia for the Joe Fresh apparel line

Dear Mr. Chant:

Please accept my regards on behalf of Human Rights Watch. As you may know, Human Rights Watch is an independent nongovernmental organization dedicated to defending and protecting human rights. We monitor and report on human rights violations in over 90 countries around world, including Cambodia. Since 1998 we have worked on business and human rights issues across different industries in many countries.

I am writing to you because we are researching the rights of garment workers in Cambodia for a report to be published later this year. To ensure that our reporting is fair and accurate, we are seeking input from you and other leading brands that source from Cambodia (see questions, attached). This information will aid us in deepening our understanding of the business environment in which garment factories and brands operate and gather information about the steps that brands are taking to address their human rights responsibilities through the supply chain.

We are specifically seeking information concerning Loblaw Cos. Ltd.'s policies, programs, and practices related to human rights obligations and labor law compliance throughout your company's apparel supply chain in Cambodia.

We respectfully request your written response to our questions by April 20, 2014, so that they can be reflected in our report. All responses can be sent to us by email to [REDACTED] or by fax: [REDACTED].

We also request you to kindly permit us to visit some of your direct and indirect (subcontract) suppliers in Cambodia between March 24 and April 7, 2014, including E-Garments Co. Ltd.

We also hope to schedule a meeting or a phone call at your convenience to discuss these issues.

Thank you for your attention to this matter.

Best regards,



Aruna Kashyap
Researcher, Women's Rights Division, Human Rights Watch

Questions

A. Suppliers and related information: Human Rights Watch is interested in learning more about Loblaw Cos. Ltd.'s approach to factories in the supply chain.

1. How frequently does Loblaw Cos. Ltd. place orders with its suppliers for Joe Fresh?
2. What is the current average purchasing volume from Cambodia?
3. What information does Loblaw Cos. Ltd. seek as part of its due diligence before enlisting a supplier? Please provide a copy (omitting identifiable details if needed) as a sample.
4. Once a supplier is contracted with, what ongoing due diligence does Loblaw Cos. Ltd. conduct and what information is sought as part of such due diligence?
5. Please provide a copy of Loblaw Cos. Ltd.'s code of conduct for vendors.
6. Does Loblaw Cos. Ltd. have a list of authorized subcontractors in Cambodia that all of its suppliers can use?
7. Has Loblaw Cos. Ltd. received requests from its suppliers to allow subcontracting in the last five years? If yes, how often are such requests made?
8. How much time does it take for Loblaw Cos. Ltd. to process a request for subcontracting?
9. Under what circumstances can a supplier request subcontracting?
10. Have any "unauthorized" subcontracts in Cambodia been brought to the attention of Loblaw Cos. Ltd. in the last three years?
11. What action does Loblaw Cos. Ltd. initiate when an "unauthorized" subcontract is brought to its attention and what remedial measures does it require a supplier to take?
12. Has Loblaw Cos. Ltd. undertaken any investigations into specific allegations of "unauthorized" subcontracting by Loblaw Cos. Ltd. suppliers in Cambodia? Please provide a copy (removing identifiable details if needed) of an investigation report.
13. How does Loblaw Cos. Ltd. ensure that workers in the subcontracting factory are not placed in jeopardy when an "unauthorized subcontract" is disclosed?
14. Has any business relationship been terminated because of "unauthorized" subcontracting in Cambodia? If so, please provide details.
15. Has Loblaw Cos. Ltd. ever publicly disclosed a list of suppliers and their subcontractors in Cambodia?
 - a. If no, what are the reasons Loblaw Cos. Ltd. has not publicly disclosed its suppliers and subcontractors' lists?
 - b. Does Loblaw Cos. Ltd. plan to disclose these in the near future?
 - c. If suppliers' and their subcontractors' names have been disclosed, kindly provide us a copy of the data and let us know how frequently the data is updated.
16. Which of its Cambodian suppliers has Loblaw Cos. Ltd. discontinued, since when (data since January 2012), and why?

C. Labor law and Code of Conduct compliance: As a brand with a stated commitment to ensuring labor compliance and promoting workers' rights throughout the supply chain, we are keen to understand the steps Loblaw Cos. Ltd. takes to ensure, enable, and facilitate labor compliance by its suppliers.

17. What are the main features of Loblaw Cos. Ltd.'s supply chain monitoring and how does this monitor subcontracting?
18. Has Loblaw Cos. Ltd. instituted any capacity building for Cambodian suppliers to facilitate labor law compliance? Please provide details.
19. How does Loblaw Cos. Ltd. factor in the cost of labor compliance in its business relationships?
20. What steps is Loblaw Cos. Ltd. taking to improve its purchasing practices to reduce production peaks?
21. How has Loblaw Cos. Ltd.'s pricing model been revised to factor in cost of labor and how is this calculated?
22. Has Loblaw Cos. Ltd. received any complaints from Cambodian unions on suppliers' non-compliance with decisions of the Arbitration Council? What steps does Loblaw Cos. Ltd. take to ensure that its suppliers comply with Arbitration Council awards?
23. Does Loblaw Cos. Ltd. employ third-party auditors to audit Cambodian suppliers?
 - a. Do third-party auditors inspect and report on Loblaw Cos. Ltd.'s subcontractors or indirect suppliers?
 - b. Please provide sample reports of third-party audits (withholding identifiable information if needed).
24. Does Loblaw Cos. Ltd. have an internal policy on response and follow-up to complaints it receives about labor law non-compliance in its supply chain? Please provide details that specify within what period Loblaw Cos. Ltd. responds to such complaints and what process it follows to initiate remedial measures.

D. ILO-BFC monitoring reports

25. For which of its suppliers has Loblaw Cos. Ltd. purchased factory-level monitoring reports issued by Better Factories Cambodia (BFC) and in which years? Please provide a full list for the last three years. Please provide copies (withholding identifiable details if needed) of BFC reports for at least five long-time suppliers.
26. Does Loblaw Cos. Ltd. share a copy of the BFC monitoring report free of cost with its suppliers? Please provide the most recent list of suppliers with whom BFC reports have been shared.
27. What steps does Loblaw Cos. Ltd. take to make improvements in the areas suggested by the BFC monitoring report?

E. Observations Concerning Women Workers: We are particularly keen to understand Loblaw Cos. Ltd.'s approach to women workers in the supply chain:

28. Does the code of vendor conduct explicitly forbid discrimination based on pregnancy?

29. How does Loblaw Cos. Ltd. ensure that its suppliers do not misuse temporary fixed duration contracts, including terminating contracts of pregnant workers?
30. What measures does Loblaw Cos. Ltd. advise its suppliers to take to ensure that pregnant women are reasonably accommodated in the workplace?
31. How does Loblaw Cos. Ltd. ensure that production lines and daily production quotas are not used to indirectly coerce pregnant workers into accepting overtime, or restrict their ability to take bathroom or rest breaks?
32. How does Loblaw Cos. Ltd.'s recommendation for a factory-level policy on social accountability incorporate pregnancy-related concerns (reasonable accommodation, day care center, child care allowance, compliance with maternity-related benefits)?
33. Has Loblaw Cos. Ltd. taken any steps to encourage and support suppliers to institute a policy against sexual harassment at the workplace and provide training to all staff to prevent and respond to sexual harassment at the workplace?
34. How do Loblaw Cos. Ltd.'s audits address gender-related concerns?

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-726-1300; 017-501-3452

WOMEN'S RIGHTS DIVISION

Liesl Gerntholtz, *Executive Director*
Janet Walsh, *Deputy Director*
Nisha Varia, *Associate Director*
Agnes Odhiambo, *Senior Researcher*
Aruna Kashyap, *Senior Researcher*
Heather Barr, *Senior Researcher*
Gauri van Gulik, *Global Advocate*
Meghan Rhoad, *Researcher*
Amanda Klasing, *Researcher*
Samer Muscati, *Researcher*
Rothna Begum, *Researcher*
Hillary Margolis, *Researcher*
Brenda Akia, *Koenig Fellow*
Annerieke Smaak, *Associate*
Alexandra Kotowski, *Associate*

ADVISORY COMMITTEE

Betsy Karel, *Chair*
Joan Platt, *Vice-Chair*
Karen Ackman
Mahnaz Afkhami
Helen Bernstein
David Brown
Charlotte Bunch
Ellen Chesler
Judy Gaynor
Adrienne Germain
Marina Pinto Kaufman
Hollis Kurman
Lenora Lapidus
Stephen Lewis
Samuel Murumba
Sylvia Neil
Susan Osnos
Lynn Povich
Bruce Rabb
Amy Rao
Susan Rose
Pascaline Servan-Schreiber
Lorraine Sheinberg
Donna Slaight
Domna Stanton
Ellen Stone Belic
Ellen Susman
Hilary Thomas Lake
Rita W. Warner
Sarah Zeid
Kathleen Peratis, *Chair Emerita (1991–2005)*

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Deputy Executive Director, Development and Global Initiatives*
Carroll Bogert, *Deputy Executive Director, External Relations*
Iain Levine, *Deputy Executive Director, Program*
Chuck Lustig, *Deputy Executive Director, Operations*

Dinah PoKempner, *General Counsel*
James Ross, *Legal & Policy Director*
Hassan Elmasry, *Co-Chair*
Joel Motley, *Co-Chair*

August 21, 2014

To
Mr. Galen Weston, Jr.
Executive Chairman and President
Loblaw Cos. Ltd.

[REDACTED]

Re: Loblaw Cos. Ltd.'s garment suppliers in Cambodia for the Joe Fresh apparel line

Dear Mr. Weston:

We are writing today to share with you additional information from our research in Cambodia pertaining to labor rights violations in a number of garment factories, including some that produced garments for Loblaw Cos. Ltd. (Loblaw)'s garment brand, Joe Fresh.

As noted in our previous correspondence, we visited Cambodia in late 2013 and early 2014 to conduct interviews with workers, union federations, government officials, company officials, and international agencies.

We note that we have not received any response from Loblaw to our previous letter dated March 24, 2014 with a follow-up email dated April 30, 2014. We hope that Loblaw will respond to our previous letter and our findings in this letter before September 17, 2014 and a representative will be available for a discussion on your policies and garment workers' rights in Cambodia. Any information shared with us before September 17, 2014 may be reflected in our report that we plan to publish in late 2014.

We are keen to receive a copy of any latest Loblaw Code of Conduct governing garment supply chains. We were able to locate online a 2007 [Supplier Code of Conduct](http://www.loblaw.ca/files/doc_downloads/7.%20Supplier%20Code%20of%20Conduct.pdf), which has three clauses relevant to labor rights in the garment industry.¹ The 2007 Supplier Code of Conduct falls far short of industry standards, notably the type of codes developed by leading brands like Adidas and H&M.

¹ Supplier Code of Conduct, 2007, http://www.loblaw.ca/files/doc_downloads/7.%20Supplier%20Code%20of%20Conduct.pdf (accessed August 5, 2014). See clauses titled Compliance with Laws, No Child Labour or Forced Labour, and Employment Practices of Suppliers.

HUMAN
RIGHTS
WATCH

HRW.org

Subcontracting

Human Rights Watch has information about at least four factories producing for Joe Fresh among other brands. At least two of these four factories were periodically subcontracting work to other factories and we believe Joe Fresh products may have also been subcontracted. We would also like to draw your attention to factories that have been identified as Joe Fresh suppliers in a 2014 Worker Rights Consortium Report.²

Because Loblaw does not publicly provide a list of its suppliers and subcontractors, we are unable to determine whether these were authorized suppliers or subcontractors. Regardless, our research suggests that subcontract factories producing your product are engaging or have engaged in practices that violate Cambodian labor laws.

