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# **CONFERENCE REPORT**

## **'From code to compliance'**

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**Five concrete European experiences with  
monitoring and verification in the  
garment industry**



**Brussels, october 2001**

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## Introduction

On the 3rd of October 2001 SOMO and CCC organised an international conference within the framework of the project "European Initiatives on Monitoring and Verification of Codes of Conduct in the Garment and Sportswear Industry", funded by the European Commission, Employment and Social Affairs DG5.

The Conference brought together 120 participants from business associations, companies, trade unions and NGOs from all over the world with an interest in multi-stakeholder initiatives in the field of monitoring and verification of labour practices in the garment industry.

The aim of the Conference was to increase common ground and understanding among different stakeholders in relation to the challenges and practical experiences of the five national initiatives.

## Conference Report

Gemma Crijns, of the Institute for Responsible Business at Nyenrode University, chaired the proceedings.

## Plenary Sessions

Jim Baker of the International Confederation of Free Trade Unions (ICFTU) opened the conference. He stressed the importance of binding rules to improve working conditions and real partnerships and real partners. He cautioned against a scenario within the monitoring and verification context when companies are only working with themselves, or those they hire, or those who do not represent workers in what becomes a "pseudo science" of monitoring working conditions. This is not enough -- problems cannot be solved by remote control. What's on the table corresponds to who is around the table.

Dara O'Rourke of the Massachusetts Institute of Technology (MIT) in the United States set the context for the discussions that took place during the rest of the day by discussing monitoring and verification initiatives in relation to the goal of improving workers lives.

He explained that there are multiple forms of monitoring: internal compliance monitoring; external monitoring, accredited/certified/verified monitoring (this includes the Fair Labour Association, Worldwide Responsible Apparel Production, SA8000, Workers Rights Consortium, European Initiatives), NGO exposés, and monitoring of monitoring. Monitoring methods vary, in terms of the substance of the monitoring, scope of the monitoring (time and resources), who participates in the monitoring, the disclosure of the results, and with regard to certification (factory or brand/retailer?). He stressed the difficulties of monitoring due to the structure of the apparel industry (long, mobile supply chains; multiple layers of ownership, and shifting factory locations); information

access problems; limited leverage of individual buyers; multiple codes; complex technical and social issues; and transnational coordination.

In relation to what gets monitored, O'Rourke outlined the core labour standards plus some additional standards: freedom of association, collective bargaining, non-discrimination, child labour, forced labour, working hours, wages, health and safety as well as living conditions. He discussed the need to monitor the monitors due to flawed monitoring (caused by, for example, management biases and flawed interviews, overlooking key issues) limited information from workers or NGOs, over-simplified reporting and potential conflicts of interest. Monitoring has costs: it is expensive and time consuming, it only identifies problems (doesn't solve them), and can have adverse effects (can hurt workers, give PR cover to firms, miss biggest issues, "crowd out" unions, demobilize or co-opt campaigns). It could possible support protectionism and the privatisation of regulation.

Despite these costs O'Rourke pointed to several reasons to support codes and monitoring, such as the continued weakness of state regulators; economic pressures against enforcement (conflicting interests of governments); industry outpacing traditional regulation; continued impediments to unions, consumer awareness and momentum, and the potential for improving conditions in global supply chains. In evaluating monitoring we should look for technical competence, transparency, public accountability, independence, local participation and credibility, worker participation and benefits. Does monitoring meet our goals? Ideal monitoring and verification will identify problems and motivate solutions, support worker organizing and empowerment, support consumer campaigns, support firm supply chain management, support improved government regulation and will not privatise regulation (it will democratise it). For the future, O'Rourke called for more attention to the issue of transparency and more information on monitoring results and methods. Public comparisons and discussions are needed, as well as more information for workers, local NGOs and local government agencies. We have to learn from these experiments and develop systems of accountability, and multiple strategies (in cooperation).

Joris Oldenziel of the Centre for Research on Multinational Corporations (SOMO) explained that the Clean Clothes Campaign (CCC), which has been campaigning for more than 10 years to improve working conditions in the garment industry, has explored the use of codes of conduct, developed (in 1998) their own model code and has continued to investigate how code compliance can be monitored and verified. The CCC bases this work on the belief that monitoring and verification should include a role for NGOs and trade unions, should include a complaints procedure for workers, that responsibility should be taken by those at the top of the supply chain, and that internal monitoring should be carried out by retailers themselves. The CCC is involved in multi-stakeholder initiatives in the Netherlands (Fair Wear Foundation); the UK (the Ethical Trading Initiative), Sweden (the Swedish Project on Independent Verification), France (Ethique sur l'etiquette with

French retailers) and in Switzerland (The Swiss CCC Project on Independent Monitoring). The aim is to try to generate experience on monitoring and verification, determine what good models for monitoring and verification should look like and how code compliance can be achieved. SOMO and the CCC organized a one-year project (this conference is a part of it) to coordinate the exchange of experiences from these projects. The projects have similarities and differences in terms of structure and what models are being tested. No final conclusions can be drawn because the projects (except for the Swedish project, which ended and has generated a proposal for a monitoring and verification body) are still underway.

Oldenziel explained that some key issues have emerged during the projects. Monitoring and verification processes are linked -- similar tools are being used (ex. social audits) and they are ongoing and overlapping processes. Management systems should call for information gathering at supplier and retailer level and address the need for information and education at all levels. A monitoring guide for companies was seen as useful. Key issues that need further discussion (some will be discussed in the afternoon workshops) include: roles for stakeholders in monitoring and verification processes, as well as relationships between stakeholders; more clarity of terminology is needed, reconciling competing needs for transparency