In order to have a fruitful discussion on these issues, Human Rights Watch would like to receive information on the following aspects, in addition to the questions we have sent in our previous correspondence:

- a. Does Loblaw have any policy outlining how it encourages receiving whistleblowing information of unauthorized subcontracting arrangements and the protections it offers to workers and unions that serve as whistleblowers? Please provide details.
- b. How many reports of unauthorized subcontracts has Loblaw received to date?
- c. Has Loblaw referred any unauthorized subcontract factory it has found in its supply chain to the Better Factories Cambodia (BFC) program for monitoring, advisory services, or both? Please provide details for all factories for which Loblaw has purchased BFC services in response to unauthorized subcontracts to date.
- d. Where Loblaw does not report unauthorized subcontract factories to BFC's monitoring and advisory services, how does Loblaw provide adequate time for monitoring and remediation to ensure that workers' incomes are not impacted adversely by the whistleblowing?
- e. Please provide examples of how Loblaw's commitment to remediation has benefited subcontract factories and its workers where unauthorized subcontracting has been brought to Loblaw's attention.
- f. Are there any Loblaw suppliers and subcontractors that are not monitored by BFC? What are the reasons why such factories remain outside the purview of BFC monitoring?
- g. For how many suppliers and subcontractors has Loblaw purchased BFC factory-level monitoring reports to date? Please provide a monthly/yearly breakdown against the number of suppliers and subcontractors for that year.
- h. For how many suppliers and subcontractors has Loblaw purchased BFC's year-long Advisory Services to date? Please provide details of month and year of purchase.
- i. What warning mechanism has Loblaw put in place before any business relationship is terminated with a supplier who subcontracts without prior permission? How many warnings are allowed before a business relationship is terminated?

² Worker Rights Consortium, "Update on Ongoing Abuse of Temporary Employment Contracts in the Cambodian Garment Industry," 2014, <http://workersrights.org/freports/WRC%20Update%20on%20Misuse%20of%20FDCs%20in%20Cambodia%204.11.14.pdf> (accessed August 19, 2014).

We urge Loblaw to disclose its suppliers and subcontractors lists publicly and ensure that these are periodically updated on at least a half-yearly basis. A lack of transparency in Loblaw's supply chain places it outside of good practice in the industry and makes it more difficult for concerned Loblaw consumers, worker organizations, and other corporate social responsibility advocates to track and report labor rights violations in your supply chain.

Other leading brands including H&M and Adidas have commendably disclosed their supplier and subcontractor lists, and periodically update them. H&M began publicly disclosing its supplier and subcontractor lists in 2013 with an annual update and Adidas started publicly disclosing its supplier and licensees lists in 2007 and has moved to twice yearly disclosure starting in 2014.

The case studies below set out the information we have on subcontracting arrangements. We have not disclosed factory names and locations. Our research and reporting worldwide is conducted in accordance with the principle of informed consent and strives to minimize the risk of retaliation to interviewees who consent to give us information. Therefore, we must evaluate the potential impacts on sources when determining how much information we can divulge.

Factory BC³

In 2013 Factory BC, which produced for Joe Fresh and other brands, periodically subcontracted work to several other factories. While managers of Factory BC employed a number of workers on undetermined duration contracts (UDCs) or permanent contracts, they also used a variety of hiring practices aimed at cutting costs that we believe were not compliant with labor laws. We documented the following patterns:

- i. Repeated use of fixed duration contracts: Many workers, especially men, were hired on two-month fixed duration contracts for extended periods—beyond two years in some cases, contravening Cambodian labor law. Workers employed on the two-month contracts were warned that they could not join the factory union. Warnings not to join the factory union were periodically issued when contracts were renewed. The factory management did not consistently pay all workers on fixed duration contracts the five percent wage benefit that they are entitled to receive when a fixed duration contract ends.
- ii. Repeated use of 21-day contracts for workers described as “floating workers.”
- iii. Hiring workers from other factories for night shifts and Sunday work: workers from at least three other factories completed their full work day and reported for night shifts or Sunday work in Factory BC. These workers were hired on an hourly basis. No overtime wages were paid to these workers for Sunday work.

We interviewed workers from two subcontract factories and learned that workers there were too scared to unionize. They were hired on three-month fixed duration contracts that were repeatedly renewed in violation of Cambodian labor law. Many workers were paid wages that were lower than the stipulated minimum wages when we interviewed them. Workers were

³ Please note that this is a temporary code assigned to the factory for the purposes of this letter.

assigned daily production targets and were forced to work overtime to meet the targets but did not receive overtime wages. Pregnant women did not receive maternity pay. Workers were denied sick leave, and faced a mixture of threats and ridicule when they produced medical certificates to justify missing work because of sickness. The factories did not have a health clinic. They also employed children and made them do overtime work.

Factory BD⁴

Workers from Factory BD told Human Rights Watch they produced for Joe Fresh. The workers there reported anti-union discrimination, forced overtime, punitive action for workers refusing overtime work, and child labor, where workers believed some children were below the legal minimum working age of 15. Children were told to hide or sent home when visitors arrived in the factory.

Workers believe Factory BD subcontracts to another nearby factory.

We would like to underline that our research was not an investigation of subcontracting per se and we were unable to delve into the full scope of the problem. However, our research shows that subcontracting is pervasive enough to render ineffective the distinction brands draw between “authorized and unauthorized subcontracting.”

Fixed Duration Contracts

Many factories repeatedly use fixed duration contracts (FDCs) as a method of avoiding labor protections and discouraging unions. Workers from factories producing for a number of leading brands including Loblaw, told us that their factories used fixed duration contracts beyond the two-year period, contrary to what has been laid down by the Arbitration Council.⁵ The Arbitration Council has held that the repeated use of FDCs violates the labor law.

We cannot estimate how many of Joe Fresh’s suppliers and subcontractors use FDCs and the extent to which they use FDCs. However, recent information and analysis by the Worker Rights Consortium, an international labor rights group, published in 2014, provides a list of 127 factories with estimates of the extent to which they use FDCs. Of those Joe Fresh suppliers that appear in the database, at least five are reportedly using only FDCs and three more are cited as having “majority FDC.” In contrast, only one factory uses “majority UDC.”⁶

More broadly, based on information from workers in a number of factories supplying to international brands we found that many factory managers in Cambodia tell workers that they will receive an extra five percent of the wages for fixed duration contracts, providing one-sided information. Workers on FDCs were not aware of the pitfalls of being on such contracts. In some cases, workers reported that they either did not receive the additional five percent when the FDC expired or experienced delayed payments.

⁴ Please note that this is a temporary code assigned to the factory for the purposes of this letter.

⁵ Jacqsintex Garment Co. Ltd. and Democratic Union of Jacqsintex, Arbitral Award Case No. 10/03 dated July 23, 2003.

⁶ Worker Rights Consortium, “Update on Ongoing Abuse of Temporary Employment Contracts in the Cambodian Garment Industry.”

We would like to reiterate that FDCs often underlie anti-union discrimination as well as pregnancy discrimination. Many workers reported that factory managers did not renew short-term contracts for visibly pregnant workers. Likewise, workers who formed unions found that their contracts were not renewed or were terminated; men said they were issued shorter FDCs than women because they were seen as more vocal and able to challenge factory managers; and workers were themselves scared of trying to join unions for fear of not having their contracts renewed.

In addition to the information we have requested in our earlier letters, we request the following details on the use of FDCs and other casual contracts by Loblaw suppliers and subcontractors in Cambodia:

- j. Please provide information on the type of contracts (UDCs, FDCs, casual contracts) in each of Loblaw's supplier and subcontractor factories and the extent to which such contracts are used. Please also indicate which factories are long-term suppliers/subcontractors.
- k. How does Loblaw factor in the repeated use of FDCs or other casual contracts (daily wage hiring) in its auditing and due diligence?
- l. How does a factory's rating get impacted by the repeated use of short-term contracts contrary to Cambodian labor law and international standards?
- m. What remedial measures has Loblaw initiated to address the use of short-term contracts contrary to Cambodian labor law and international standards?

Production Quotas

Our research on production quotas is drawn from interviews with workers from a number of factories, only some of which were supplying to Loblaw.

Many workers with whom Human Rights Watch spoke complained about how production targets were used to undermine their working conditions, making it difficult for them to take rest breaks or other breaks to use the rest room, drink water, or take sick leave. Some workers said production targets or quotas were used to pressure workers to work faster and workers were threatened that their contracts would not be renewed if they were perceived as "slow" workers.

Workers said managers often refused to give them bathroom and drinking water breaks to make sure they maximized their time at the production line. Alternatively, workers—especially those on fixed duration contracts—said they were afraid to ask for such breaks for fear that they would be perceived as "unproductive." Workers said they were also denied sick leave or rest breaks due to production quota pressures. Alternatively, where sick leave was granted, many workers reported that a disproportionate amount was deducted from their monthly attendance bonus.

The pressure to meet quotas had an added impact on pregnant workers, who needed more breaks than others to rest or use the bathroom, and felt incapable of meeting the targets. Some pregnant workers eventually left their jobs because they said they were too scared to ask for breaks and be humiliated as "slow" workers.

In a few factories, workers reported that their managers constantly raised the quotas making it almost humanly impossible for them to achieve the targets. Only those workers who worked relentlessly without any breaks for rest, water, or bathroom could meet the targets if they worked overtime. Others who were not able to were labeled as unproductive.

In some cases, when the minimum wages were increased, the quotas were also increased, effectively making women work more for the wages.

Workers generally wanted a couple of hours of overtime work to supplement their income, but refusing excessive overtime work was difficult and workers who dared to refuse overtime work risked retaliation.

We would like the following additional information on production targets:

- a. Does Loblaw draw a distinction between reasonable and unreasonable production targets and what is this distinction?
- b. How does Loblaw encourage its suppliers to set targets respecting workers' human needs in 8, 10 or sometimes even 12-hour work days—to rest, drink water, use the restroom, and eat meals especially when doing overtime work? Please provide any example of internal rules, collective bargaining agreements, or any other documentation we may be able to share more widely.
- c. What measures does Loblaw take to ensure that the suppliers and subcontractors do not increase production targets to compensate for the rise in statutory minimum wages?

We look forward to hearing from you and discussing more about how Loblaw's current policies and practices can be further improved to protect workers' rights. In particular, we would like to discuss the following preliminary recommendations regarding Loblaw's policy and approach to workers' rights in the supply chain:

On subcontracting and related protections:

1. Publicly disclose all suppliers and subcontractors on a quarterly or half-yearly basis together with indicating volume—for example—minor, medium, or major supplier.
2. Create a concrete and written whistleblower protection system for workers and union representatives who alert Loblaw to unauthorized subcontracting. Such a whistleblower system should ensure that all workers and union representatives receive: appropriate protection for a reasonable period, including legal representation to defend themselves against vexatious suits or criminal complaints filed by factories; monthly wages including minimum wage, reasonable allowances, and overtime pay; and where workers are dismissed from work for having reported on unauthorized subcontracting, possible alternative employment at a nearby location.
3. As soon as unauthorized subcontracting is brought to light, ensure that the factory is reported to BFC's monitoring and remediation services where Loblaw contributes towards monitoring and remediation for a reasonable period before stopping production.

4. Given the nature of subcontracting, Loblaw should ensure that all factories that have subcontracted work without authorization over a particular period (for example, one year) are reported to BFC for monitoring and remediation, irrespective of whether the factory currently undertakes subcontracted production for Loblaw.
5. Provide necessary funds sufficient for BFC to expand its monitoring services to include subcontracting factories.
6. Advocate publicly for BFC to report on brands that are being produced in the factories monitored by them to ensure greater transparency.
7. Revise the Code of Conduct to protect workers in subcontract factories.

On labor compliance and industrial relations:

8. Undertake periodic pricing review and factor in the cost of and make a contribution toward labor compliance in consultation with labor rights lawyers and unions. The cost of labor compliance should include the cost of reasonable accommodation for pregnant workers and maternity benefits.
9. Review the Code of Conduct and bring it up to industry good practices. Include a clause that forbids use of casual contracts and fixed duration contracts contrary to local laws or as a method of bypassing labor protections. Limit the use of fixed duration contracts to seasonal or temporary work for all workers and encourage and incentivize the adoption of undetermined duration contracts (UDCs) or permanent contracts in Cambodia. Communicate with all suppliers that employing male workers on shorter term FDCs than their female counterparts is discriminatory.
10. Ensure that Loblaw's suppliers do not compensate for rise in minimum wages by raises in production quotas at the expense of workers' rights.
11. Actively encourage women's participation in union leadership and encourage training, awareness, and factory-level complaints mechanisms against sexual harassment at the workplace.
12. Ensure that sourcing contracts adequately reflect and incorporate the costs of labor, health, and safety compliance.

Best regards,



Senior Researcher
Women's Rights Division
Human Rights Watch

CC: Mr. Bob Chant, [REDACTED]

Encl: Human Rights Watch letter to Mr. Bob Chant, March 24, 2014.

Via email to: aruna.kashyap@hrw.org

Human Rights Watch
Ms. Aruna Kashyap
Researcher, Women's Rights Division
350 Fifth Avenue, 34th Floor
New York, NY 10118-3299

November 11, 2014

Dear Ms. Kashyap:

Re: Joe Fresh Apparel Suppliers in Cambodia

Thank you for your last letter dated August 21, 2014. We commend you on the valuable work Human Rights Watch does globally. As an organisation, we are committed to sourcing ethically and responsibly throughout the world and have created practices and policies to ensure this objective.

The questionnaire you have asked us to complete requires us to disclose confidential and competitive information which we are not comfortable doing. However, in this letter we will address how Loblaw's Inc., including its subsidiary Joe Fresh Apparel Canada Inc., ensures that product is only sourced from authorised factories which are required to conform to the standards discussed below.

We work extensively with Intertek Group plc, a well-respected multinational inspection and certification company to evaluate and monitor all our off-shore suppliers using the Workplace Conditions Assessment (WCA) standard. This WCA standard was developed by Intertek based on a foundation of local national laws, International Labor Organisation (ILO) Conventions and standards from best-practice organisations in the industry. The WCA includes evaluations with respect to labour, wages and hours, health and safety, and the environment. If Loblaw determines that a supplier does not conform to our Supplier Code of Conduct standard, we inform the supplier of the improvements or modifications necessary to make them compliant within a stated deadline. If they fail to comply within this timeframe, Loblaw will discontinue the relationship with the supplier.

Loblaw also makes efforts to prevent suppliers from subcontracting work to unapproved factories. Notably, all Joe Fresh Apparel suppliers have signed our Standard Terms and Conditions (STCs) which expressly state that unauthorised subcontracting will not be tolerated and is in fact cause for termination.

We have also implemented an initiative with DHL's International Supply Chain Management called the "Green Light Project" the purpose of which is to ensure that product deliveries are only accepted from approved factories. DHL must validate the supplier name and specific *manufacturing-factory name* and address against our list of approved factories which is updated weekly. This origin booking/shipment

control is implemented at every port of origin where Loblaw procures goods from outside of Canada and the USA.

Furthermore, Loblaw recently engaged in hiring 20 production compliance personnel to be situated on the ground in six different countries, including 8 to be placed in the region, covering Cambodia, Thailand and Vietnam. Each production person will be responsible for the oversight of approximately 10 factories. This will further mitigate the risk of unauthorised subcontracting.

As a further indication of our commitment to our suppliers and their factory workers, it is worth noting that (i) Loblaw is a signatory to the Accord on Fire and Building Safety in Bangladesh, an organisation committed to the goal of a safe and sustainable Bangladesh ready-made garment industry; and (ii) Loblaw was one of three founding brand members of the Rana Plaza Coordination Committee mandated with raising money to compensate the Rana Plaza workers, their families and dependants. Approximately US \$20 million has been raised to date of which about \$3.5 million was donated by Loblaw.

Lastly, as you requested, we attach our current *Supplier Code of Conduct (2009)*. We are in the process of reviewing this document to ensure its alignment with industry standards. We are happy to forward this to you upon its completion.

We hope this letter serves to illustrate our dedication to sourcing ethically and responsibly.

Kind regards,



Bob Chant
Senior Vice President, Corporate Affairs & Communication

SUPPLIER CODE OF CONDUCT

Loblaw, its subsidiaries and affiliates are committed to doing business in a legal, ethical and socially responsible manner. Reflecting this commitment, all directors, officers and employees are expected to comply with the Loblaw *Code of Business Conduct* in conducting their business relationships. To maintain these standards, Loblaw desires to do business with those Suppliers whose practices are consistent with Loblaw's ethics and principles of business conduct. This Supplier Code of Conduct, as amended or modified from time to time (the "**Code**") sets forth the types of standards and practices that Loblaw expects of its Suppliers.

Compliance with Laws. Suppliers are expected to abide by all applicable laws and regulations including all federal, provincial and local laws regarding environmental matters, occupational health and safety, labour and employment practices, human rights, immigration, product safety, shipping and product labeling. Loblaw also expects that their Suppliers will comply with applicable guidelines and best practices for their industry.

Gifts. The Loblaw Code of Business Conduct restricts Loblaw employees from accepting gifts or favours from suppliers or prospective suppliers, and from using their status with Loblaw in order to obtain personal gain from those wishing to do business with Loblaw. There are limited exceptions to these restrictions for gifts of nominal value and customary hospitality or entertainment. We ask that our Suppliers do not place our employees in the difficult position of having to refuse gifts or favours that would conflict with the Loblaw Code of Business Conduct. Suppliers must not offer or provide gifts, entertainment, hospitality or favours, other than of nominal value, to Loblaw employees to obtain favourable treatment from such Loblaw employees. However, gifts, entertainment or hospitality may be offered or provided which are customary and proper in the circumstances, provided that no obligation could be, or be perceived to be, expected in connection with the gift, entertainment or hospitality.

Environmental Commitment. Loblaw expects its Suppliers to conduct their businesses in a manner that preserves and protects the environment. To minimize or eliminate negative impacts of their operations on the environment, Suppliers should endeavour to minimize waste, avoid excess packaging, use nontoxic, recycled and recyclable materials where possible and promote energy efficiency. Suppliers that provide animal products should ensure that animals are treated in accordance with government and industry-accepted guidelines for humane treatment.

No Child Labour or Forced Labour. Suppliers shall not use workers under the applicable legal age of employment or forced or involuntary labour or engage any supplier, vendor, contractor or partner that uses such workers. Suppliers should only use workers who are legally entitled to work in the jurisdiction in question.

Employment Practices of Suppliers. The procedures and policies of Suppliers should reflect the commitment of Loblaw to fair and reasonable labour and employment practices as well as diversity in the workplace. Suppliers are expected to comply with all local and applicable labour laws and employment standards, such as compensating workers in compliance with all applicable wage, benefit and employment standards laws and maintaining reasonable employee work hours and a safe and healthy workplace. Suppliers are also expected to take reasonable efforts to promote and achieve diversity in the workplace. Loblaw expects that Suppliers shall not inflict, threaten to inflict or permit corporal punishment or any other forms of physical, sexual, psychological or verbal abuse or harassment on any employees.

Food and Product Safety. Loblaw employs best practices for storage and distribution of food products. The procedures of Loblaw food Suppliers for food safety, food handling, preparation, packaging and distribution should meet or exceed industry standards. All Suppliers, for both food and general merchandise products, should also meet or exceed standards for product safety applicable in their industry, including those established by applicable regulators and consumer standards associations. The safety of products provided by Suppliers should also be protected by adequate security measures at all stages of production, packaging, storage and distribution in order to prevent tampering or contamination.

Product Recall Process. All products, both food and general merchandise, provided by Suppliers must be safe for consumption or for their intended purpose, as applicable, by Loblaw customers. Each Supplier is expected to have in place proper procedures to identify potentially harmful products and complete an appropriate product recall, whether voluntary or mandated, in accordance with applicable laws and industry practices. Such procedures should ensure clear and prompt communication regarding such products to consumers and Loblaw and the immediate removal of potentially harmful products from Loblaw inventory.

Confidentiality. Suppliers may from time to time be provided with or have access to confidential business information, trade secrets, formulations, recipes, specifications or other sensitive information which belongs to Loblaw. Suppliers must keep all such information strictly confidential and shall only disclose it to those individuals within their own organizations with a need to have the information. Suppliers shall not disclose such information to any other party without the written permission of Loblaw.

Application of Supplier Code of Conduct. This Code applies to all Loblaw Suppliers and should not be read in lieu of but in addition to the Supplier's obligations as set out in any agreements between Loblaw and/or its affiliates and the Supplier. In the event of a conflict between this Code of Conduct and an applicable agreement, the agreement shall govern. In addition, any subcontractor retained by a Supplier should also respect this Code. Loblaw reserves the right to take appropriate remedial action in the event a Supplier violates the Code.

Marks & Spencer

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300; 917-591-3452

WOMEN'S RIGHTS DIVISION

Liesl Gerntholtz, *Executive Director*
Janet Walsh, *Deputy Director*
Nisha Varia, *Senior Researcher*
Gauri van Gulik, *Global Advocate*
Meghan Rhoad, *Researcher*
Aruna Kashyap, *Researcher*
Agnes Odhiambo, *Researcher*
Amanda Klasing, *Researcher*
Samer Muscati, *Researcher*
Rothna Begum, *Researcher*
Hillary Margolis, *Researcher*
Brenda Akia, *Koenig Fellow*
Camille Pendley, *Associate*
Annerieke Smaak, *Associate*

ADVISORY COMMITTEE

Betsy Karel, *Chair*
Karen Ackman
Mahnaz Afkhami
Helen Bernstein
David Brown
Charlotte Bunch
Ellen Chesler
Judy Gaynor
Adrienne Germain
Marina Pinto Kaufman
Hollis Kurman
Lenora Lapidus
Stephen Lewis
Samuel Murumba
Sylvia Neil
Susan Osnos
Joan Platt
Lynn Povich
Bruce Rabb
Amy Rao
Susan Rose
Pascaline Servan-Schreiber
Lorraine Sheinberg
Donna Slaight
Domna Stanton
Ellen Stone Belic
Ellen Susman
Hilary Thomas Lake
Rita W. Warner
Sarah Zeid
Kathleen Peratis, *Chair Emerita (1991–2005)*

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Deputy Executive Director, Development and Global Initiatives*
Carroll Bogert, *Deputy Executive Director, External Relations*
Iain Levine, *Deputy Executive Director, Program*
Chuck Lustig, *Deputy Executive Director, Operations*

Dinah PoKempner, *General Counsel*
James Ross, *Legal & Policy Director*
Hassan Elmasry, *Co-Chair*
Joel Motley, *Co-Chair*

March 4, 2014

To
Mr. Mike Barry
Director, Sustainable Business
Marks and Spencer
via email: [REDACTED]

Re: Marks and Spencer (M&S) operations in Cambodia

Dear Mr. Barry:

Please accept my regards on behalf of Human Rights Watch. As you may know, Human Rights Watch is an independent nongovernmental organization dedicated to defending and protecting human rights. We monitor and report on human rights violations in over 90 countries around world, including Cambodia. Since 1998 we have worked on business and human rights issues across different industries in many countries.

I am writing to you because we are researching the rights of garment workers in Cambodia for a report to be published later this year. To ensure that our reporting is fair and accurate, we are seeking input from you and other leading brands that source from Cambodia (see questions, attached). This information will aid us in deepening our understanding of the business environment in which garment factories and brands operate and gather information about the steps that brands are taking to address their human rights responsibilities through the supply chain.

We respectfully request your written response to our questions by March 31, 2014, so that they can be reflected in our report. All responses can be sent to us by email to [REDACTED] or by fax: [REDACTED].

We also hope to schedule a meeting or phone call at your convenience to discuss these issues.

Thank you for your attention to this matter.

Best

Aruna Kashyap
Researcher, Women's Rights Division, Human Rights Watch

CC: Mr. Dirk Lembregts, Director, Supply Chain,
[REDACTED]; Adam Elman, Global Head, Plan A
Delivery, [REDACTED]

HUMAN
RIGHTS
WATCH

HRW.org

Questions

A. Labor law and compliance with the Global Sourcing Principles: As a brand that has adopted a set of Global Sourcing Principles with a stated commitment to ensuring greater support for suppliers, we are keen to understand the steps M&S takes to ensure, enable and facilitate labor law compliance. In particular, we would like additional information about the M&S ethical audit; “ethical model factories”; supplier conferences and exchange of best practices; and the newly launched 2013 Supplier Training and Education Programme (STEP) and Labor Link programs.

1. What are the main features of the M&S “ethical audit” and how does M&S believe this improves upon more general approaches to auditing? Please provide redacted copies (withholding identifiable details if needed) of at least two ethical audit reports of suppliers.
2. As a brand committed to discouraging the “excessive use of fixed-term contracts of employment” in its Global Sourcing Principles, what is the precise definition of “excessive use” that M&S has adopted in the Cambodian context and how does M&S monitor this?
3. What are the main features of M&S “ethical model factories”?
4. Which are the M&S “ethical model factories” in Cambodia and is there a plan to upscale this project? If none exist to date, is there a plan to pilot such “ethical model factories” in the near future?
5. Please share some best practices that have emerged in M&S supplier factories in Cambodia, including the following areas:
 - a. Use of long-term contracts over shorter term fixed-duration contracts.
 - b. Facilitating the functioning of unions.
6. Does STEP cover all of M&S suppliers in Cambodia and what information is imparted to suppliers as part of STEP?
7. As part of one of the Plan A pillars of being a “Fair Partner,” M&S has a stated commitment to paying a “fair price” to suppliers so they can in turn pay a “living wage” to their workers, and has introduced a “buying tool” in Bangladesh, India and Sri Lanka. Is a similar plan to revise purchasing cost or introduce a “buying tool” being outlined for Cambodia?
8. What costs of labor compliance does the M&S “buying tool” incorporate?
9. Over the years, how have the M&S pricing models or purchasing costs been revised to factor in the cost of labor?
10. Has M&S received any complaints from Cambodian unions on suppliers’ non-compliance with decisions of the Arbitration Council (dispute resolution body)? What steps does M&S take to ensure that its suppliers comply with Arbitration Council awards?
11. Does M&S have an internal policy on response and follow-up to complaints it receives about labor law non-compliance in its supply chain? Please provide details that specify within what period M&S responds to such complaints and what process it follows to initiate remedial measures.
12. Please provide a copy of the M&S suppliers handbook.
13. Will the Labor Link program be continued beyond the one-year contract period that started in September 2013?
14. Please provide reports that analyze responses of workers received through the Labor Link program.

15. What changes, if any, is M&S planning in response to worker feedback through the Labor Link program?

B. Suppliers and related information: We would like the following information about the approach M&S takes to factories in its supply chain:

16. How frequently does M&S place orders with its suppliers?
17. What is the current annual average purchasing volume from Cambodia?
18. What information does M&S seek as part of its due diligence before enlisting a supplier?
Please provide a redacted copy (omitting identifiable details if needed) as a sample.
19. Once a supplier is enlisted, what ongoing due diligence or monitoring does M&S conduct, and what information is sought?
20. Given that the M&S Global Sourcing Principles forbid suppliers from getting into subcontracts without prior approval from the brand, what approval process has M&S put in place?
21. Does M&S have a list of authorized subcontractors in Cambodia that all its suppliers can use?
22. Has M&S received requests from its suppliers to allow subcontracting in the last five years? If so, is this a frequent occurrence?
23. How much time does it take for M&S to process a request for subcontract?
24. Under what circumstances can a supplier request subcontracting?
25. Have any “unauthorized” subcontracts in Cambodia been brought to the attention of M&S in the last three years and what action was initiated in these cases?
26. What action has M&S initiated when an “unauthorized” subcontract is brought to its attention and what remedial measures does it require a supplier to take?
27. Has M&S undertaken any investigations into specific allegations of “unauthorized” subcontracting by M&S suppliers in Cambodia? Please provide a redacted version (removing identifiable details if needed) of an investigation report.
28. How does M&S ensure that workers in the subcontracting factory are not placed in jeopardy when an “unauthorized subcontract” is disclosed?
29. Has any business relationship with a supplier been terminated because of “unauthorized” subcontracting in Cambodia? If so, please provide details.
30. Which if any of its Cambodian suppliers and their subcontractors has M&S discontinued and since when (data since January 2012) and why?
31. Has M&S ever publicly disclosed a list of suppliers and their subcontractors in Cambodia?
 - a. If no, what are the reasons M&S has not publicly disclosed its suppliers and subcontractors’ lists? Does M&S plan to disclose these in the near future?
 - b. If suppliers’ and their subcontractors names have been disclosed, kindly provide us a copy of the data and let us know how frequently the data is updated.

C. ILO-BFC monitoring reports

32. For which of its suppliers has M&S purchased factory monitoring reports issued by Better Factories Cambodia (BFC) and in which years? Please provide a full list for the last three

years. Please provide redacted copies (withholding identifiable details) of BFC reports for at least five long-time suppliers.

33. Does M&S share a copy of the BFC monitoring report free of cost with its suppliers? Please provide the most recent list of suppliers with whom BFC reports have been shared.
34. What steps does M&S take to make improvements in the areas suggested by the BFC monitoring report?

D. Observations Concerning Women Workers and Fixed-Term Contracts: As M&S is a brand with a stated commitment to equality with a clear policy against discrimination based on “race, caste, national origin, religion, age, disability, gender, marital status, sexual orientation, union membership or political affiliation,” we would appreciate any information you can share concerning the following:

35. Does M&S plan to review its Global Sourcing Principles to forbid discrimination based on pregnancy?
36. What best practices have emerged with respect to hiring, treatment, and reasonable accommodation for pregnant women?
37. What measures does M&S advise its suppliers to take to ensure that pregnant women are reasonably accommodated in the workplace?
38. In which factories has M&S piloted Project Hope, which provides information and access to common illnesses and conditions?
39. In how many of the Project Hope factories are workers employed on fixed-term contracts beyond the two-year period?
40. How does M&S track and advise against pregnancy-based discrimination in Project Hope factories?
41. How does M&S ensure that production line demands and daily production quotas are not used to indirectly coerce workers into accepting overtime, or restrict their ability to take bathroom or rest breaks?
42. How does M&S’s ethical audit mechanism keep track of pregnancy and child care-related concerns (reasonable accommodation, day care center, child care allowance, compliance with maternity-related benefits)?
43. Has M&S taken any steps to encourage and support suppliers to institute a policy against sexual harassment at the workplace and provide training to all staff to prevent and respond to sexual harassment at the workplace?
44. Does M&S’s ethical audit mechanism address gender-related concerns? If yes, how?

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300; 917-591-3452

WOMEN'S RIGHTS DIVISION

Liesl Gerntholtz, *Executive Director*
Janet Walsh, *Deputy Director*
Nisha Varia, *Senior Researcher*
Gauri van Gulik, *Global Advocate*
Meghan Rhoad, *Researcher*
Aruna Kashyap, *Researcher*
Agnes Odhiambo, *Researcher*
Amanda Klasing, *Researcher*
Samer Muscati, *Researcher*
Rothna Begum, *Researcher*
Hillary Margolis, *Researcher*
Brenda Akia, *Koenig Fellow*
Camille Pendley, *Associate*
Annerieke Smaak, *Associate*

ADVISORY COMMITTEE

Betsy Karel, *Chair*
Karen Ackman
Mahnaz Afkhami
Helen Bernstein
David Brown
Charlotte Bunch
Ellen Chesler
Judy Gaynor
Adrienne Germain
Marina Pinto Kaufman
Hollis Kurman
Lenora Lapidus
Stephen Lewis
Samuel Murumba
Sylvia Neil
Susan Osnos
Joan Platt
Lynn Povich
Bruce Rabb
Amy Rao
Susan Rose
Pascaline Servan-Schreiber
Lorraine Sheinberg
Donna Slaight
Domna Stanton
Ellen Stone Belic
Ellen Susman
Hilary Thomas Lake
Rita W. Warner
Sarah Zeid
Kathleen Peratis, *Chair Emerita (1991–2005)*

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Deputy Executive Director, Development and Global Initiatives*
Carroll Bogert, *Deputy Executive Director, External Relations*
Iain Levine, *Deputy Executive Director, Program*
Chuck Lustig, *Deputy Executive Director, Operations*

Dinah PoKempner, *General Counsel*
James Ross, *Legal & Policy Director*
Hassan Elmasry, *Co-Chair*
Joel Motley, *Co-Chair*



HRW.org

April 4, 2013

To
Mr. Mike Barry
Director, Sustainable Business
Marks and Spencer
Via email: [REDACTED]

Re: Marks and Spencer (M&S) operations in Cambodia

Dear Mr. Barry:

Please accept my regards on behalf of Human Rights Watch. As you may know, Human Rights Watch is an independent nongovernmental organization dedicated to defending and protecting human rights. We monitor and report on human rights violations in over 90 countries around world, including Cambodia. Since 1998 we have worked on business and human rights issues across different industries in many countries.

I am writing to follow up to a letter that was emailed to you on March 5, with hopes of receiving a response by March 31. We have reached out to several other major brands and are beginning to receive their responses. We sincerely hope that M&S will be able to send in their response by April 20 at the latest.

Enclosed you will find the original letter sent on March 5. All responses can be sent to us by email to [REDACTED] or by fax: [REDACTED]

Thank you for your attention to this matter.

Best,

A handwritten signature in purple ink that reads "Aruna Kashyap".

Aruna Kashyap
Researcher, Women's Rights Division, Human Rights Watch

Encl: Letter dated March 4, 2014 to Mike Barry

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300; 917-591-3452

WOMEN'S RIGHTS DIVISION

Liesl Gerntholtz, *Executive Director*
Janet Walsh, *Deputy Director*
Nisha Varia, *Associate Director*
Agnes Odhiambo, *Senior Researcher*
Aruna Kashyap, *Senior Researcher*
Heather Barr, *Senior Researcher*
Gauri van Gulik, *Global Advocate*
Meghan Rhoad, *Researcher*
Amanda Klasing, *Researcher*
Samer Muscati, *Researcher*
Rothna Begum, *Researcher*
Hillary Margolis, *Researcher*
Brenda Akia, *Koenig Fellow*
Annerieke Smaak, *Associate*
Alexandra Kotowski, *Associate*

ADVISORY COMMITTEE

Betsy Karel, *Chair*
Joan Platt, *Vice-Chair*
Karen Ackman
Mahnaz Afkhami
Helen Bernstein
David Brown
Charlotte Bunch
Ellen Chesler
Judy Gaynor
Adrienne Germain
Marina Pinto Kaufman
Hollis Kurman
Lenora Lapidus
Stephen Lewis
Samuel Murumba
Sylvia Neil
Susan Osnos
Lynn Povich
Bruce Rabb
Amy Rao
Susan Rose
Pascaline Servan-Schreiber
Lorraine Sheinberg
Donna Slaight
Domna Stanton
Ellen Stone Belic
Ellen Susman
Hilary Thomas Lake
Rita W. Warner
Sarah Zeid
Kathleen Peratis, *Chair Emerita (1991–2005)*

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Deputy Executive Director, Development and Global Initiatives*
Carroll Bogert, *Deputy Executive Director, External Relations*
Iain Levine, *Deputy Executive Director, Program*
Chuck Lustig, *Deputy Executive Director, Operations*

Dinah PoKempner, *General Counsel*
James Ross, *Legal & Policy Director*
Hassan Elmasry, *Co-Chair*
Joel Motley, *Co-Chair*

August 21, 2014

To
Mr. Marc Bolland
Chief Executive
Marks and Spencer Group plc

[REDACTED]

Re: Marks and Spencer operations in Cambodia

Dear Mr. Bolland:

We are writing today to share with you some additional information from our research in Cambodia pertaining to labor rights violations in a number of factories, including some that produced garments for Marks and Spencer (M&S) in the past year. As noted in our previous correspondence, we visited Cambodia in late 2013 and early 2014 to conduct interviews with workers, union federations, government officials, company officials, and international agencies.

Unlike other brands that responded to our correspondence in detail, we note that we are yet to receive any responses from M&S to our previous letters dated March 4 and April 4, 2014. We hope that M&S will respond to all our letters, including this one, and be available for a discussion on your policies and garment workers' rights in Cambodia.

We hope that we will receive a written response from M&S before September 17, 2014. Any information received before September 17, 2014 may be reflected in our report to be published in late 2014.

Sub-contracting

We have obtained information about at least one subcontract factory that was producing for M&S in 2013. This factory appeared to receive its products from one or two of M&S's direct suppliers. We have additional information that indicates that at least five more factories supplying to M&S may have been periodically subcontracting parts of their production to other factories. Because M&S does not release a list of its suppliers and subcontractors, we are unable to determine whether these were authorized suppliers or subcontractors. Regardless, our research suggests that subcontract factories, whether authorized or not, engage or have engaged in practices that violate Cambodian labor laws and are inconsistent with M&S Global Sourcing Principles.

HUMAN
RIGHTS
WATCH

HRW.org

M&S Global Sourcing Principles say that supplier “[o]bligations to employees under labour or social security laws and regulations arising from the regular employment relationship shall not be avoided through the use of labour-only contracting, subcontracting...nor shall any such obligations be avoided through the excessive use of fixed-term contracts of employment.” They also state that “[s]uppliers must apply these principles at all times, and must also be able to demonstrate that they are doing so. We will work with suppliers to support any necessary improvements but we will also take action, which may involve cancelling contracts and ceasing to trade, if suppliers are not prepared to make appropriate changes.”

However, our information suggests that contrary to the M&S Global Sourcing Principles, suppliers have avoided labor laws and monitoring through casual employment and subcontracting.

Please provide the following information on M&S’s approach to unauthorized subcontracting in Cambodia in addition to the information sought in our previous letters:

- a. Does M&S have any policy outlining how it encourages receiving whistleblowing information of unauthorized subcontracting arrangements and the protections it offers to workers and unions that serve as whistleblowers? Please provide details.
- b. How many reports of unauthorized subcontracts has M&S received to date?
- c. Has M&S referred any unauthorized subcontract factories it has found in its supply chain to Better Factories Cambodia (BFC) program for monitoring, advisory services, or both? Please provide details of the number of factories for which M&S has purchased BFC services in response to unauthorized subcontracts to date.
- d. Where M&S does not report unauthorized subcontract factories to BFC and purchase its monitoring and advisory services, how does M&S provide adequate time for monitoring and remediation to ensure that workers’ incomes are not impacted adversely by the whistleblowing?
- e. Please provide examples of how M&S commitment to remediation has benefited subcontract factories and its workers where unauthorized subcontracting has been brought to its attention.
- f. Are there any M&S suppliers and subcontractors that are not monitored by BFC? What are the reasons why such factories remain outside the purview of BFC monitoring?
- g. To date, for how many suppliers and subcontractors has M&S purchased BFC’s factory monitoring reports? Please provide details.
- h. To date, for how many suppliers and subcontractors has M&S purchased BFC’s year-long Advisory Services? Please provide details of month and year of purchase.
- i. What warning mechanism has M&S put in place before any business relationship is terminated with a supplier who subcontracts without prior permission? How many warnings are allowed before a business relationship is terminated?

We urge M&S to disclose its supplier and subcontractor lists publicly and ensure that these are periodically updated on at least a half-yearly basis. A lack of transparency in M&S’s supply chain places it outside of good practice in the industry and makes it more difficult for concerned M&S consumers, worker organizations, and other corporate social responsibility advocates to track and report labor rights violations in your supply chain.

Other leading brands including H&M and Adidas have commendably disclosed their supplier and subcontractor lists, and periodically update them. H&M began publicly disclosing its supplier and subcontractor list in 2013 with an annual update and Adidas started publicly disclosing its supplier and licensees lists in 2007 and moved to a twice yearly disclosure starting in 2014.

The case studies below set out the information we have on subcontracting arrangements. We have not disclosed factory names and locations. Our research and reporting worldwide is conducted in accordance with the principle of informed consent and strives to minimize the risk of retaliation to interviewees who consent to give us information. Therefore we must evaluate the potential impacts on sources when determining how much information we can divulge.

Factory A2¹

Factory A2 is a small subcontract factory that produces for M&S. The factory has no visible signage identifying it. The workers in the factory told Human Rights Watch that they were made to affix their thumbprints on standard form printed contracts whose terms were left blank. In practice, the employment contracts were fixed-term contracts for three-months—workers were called every three months and told to affix their thumbprints to a new contract to continue working in the factory. The managers repeatedly placed workers on fixed-term contracts beyond the permissible two-year period set out in Cambodian law. The factory management did not pay its workers the five percent wage benefit at the time of contract renewal, as stipulated under Cambodian law.

Factory managers used these short-term contracts to control and intimidate workers. Workers who raised concerns about working conditions within the factory were either dismissed or their contracts were not renewed. Concerns raised by workers who we interviewed include discrimination against pregnant workers, the lack of sick leave, forced overtime, threats against unionizing, and other violations.

Women workers we interviewed said the contracts of visibly pregnant women were not renewed. Pregnant workers and other workers who fell sick were not permitted to take any sick leave without having their entire attendance bonus deducted. If they took sick leave for even one day, their entire attendance bonus for the month—USD\$10— was withheld contrary to Cambodian labor law.

Overtime work and wage rules were flouted and did not follow Cambodian labor law. Workers said they often worked beyond the permissible 12 hours of overtime work per working week. On some occasions, workers in the ironing department worked all night, until 5:30 am. Workers who needed the income did not complain to us about excessive overtime, but had complaints about forced overtime. Workers were not allowed to decline overtime work. Non-renewal of fixed term contracts was used as a threat to make workers stay and do overtime work.

¹ Please note that this is a temporary code assigned to the factory for the purposes of this letter.

The factory signed contracts with parents to employ their children—workers guessed that these children were no older than 15 and 16—above the legally permissible minimum age of work in factories. However, these children were also forced to work overtime alongside adults. Two sets of attendance records were maintained for all children: one set that recorded the actual number of working hours to calculate wages; another to cover up overtime work for children.

Factory managers also warned workers against forming a union. Workers who challenged poor working conditions were fired.

Factory BC²

In 2013 Factory BC, which produced for M&S and other brands, periodically subcontracted work to several other factories. While managers of Factory BC employed a number of workers on undetermined duration contracts (UDCs) or permanent contracts, they also used a variety of hiring practices aimed at cutting costs that we believe were not compliant with labor laws. We documented the following patterns:

- i. Repeated use of fixed duration contracts: Many workers, especially men, were hired on two-month fixed duration contracts for extended periods—beyond two years in some cases, contravening Cambodian labor law. Workers employed on the two-month contracts were warned that they cannot join the factory union. Warnings not to join the factory union were periodically issued when contracts were renewed. The factory management did not consistently pay all workers on fixed duration contracts the five percent wage benefit that they are entitled to receive when a fixed duration contract ends.
- ii. Repeated use of 21-day contracts for workers who were described as “floating workers.”
- iii. Hiring workers from other factories for night shifts and Sunday work: workers from at least three other factories completed their full work day and reported for night shifts or Sunday work in Factory BC. These workers were hired on an hourly basis. No overtime wages were paid to these workers for Sunday work.

We interviewed workers from two subcontract factories and learned that workers there were too scared to unionize. They were hired on three-month fixed-duration contracts that were repeatedly renewed in violation of Cambodian labor law. Many workers were paid wages that were lower than the stipulated minimum wages when we interviewed them. Workers were assigned daily production targets and were forced to work overtime to meet the targets but did not receive overtime wages. Pregnant women did not receive maternity pay. Workers were denied sick leave, and faced a mixture of threats and ridicule when they produced medical certificates to justify missing work because of sickness. The factories did not have a health clinic. They also employed children and made them do overtime work.

Factory 1³

Factory 1 subcontracts work to many other smaller factories.⁴ Workers reported to us that the factory produces most of its clothes for H&M but that it also produces for M&S.

² Please note that this is a temporary code assigned to the factory for the purposes of this letter.

³ Please note that this is a temporary code assigned to the factory for the purposes of this letter.

According to workers who spoke with Human Rights Watch, since 2013 Factory 1 has not provided regular opportunities for 8-hour work days and higher-paid overtime work, which are important sources of income and supplementary income respectively. When workers complained to the factory management about a “lack of work” caused by subcontracting, the factory managers apparently told them that it was the only way they could meet production deadlines and maintain business relationships.

Based on interviews, Human Rights Watch understands that team leaders consistently encouraged workers to seek work in subcontract factories to supplement income by working night shifts, Sundays, and holidays; only one worker that we interviewed declined to undertake such work. Other workers said they responded to such recruitment calls to compensate for what they believed was a loss of income brought on by subcontracting.

In one case reported by workers, team leaders in the factory relayed messages to workers that they should work Sundays at an unauthorized subcontractor to help meet production targets. The working conditions there may have violated labor laws. Since the subcontract factory did not have a union, the workers found it more difficult to have any recourse or redress. According to workers, a typical Sunday in a subcontract factory involved work from 7 a.m. to 6 p.m. with a one-hour lunch break and no other allowance for food or overtime wages as stipulated under Cambodian labor law.⁵ This allowed Factory 1 to bypass labor laws governing overtime wages and compensatory days off for night shifts or Sunday work for their workers.⁶

Human Rights Watch spoke to five workers from one subcontract factory where workers reported that they were supplying to Factory 1 or one of its branches. In this factory, workers said they were aware that their factory was “sharing business” with Factory 1. The factory had no union because workers were fearful of forming a union. The factory did not issue worker identification cards or written contracts. The workers said they did not provide maternity leave and also engaged in child labor. Children worked as hard as the adults, they said, including on Sundays, nights for overtime work, and public holidays when there were rush orders.

Fixed Duration Contracts

Many factories repeatedly use fixed duration contracts (FDCs) as a method of avoiding labor protections and discouraging unions. A number of suppliers repeatedly use fixed duration contracts beyond the two-year period, contrary to what has been laid down by the Arbitration Council.⁷ The Arbitration Council has held that the repeated use of FDCs violates the labor law.

· Human Rights Watch interviewed more than twenty workers in separate groups on different days in November and December 2013 and April 2014.

· Labor Law, art. 139. “If workers are required to work overtime for exceptional and urgent jobs, the overtime hours shall be paid at a rate of fifty percent higher than normal hours. If the overtime hours are worked at night or during weekly time off, the rate of increase shall be one hundred percent.”

· Labor Law, arts. 147-8.

· Jacqsintex Garment Co. Ltd. and Democratic Union of Jacqsintex, Arbitral Award Case No. 10/03 dated July 23, 2003.

We cannot estimate how many of M&S's suppliers and subcontractors use FDCs and the extent to which they use FDCs. However, recent information and analysis by the Worker Rights Consortium, an international labor rights group, published in 2014, provides a list of 127 factories with estimates of the extent to which they use FDCs. Of those M&S suppliers that appear in the database, at least 13 are reportedly using only FDCs and 9 more are cited as having "majority FDC." In contrast, only one factory uses undetermined duration contracts or UDCs exclusively and another four factories use "majority UDC."

More broadly, based on information from workers in a number of factories supplying to international brands, we found that many factory managers in Cambodia tell workers that they will receive an extra five percent of their wages if they opt for fixed duration contracts, providing one-sided information. Workers on FDCs were not aware of the pitfalls of being on such contracts. In some cases, workers reported that they either did not receive the additional five percent when the FDC expired or experienced delayed payments.

Human Rights Watch reiterates that FDCs often underlie anti-union discrimination as well as pregnancy discrimination. Many workers reported that factory managers did not renew short-term contracts for visibly pregnant workers. Likewise, workers who formed unions found that their contracts were not renewed or were terminated; men said they were issued shorter fixed duration contracts than women because they were seen as more vocal and able to challenge factory managers; and workers were themselves scared of trying to join unions for fear of not having their contracts renewed.

In addition to the information we have requested in our earlier letters, we request information on the use of FDCs and other casual contracts by M&S suppliers and subcontractors in Cambodia:

- j. Please provide information on the type of contracts (UDCs, FDCs, casual contracts) in each of M&S supplier and subcontractor factories and the extent to which such contracts are used. Please also indicate which of these factories are long-term suppliers/subcontractors.
- k. Please indicate which of M&S's suppliers and subcontractors in Cambodia have undergone an "ethical audit" and how the use of FDCs or other casual contracts (daily wage hiring) has featured in these audits?
- l. How does a factory's rating get impacted by the repeated use of short-term contracts or other casual contracts contrary to Cambodian labor law, international standards, and M&S Global Sourcing Principles?
- m. What remedial measures has M&S initiated to address the use of short-term contracts contrary to Cambodian labor law, international standards, and M&S Global Sourcing Principles?

Production Quotas

Our research on production quotas is drawn from interviews with workers from a number of factories, only some of which appear to be supplying to M&S.

Many workers with whom Human Rights Watch spoke complained about how production targets were used to undermine their working conditions, making it difficult for them to take rest breaks or other breaks to use the rest room, drink water, or take sick leave. Some

workers said production targets or quotas were used to pressure workers to work faster and workers were threatened that their contracts would not be renewed if they were perceived as “slow” workers.

Workers said managers often refused to give them bathroom and drinking water breaks to make sure they maximized their time at the production line. Alternatively, workers—especially those on fixed duration contracts—said they were afraid to ask for such breaks for fear that they would be perceived as “unproductive.” Workers said they were also denied sick leave or rest breaks due to production quota pressures. Alternatively, where sick leave was granted, many workers reported that a disproportionate amount was deducted from their monthly attendance bonus.

The pressure to meet quotas had an added impact on pregnant workers, who needed more breaks than others to rest or use the bathroom, and felt incapable of meeting the quotas. Some pregnant workers eventually left their jobs because they said they were too scared to ask for breaks and be humiliated as “slow” workers.

In a few factories, workers reported that their managers constantly raised the quotas making it almost humanly impossible for them to achieve the targets. Only those workers who worked relentlessly without any breaks for rest, water, or bathroom could meet the targets if they worked overtime. Others who were not able to were labeled as unproductive. In some cases, when the minimum wages were increased, the quotas were also increased, effectively making women work more for the wages.

Workers generally wanted a couple of hours of overtime work to supplement their income, but refusing excessive overtime work was difficult and workers who dared to refuse overtime work risked retaliation.

We would like the following additional information on production targets:

- a. Does M&S draw a distinction between reasonable and unreasonable production targets? Please provide details if such a distinction exists.
- b. How does M&S encourage its suppliers to set targets respecting workers human needs in 8, 10 or sometimes even 12-hour work days—to rest, drink water, use the restroom, and eat meals especially when doing overtime work? Please provide any examples of internal rules, collective bargaining agreements, or any other documentation we may be able to share more widely.
- c. What measures does M&S take to ensure that suppliers and subcontractors do not increase production targets to compensate for the rise in statutory minimum wages?

We look forward to hearing from you and discussing more about how M&S’s current policies and practices can be further improved to protect workers’ rights. In particular, we would like to discuss the following preliminary recommendations regarding M&S’s policy and approach to workers’ rights in the supply chain:

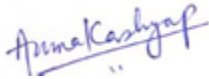
On subcontracting and related protections:

1. Publicly disclose all suppliers and subcontractors on a half-yearly basis together with indicating volume—for example—minor, medium, or major supplier— as well as the status of inspections by independent monitors as of the date of disclosure.
2. Create a concrete and written whistleblower protection system for workers and union representatives who alert M&S to unauthorized subcontracting. Such a whistleblower system should ensure that all workers and union representatives receive: appropriate protection for a reasonable period, including legal representation to defend themselves against vexatious suits or criminal complaints filed by factories; monthly wages including minimum wage, reasonable allowances, and overtime pay; and where workers are dismissed from work for having reported on unauthorized subcontracts, possible alternative employment at a nearby location.
3. As soon as unauthorized subcontracting is brought to light, ensure that the factory is reported to BFC's monitoring and remediation services where M&S contributes towards monitoring and remediation for a reasonable period before stopping production.
4. Given the nature of subcontracting, M&S should ensure that all factories that have subcontracted work without authorization over a particular period (for example, one year) are reported to BFC for monitoring and remediation, irrespective of whether the factory currently undertakes subcontracted production for M&S.
5. Provide necessary funds sufficient for BFC to expand its monitoring services to include subcontracting factories.
6. Advocate publicly for BFC to report on brands that are being produced in the factories monitored by them to ensure greater transparency.
7. Revise the Global Sourcing Principles to protect workers in subcontract factories.

On labor compliance and industrial relations:

8. Undertake periodic and regular pricing review and ensure that it factors in the cost of, and makes a contribution toward, labor compliance in consultation with labor rights lawyers and unions. The cost of labor compliance should include the cost of reasonable accommodation for pregnant workers and maternity benefits.
9. Limit the use of fixed duration contracts to seasonal or temporary work for all workers and encourage and incentivize the adoption of undetermined duration contracts (UDCs) or permanent contracts in Cambodia. Communicate with all suppliers that employing male workers on shorter term FDCs than their female counterparts is discriminatory.
10. Ensure that M&S suppliers do not compensate for a rise in minimum wages by raising production quotas at the expense of workers' rights.
11. Actively encourage women's participation in union leadership and encourage training, awareness, and factory-level complaints mechanisms against sexual harassment at the workplace.
12. Ensure that sourcing contracts adequately reflect and incorporate the costs of labor, health, and safety compliance.

Best regards,



Senior Researcher
Women's Rights Division
Human Rights Watch

CC:

1. Mr. Mike Barry, [REDACTED]
2. Mr. Dirk Lembregts, [REDACTED]
3. Mr. Adam Elman, [REDACTED]
4. Ms. Jane Ashdown, [REDACTED]

Encl:

1. Human Rights Watch letter to Mr. Mike Barry, March 4, 2014.
2. Human Rights Watch letter to Mr. Mike Barry, April 4, 2014.

CC: Mr. Dirk Lembregts, Director, Supply Chain,

[REDACTED]

Mr. Adam Elman, Global Head, Plan A Delivery,

[REDACTED]

Ms. Jane Ashdown,

[REDACTED]



16th September 2014

Dear Aruna,

Thankyou for your recent letters. We are delighted to provide you with the following information for your report on the garment workers in Cambodia later this year.

Background

Marks & Spencer is a major retailer selling diverse product ranges under our own exclusive brand in a number of countries around the world. We work with many different suppliers worldwide and although we do not own any garment factories, we know the names and addresses of all of our manufacturing sites. Our company code of conduct, Global Sourcing Principles, defines our commitment to ethical trading and in particular, to the responsible sourcing of products sold in our stores. It sets out the company's standards in health, safety and basic human rights of the people who work for these suppliers and factories. Additionally, as members of the Ethical Trading Initiative, we are committed to the ETI base code and continuous improvement in our factories.

Marks & Spencer works with its suppliers on a comprehensive system of factory evaluation and third party auditing. We make every effort to ensure that our standards are applied in all sites that produce our products. Our auditing process involves formal and informal worker interviews carried out by international third party audit companies with involvement from NGOs in some cases, as well as regular follow up factory visits by our regional compliance teams.

Ethical sourcing is as good for business as it is for people: it helps us create economically stable and strong relationships with suppliers, and improves productivity and efficiency.

Global Sourcing Principles

We first published our Global Sourcing Principles in 1998 which cover what we expect and require of our suppliers on a wide range of employment issues including pay, minimum age, working hours, and health and safety in the workplace; workers representation, contracts and the prohibition of subcontracting. Our GSP are regularly reviewed to incorporate new international developments in areas such as human rights and transparency.

Conformance to GSP is a requirement of all of our contracted suppliers, i.e. those with whom we have a direct contract for goods or services. As a supplier, they must apply these principles at all times, and must be able to demonstrate that they are doing so, not just in their own premises, but also in turn in the premises of their suppliers' and their factories and so on down the supply chain.

We work with our suppliers to support any necessary improvements but we will also take action, which may involve cancelling contracts and ceasing to trade, if suppliers are not prepared to make appropriate changes.

We will not under any circumstances accept production from non-approved factories or goods supplied from sites that differ from our contracts system for each specific contract. In order for us to maintain the highest level of our integrity of our corporate social responsibility commitments, our contracts system must be up to date and accurate. Any changes made to the proposed manufacturing site that has been previously approved must be communicated and agreed by the buying department prior to any production starting. We will impose strict penalties on any supplier in breach of these conditions. Our GSP, endorses our adoption of the Ethical Trading Initiative (ETI) Base Code as our international standard and our commitment to requiring suppliers to work towards achieving this. As we continue to communicate our brand values through Plan A, it is important that all suppliers are adhering to GSP and the ETI Base Code so that together we can work to achieve the high standards that our customers expect from us.



Monitoring standards

We have a rigorous monitoring process in place that requires all factories that we work with, to have an independent third party social/ethical audit of their employment practices before we will place an order. This means that in whichever country we are sourcing products, we will only work with factories that meet our minimum requirements.

To help us monitor such a vast supply chain and to streamline the process for suppliers, in 2004 we helped to found the Supplier Ethical Data Exchange (SEDEX). This not-for-profit organisation provides a secure web-based database on labour standards in supplier locations. We have made it a condition of trade for all of our suppliers to register on SEDEX, have completed a self-assessment questionnaire and have been audited prior to production.

Incorporated within the audit is a corrective action plan in which suppliers are given a strict timeframe within which they must correct any issues that were identified by the auditors

We recognise that we can't solve labour standards issues single-handedly. Currently we are working with national and international bodies including Oxfam and Business for Social Responsibility (BSR) and other key stakeholders and opinion formers. We encourage our suppliers to do the same and to work with local NGOs or trade unions to help resolve problems.

BFC

In Cambodia all of our factories are in the Better Factories Cambodia monitoring programme and have their audits carried out by the Better Work auditors. In addition, many of our factories are also part of the Better Factories Advisory programme.

Regional Compliance Teams

We support our suppliers in improving conditions for their staff in many innovative ways. For example, our regional compliance managers regularly visit factories to identify areas for improvement and help with resolving issues based on the corrective action plans. We also encourage our suppliers to share best practice and learn from each other, via an ongoing programme of workshops and conferences.

Our regional compliance managers are experts in identifying areas for improvement and in helping factories to implement appropriate measures. They are based in the countries we source from and are a valuable way to build trust and transparency with suppliers.

Plan A

Our ethical sourcing principles form a central part of our Plan A strategy, launched in 2007. Plan A was a five-year, 100-point 'eco and ethical' plan to tackle some of the biggest challenges facing our business and the world. Since its launch, Plan A has achieved many of the original 100 points and numerous additional commitments have been added. Specifically in 2012 we added 2 ethically focused commitments focusing on worker training and fair living wages.

Our commitments are implemented in all of our sourcing countries and the training programmes specific to Cambodia cover areas such as worker health and hygiene, nutrition and reproductive & sexual health as well as skills/capacity building for factory healthcare professionals. In addition, we have carried out training in factory improvement, HR and Management systems and Health & Safety.



A copy of our latest business report can be found by following the link below:

<http://planareport.marksandspencer.com/downloads/M&S-PlanA-2014.pdf>

In 2014, we launched new commitments in Plan A to include several new areas including transparency and traceability:

Transparency

Aim: By 2015, we will consult with our customers and stakeholders to identify what information they consider to be important about where and how M&S products are produced and by 2020 we will respond by improving the information available.

Clothing supply base list

Aim: By 2016, we will publish an annual list of our active clothing manufacturers.

General Merchandise traceability

Aim: Develop and implement a system to provide traceability for the principal raw materials used within our General Merchandise supply chain and assess the opportunities to make at least some of this information available by 2020.

Supporting suppliers

In addition to improvement plans based on audits we have implemented numerous worker and community based initiatives including health, financial inclusion and worker participation. You may be aware of our health programme currently running in Cambodia with Project Hope and RHAC. This is a health programme for worker and health care professional in our factories, as mentioned above. We are continuing to work on this initiative and plan to roll it out to all factories in Cambodia.

We have an online supplier exchange website which gives our suppliers a library of our policies and procedures as well as self help guides. In addition, we hold face to face networking meetings in the UK and globally for suppliers to exchange ideas and best practices.

In this digital era we have also just created an ethical App to allow factories and suppliers to access this information on-the-go.

Subcontracting

In M&S the word subcontracting is only applied to 'processing' such as laundry or embroidery, not to fully made garment factories.

As previously stated, under no circumstances do we accept production from non-approved factories or goods supplied from sites that differ from our contracts system for each specific contract. In order for us to maintain the highest level of our integrity of our corporate social responsibility commitments, our contracts system must be up to date and accurate and detail every site that is producing our garments.

If a factory needs additional capacity to complete an order any additional manufacturing sites must be communicated and agreed by the buying department prior to any production starting. These additional sites will also go through our audit process and thus be considered as first tier sites, so we do not have subcontracted sites as defined in your letters.

These additional sites must also adhere to our Global Sourcing Principles and therefore all workers in all sites are protected to the same level. In addition, they would be part of BFC and therefore within the monitoring and remediation services.

We will impose strict penalties on any supplier in breach of these conditions.



Labor Link

In 2013, we were the first retailer to sign an agreement with Good World Solutions to use their platform, Labor Link, through which we will utilise the latest technology and training techniques to create a hybrid hotline/survey which will enable workers to give feedback on training and to log any issues. We are planning four surveys a year on topics including working conditions and financial literacy.

Although this was only a one year deal we are continuing this relationship indefinitely to facilitate direct communications with workers in its clothing supply chain via mobile technology. We have so far gathered anonymous, quantitative survey results and feedback from over 72,000 workers across India, Sri Lanka, Bangladesh and China. The surveys have focussed on training and knowledge gain as well as compliance in working conditions.

We believe this is an innovative breakthrough and moves workplace communication into the digital era. It's not about checking up on our suppliers, it's about making sure we're doing the right things for the workers in our supply chain and giving them a voice.

Thankyou again and I trust that the information given above demonstrates that we aim to ensure our policies and practices are continually reviewed to uphold our Global Sourcing Principles and protect the rights of all workers in our supply chain.

Kind regards,

Fiona Sadler
Head of Ethical Trading

Letters to the Cambodian Government

HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300
Fax: 917-591-3452

ASIA DIVISION

Brad Adams, *Executive Director*
Kanae Doi, *Japan Director*
Meenakshi Ganguly, *South Asia Director*
Phelim Kine, *Deputy Director*
Elaine Pearson, *Australia Director*
Sophie Richardson, *China Director*
Phil Robertson, *Deputy Director*
John Sifton, *Advocacy Director*
Ali Dayan Hasan, *Pakistan Director*
Mickey Spiegel, *Special Advisor*
Heather Barr, *Senior Researcher*
Nicholas Bequelin, *Senior Researcher*
David Mathieson, *Senior Researcher*
Sunai Phasuk, *Senior Researcher*
Tejshree Thapa, *Senior Researcher*
Jayshree Bajoria, *Researcher*
Carlos H. Conde, *Researcher*
Andreas Harsono, *Researcher*
Maya Wang, *Researcher*
Ahmad Shuja, *Research Associate*
Shaivalini Parmar, *Senior Associate*
Riyo Yoshioka, *Senior Associate*
Julia Bleckner, *Associate*
Yuko Narushima, *Associate*
Storm Tiv, *Associate*

ADVISORY COMMITTEE

David Lakhdhir, *Chair*
Orville Schell, *Vice Chair*
Maureen Aung-Thwin
Edward J. Baker
Robbie Barnett
Robert L. Bernstein
Jerome Cohen
John Despres
Mallika Dutt
Kek Galabru
Merle Goldman
Jonathan Hecht
Sharon Hom
Ayesha Jalal
Robert James
Joanne Leedom-Ackerman
Perry Link
Kimberly Marteau-Emerson
Krishen Mehta
Andrew J. Nathan
Xiao Qiang
Bruce Rabb
Balakrishnan Rajagopal
Ahmed Rashid
Victoria Riskin
Jahan Rounaq
James Scott
Mark Sidel
Eric Stover
Ko-Yung Tung
Francisc Vendrell
Tuong Vu

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Deputy Executive Director, Development and Global Initiatives*
Carroll Bogert, *Deputy Executive Director, External Relations*
Iain Levine, *Deputy Executive Director, Program*
Chuck Lustig, *Deputy Executive Director, Operations*
Walid Ayoub, *Information Technology Director*
Emma Daly, *Communications Director*
Barbara Guglielmo, *Finance and Administration Director*
Peggy Hicks, *Global Advocacy Director*
Babatunde Olujobi, *Deputy Program Director*
Dinah PoKempner, *General Counsel*
Tom Porteous, *Deputy Program Director*
James Ross, *Legal & Policy Director*
Joe Saunders, *Deputy Program Director*
Frances Sinha, *Human Resources Director*
James F. Hoge, Jr., *Chair*

HUMAN
RIGHTS
WATCH

www.hrw.org

November 20, 2014

H.E. Sun Chanthol
Minister of Commerce (MoC)
Royal Government of Cambodia
Phnom Penh, Cambodia
Fax: [REDACTED]

Re: Garment workers' rights in Cambodia

Dear Excellency:

I am writing to share key findings of Human Rights Watch's recent research on garment workers' rights in Cambodia. We will release a report in early 2015 and hope to have a constructive dialogue with you and other officials from the ministry on this important matter.

In order to ensure that our reporting remains fair and accurate, we remain committed to reflecting in our report any written responses provided by the ministry. We are particularly interested in learning about the latest steps taken by the ministry to address the concerns raised below.

We request you to kindly respond in writing to this letter before December 20, 2014 in order for us to be able to reflect the ministry's response in the report. A written response in Khmer or English may be sent by email to phil.robertson@hrw.org or by fax to [REDACTED]

In 2013 and 2014, Human Rights Watch researchers conducted interviews with garment workers, labor union representatives and advocates, brand representatives, government officials, and company officials to document the labor conditions in Cambodia's garment industry.

Human Rights Watch documented a range of labor rights violations in a number of factories. These include forced overtime and retaliation against workers who sought exemption, lack of rest breaks, denial of sick leave and disproportionate deductions of attendance bonus, use of child labor, and factories' use of union busting strategies to thwart independent unions.

In addition, women workers faced pregnancy-based discrimination, including: non-renewal of fixed-duration contracts for visibly pregnant workers, dismissing probationary workers when they became visibly pregnant, denial of maternity benefits, and a lack of reasonable accommodation (for example, more bathroom breaks and a lighter workload without loss of pay) for pregnant women. Human Rights Watch also found that there were no systems to prevent and respond to sexual harassment in the workplace.

Two systemic causes that drove many of these poor labor conditions were the repeated use of fixed-duration contracts contrary to the labor law and poor

labor law enforcement, especially in factories that worked on a subcontract basis for larger export-oriented factories.

Our report makes recommendations to relevant actors including the MoC, the Ministry of Labor and Vocational Training, international apparel brands, Better Factories Cambodia, Garment Manufacturers Association of Cambodia, unions, United Nations agencies, the World Bank Group, the Asian Development Bank, and other multilateral and bilateral donors to Cambodia.

We want to highlight two key aspects regarding the MoC's role in monitoring and enforcing the labor law in the garment industry.

Lax Labor Law Enforcement

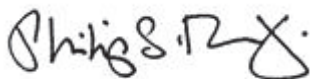
We have taken note of the joint inspection teams that visited some "low compliance" factories named in the Better Factories Cambodia (BFC) Transparency Database. However, to date we have not received any information to indicate that the MoC has taken action against low-compliance factories as outlined in the 2005 circular issued by Prime Minister Hun Sen.

Allegations of corruption are also harming the ministry's effectiveness and undermining its credibility. Human Rights Watch would like to draw attention to a news report that the Garment Manufacturers Association of Cambodia (GMAC) allegedly paid a number of ministries money, raising concerns about a government-GMAC nexus and negatively impacting the government's credibility.

The working conditions in several subcontract factories that did not appear to be registered with BFC were far worse than the working conditions in factories monitored by BFC, suggesting that the government's labor inspectorate was failing to inspect and enforce the labor law in these factories. In particular, we were not able to find any information to demonstrate that the MoC took steps as outlined in MoC Prakas No. 3896 MOC/SM 2011 to monitor the production capacity of factories entitled to subcontract and take action against factories that undertake subcontracts without notifying the MoC. We were also not able to find any information that indicates that the MoC took steps to implement the 2011 Inter-ministerial Prakas on Sub-contract Management in Garment, Textile, and Footwear Industry issued by the Ministries of Commerce, Interior, and Labor and Vocational Training in June 2011.

Again, we welcome a response to these findings and any data the government wants to provide us by December 20, 2014, to be reflected in our final report.

Sincerely,

A handwritten signature in black ink, appearing to read "Phil Robertson".

Phil Robertson
Deputy Director, Asia Division

Encl: Khmer translation of the letter

HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300
Fax: 917-591-3452

ASIA DIVISION

Brad Adams, *Executive Director*
Kanae Doi, *Japan Director*
Meenakshi Ganguly, *South Asia Director*
Phelim Kine, *Deputy Director*
Elaine Pearson, *Australia Director*
Sophie Richardson, *China Director*
Phil Robertson, *Deputy Director*
John Sifton, *Advocacy Director*
Ali Dayan Hasan, *Pakistan Director*
Mickey Spiegel, *Special Advisor*
Heather Barr, *Senior Researcher*
Nicholas Bequelin, *Senior Researcher*
David Mathieson, *Senior Researcher*
Sunai Phasuk, *Senior Researcher*
Tejshree Thapa, *Senior Researcher*
Jayshree Bajoria, *Researcher*
Carlos H. Conde, *Researcher*
Andreas Harsono, *Researcher*
Maya Wang, *Researcher*
Ahmad Shuja, *Research Associate*
Shaivalini Parmar, *Senior Associate*
Riyo Yoshioka, *Senior Associate*
Julia Bleckner, *Associate*
Yuko Narushima, *Associate*
Storm Tiv, *Associate*

ADVISORY COMMITTEE

David Lakhdhir, *Chair*
Orville Schell, *Vice Chair*
Maureen Aung-Thwin
Edward J. Baker
Robbie Barnett
Robert L. Bernstein
Jerome Cohen
John Despres
Mallika Dutt
Kek Galabru
Merle Goldman
Jonathan Hecht
Sharon Hom
Ayesha Jalal
Robert James
Joanne Leedom-Ackerman
Perry Link
Kimberly Marteau-Emerson
Krishen Mehta
Andrew J. Nathan
Xiao Qiang
Bruce Rabb
Balakrishnan Rajagopal
Ahmed Rashid
Victoria Riskin
Jahan Rounaq
James Scott
Mark Sidel
Eric Stover
Ko-Yung Tung
Francesc Vendrell
Tuong Vu

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Deputy Executive Director, Development and Global Initiatives*
Carroll Bogert, *Deputy Executive Director, External Relations*
Iain Levine, *Deputy Executive Director, Program*
Chuck Lustig, *Deputy Executive Director, Operations*
Walid Ayoub, *Information Technology Director*
Emma Daly, *Communications Director*
Barbara Guglielmo, *Finance and Administration Director*
Peggy Hicks, *Global Advocacy Director*
Babatunde Olujobi, *Deputy Program Director*
Dinah Pokempner, *General Counsel*
Tom Porteous, *Deputy Program Director*
James Ross, *Legal & Policy Director*
Joe Saunders, *Deputy Program Director*
Frances Sinha, *Human Resources Director*
James F. Hoge, Jr., *Chair*

HUMAN
RIGHTS
WATCH

www.hrw.org

November 20, 2014

H.E. Ith Sam Heng
Minister of Labor and Vocational Training (MoLVT)
Royal Government of Cambodia
Building #3, Russian Federation Blvd.
Sangkat Teklaak I, Khan Toulkok
Phnom Penh
Cambodia
Fax: + [REDACTED]

Re: Garment workers' rights in Cambodia

Dear Excellency:

I am writing to share key findings of Human Rights Watch's recent research on garment workers' rights in Cambodia. We will release a report in early 2015 and hope to have a constructive dialogue with you and other officials from the ministry on this important matter.

In order to ensure that our reporting remains fair and accurate, we remain committed to reflecting in our report any written responses provided by the ministry. We are particularly interested in learning about the latest steps taken by the ministry to address the concerns raised below.

We request you to kindly respond in writing to this letter before December 20, 2014 in order for us to be able to reflect the ministry's response in the report. A written response in Khmer or English may be sent by email to phil.robertson@hrw.org or by fax to + [REDACTED].

In 2013 and 2014, Human Rights Watch researchers conducted interviews with garment workers, labor union representatives and advocates, brand representatives, government officials, and company officials to document the labor conditions in Cambodia's garment industry.

Human Rights Watch documented a range of labor rights violations in a number of factories. These include forced overtime and retaliation against workers who sought exemption, lack of rest breaks, denial of sick leave and disproportionate deductions of attendance bonus, use of child labor, and factories' use of union busting strategies to thwart independent unions.

In addition, women workers faced pregnancy-based discrimination, including: non-renewal of fixed-duration contracts for visibly pregnant workers, dismissing probationary workers when they became visibly pregnant, denial of maternity benefits, and a lack of reasonable accommodation (for example, more bathroom breaks and a lighter workload without loss of pay) for pregnant women. Human Rights Watch

also found that there were no systems to prevent and respond to sexual harassment in the workplace.

Two systemic causes that drove many of these poor labor conditions were the repeated use of fixed-duration contracts contrary to the labor law and poor labor law enforcement, especially in factories that worked on a subcontract basis for larger export-oriented factories.

Our report makes recommendations to relevant actors, including the MoLVT, the Ministry of Commerce, international apparel brands, Better Factories Cambodia, Garment Manufacturers Association of Cambodia, unions, United Nations agencies, the World Bank Group, the Asian Development Bank, and other multilateral and bilateral donors to Cambodia.

We want to especially highlight two key aspects regarding the government's role in monitoring and enforcing the labor law as well as overall industrial relations for your feedback.

Lax Labor Law Enforcement

We have taken note of numerous encouraging signs that the ministry is paying more attention to labor conditions in factories, including constituting joint inspection teams to visit some “low compliance” factories named in the Better Factories Cambodia (BFC) Transparency Database; revamping the labor inspection system to create regular joint inspection teams, collaborating with the International Labour Organization (ILO) to provide better training for inspectors, and pursuing a plan to create a website for the ministry to disclose more information publicly.

While these are encouraging steps, we believe the ministry needs to do much more to improve its track record on labor law enforcement as outlined in Chapter XVI of the Labor Law. Poor transparency and accountability for labor enforcement actions remain to be serious problems.

There is no public data about what precisely the ministry has done to initiate enforcement actions against factories that are alleged to be in violation of the labor law. Ministry officials acknowledged this problem to Human Rights Watch. What little ministry data that was shared with Human Rights Watch suggests a low number of enforcement actions and penalties when compared to the size of the garment industry and the types of violations that Human Rights Watch, unions, BFC, and other civil society groups have documented. For example, between January 2011 and December 2013, labor authorities imposed fines on only 10 factories. In 2011, the ministry collected a mere 4,989,600 riels (US\$1247) in fines and did not collect any fines in 2012 and 2013. In the same period, ministry officials said that they had initiated legal proceedings in court against only seven factories.

Allegations of corruption are also harming the ministry's effectiveness and undermining its credibility. Human Rights Watch gathered numerous witness accounts about how Cambodia's labor inspectorate system is crippled by corruption and abuse of power. Former labor inspectors told Human Rights Watch about the “envelope system” by which factory

managers sought favorable inspection reports by thrusting a white envelope with money to inspectors when they visited factories.

Because the MoLVT refused Human Rights Watch access to labor inspection reports,¹ it has been difficult to independently determine how corruption or other process-related concerns actually influenced such reports. However, Human Rights Watch was able to access the labor inspectorate report of one factory. The report did not note any labor rights violations. But when Human Rights Watch interviewed workers from the same factory, they told us about repeated use of three-month fixed-duration contracts for its entire workforce, forced and excessive overtime without the ability to take breaks, workers being forced to cut their lunch breaks short to work and meet production targets, denial of sick leave, and a disproportionate deduction of attendance bonus when workers were granted sick leave.

The working conditions in several subcontract factories that did not appear to be registered with BFC were far worse than the working conditions in factories monitored by BFC, suggesting that the government's labor inspectorate is also failing to inspect and enforce the labor law in these factories.

Even though the ministry has taken steps to inspect some factories listed in the BFC Transparency Database, we have not received any information to indicate that the MoLVT has taken action against low-compliance factories in accordance with the 2005 circular issued by His Excellency Prime Minister Hun Sen.

Union Registration and Draft Trade Union Law

Following the government's violent suppression of widespread worker protests demanding higher minimum wages in December 2013 and early January 2014, independent garment union federations have raised concerns about a de facto government suspension of union registration, which appears to be ongoing at this writing.

Even though there is no written procedure requiring such documents, MoLVT officials told union representatives to provide a certificate of "no criminal record" from the Ministry of Justice, making the union registration process more cumbersome. In practice, the Ministry of Justice takes a month or two to issue such certificates, which provides ample time for factories to take retaliatory action against elected union leaders.

Worker representatives also said that MoLVT officials repeatedly rejected union registration applications on trivial grounds like spelling mistakes, making union representatives file applications afresh, using this as an apparent delaying tactic. They alleged these tactics were used in a discriminatory manner and targeted applications filed by independent unions but not by pro-government or pro-management unions.

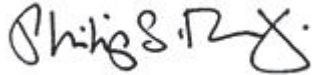
Human Rights Watch is concerned that officials are proposing to introduce in the parliament a new bill governing trade unions that as currently written violates Cambodia's international

¹ Human Rights Watch submitted a written request to the ministry in April 2014 seeking past labor inspection reports for the first 10 low-compliance factories named in the Better Factories Cambodia Transparency Database.

obligations to respect, protect, and fulfill the rights of workers to freedom of association and assembly. We are especially concerned by proposals to introduce a high threshold minimum membership for creating a union, federation, or confederation and new requirements for burdensome financial reporting for unions.

Again, we welcome a response to these findings and any latest measures and data the government wants to provide to us by December 20, 2014, to be reflected in our final report.

Sincerely,

A handwritten signature in black ink, appearing to read "Phil Robertson". The signature is stylized with a large "P" and "R".

Phil Robertson
Deputy Director, Asia Division

CC: H.E. Heng Sour, Chief of Cabinet, Ministry of Labor and Vocational Training,
[REDACTED]

Phnom Penh, 19 December 2014

Dear Mr Deputy Director of Human Rights Watch

Subject: A Clarification with Regard to the Rights of Garment Workers and Employees in Cambodia
Reference: Human Rights Watch Letter dated 20 November 2014

As per the above subject and reference, it is my honour to inform Mr Deputy Director of Human Rights Watch for his edification that the Ministry of Labour and Vocational Training would like to express its thanks to your organization for its having sent a letter asking the Ministry to clarify things in relation to the rights of garment workers and employees in Cambodia and does so by presenting its policies, as below:

1. Implementation of the Labour Law

Hitherto, the Ministry of Labour and Vocational Training has gone all out in making every effort to implement the Labour Law, the Ministry having done so by organizing training sessions to heighten the understanding on the part of workers and employees, unions and employers of the provisions of the Labour Law and of working conditions and by going down to conduct inspection of work in all factories and enterprises in order to scrutinize those factories' and enterprises' implementation of the law. In so doing, the Ministry has cooperated with the relevant institutions and with the programme for Better Factories Cambodia (BFC), working regularly with it.

As for those factories and enterprises found to have "still a low level of compliance with the law (Low Compliance)," the Ministry has handed down a number of measures, such as instructions to those factories and enterprises that have acted contrary to the provisions of the Labour Law, asking them to correct the errors found and imposing fines in such case that correction is not forthcoming.

Turning to the implementation of work contracts of fixed duration, the Ministry's principle is to have all such factories and enterprises act in accordance with the law. Hitherto, however, as there has been disputation about the interpretation and comprehension of the Labour Law, the result has been that each party has made an interpretation of these provisions in order to serve their own interests.

In conjunction with this, the Ministry is faced with a number of problems, such as the human resources of the Ministry remain limited, which is requiring a building up of additional competencies under the purview of the Ministry, especially with regard to work inspection officials. Also, cooperation from factory, enterprise and location owners is not yet good, something which creates difficulties for work inspection officials in the performance of their duties. They go down to do their labour inspection separated from one another at their respective institutions. At the same time, Cambodia still lacks a number of provisions for governing every realm with regard to labour, such as a Trade Union Law, a Law on the Creation of Labour Courts, principles on the strengthening and promoting of labour health and safety system, just to begin with. The collation of a clear-cut list of questions to evaluate work conditions (Checklist) is not yet available for officials going down to do inspections. The result is that the quality and effectiveness of on-the-spot work inspection and resolution of labour disputes remains limited.

In order to overcome these challenges, the Ministry of Work and Vocational Training has rectified its objectives with a view to improving work conditions. The Ministry has done so by modifying the system of separate work inspections and instead instituting “a single work inspection system” in which there is participation of officials from (1) the Work Inspection Directorate; (2) the Inspectorate of Work Physicians; (3) the Directorate of Manual Jobs and Labour; (4) the Directorate of Labour Disputes; (5) the Directorate of Child Labour; (6) the National Fund for Social Security Systems; (7) the Directorate for Market Information; (9) the Committee for the Resolution of Problems of Strikes and Demonstrations on Every Front. The Ministry of Labour cooperated with BFC and relevant institutions in the specification of what to take as an overall template to evaluate work conditions (Checklist) in order to facilitate a single inspection team going down to conduct inspections.

Such a system of single work inspections has made the period for doing inspections quicker and the work more effective than before. The result achieved by the single work inspection teams has been that during the first eleven months of 2014 a total of 1686 inspections have been carried out, an increase of 20 per cent over before, and that arrangements were made to fine 25 factories and enterprises found to not be in compliance with the Labour Law.

The Ministry hopes and is confident that the implementation of the above mechanisms will without fail make for a better implementation than in the past of the Labour Law.

2. The Registration of Unions and the Draft Law on Unions

In the registration of professional organizations, the Ministry of Labour and Vocational Training has implemented the Labour Law and Proclamation Number 021 KKBV/PrK dated 15 February 2006. The conditions laid down in Article 268 of the Labour Law state that in order to be able to register a professional organization, the members entrusted with its governance and its professional leaders must fulfil the following conditions:

- a.) be at least 25 years of age;
- b.) be able to read and write Khmer;
- c.) *never have been convicted of any criminal offence (must have criminal clearance certificate)*¹
- d.) have previously performed the profession or had the job for at least one year.

The Ministry of Labour and Vocational Training has neither prohibited nor hindered any union making such an application. Concretely, the number of unions that have registered are large in number, among which the majority have not implemented what is legally stipulated and have habitually created disturbances making it difficult for the Ministry to govern them. Calculated up to November 2014, the number of registered unions is as follows:

- Union Confederations: 13
- Union Federations: 84
- Grassroots Unions: 3,100
- Employers' Associations: 7

Starting in December 2013, the Ministry neither suspended nor temporarily halted the registration of professional organization. Rather, the Ministry of Labour and Vocational Training has been and is continuing to implement the Labour Law and Proclamation Number 021 KKBV/PrK dated 15 February 2006. In conjunction with this, as regards a criminal clearance certificate, the Ministry previously implemented Point 3, Item 2 of Proclamation 021 KKBV/PrK dated 15 February 2006, but it is now requiring that the person concerned instead prove this him/herself, because there is a

¹ Italicized in original.

public service fee to be paid as stipulated in the Ministry of Justice Joint Proclamation 1001 SHV.PrK dated 28 December 2012 on the Provision of Public Services.

In general, the Ministry of Labour and Vocational Training is still continuing to implement registration in accordance with the principles stipulated in law, doing so without any modification whatsoever.

The Ministry of Labour and Vocational Training has no policy of implementing anything at odds with the International Convention of International Labour Organization. As for the residual minor differences of opinion remaining with regard to the Trade Union Law, the Ministry has been and is continuing to raise them for on-going tri-partite discussion in order to do whatever needs to be done to make this draft Trade Union Law acceptable to the relevant parties, and in general principle the Ministry is pushing for the enactment of the Trade Union Law during the upcoming year of 2015. In parallel with this, the Ministry has created a Committee to arrange for the compilation of Labour Court Law that may be completed in 2017.

Would the Deputy Director therefore please be cognizant of the above, for information.
Would the Deputy Director please accept my sincere esteem,

The Minister
It Samheng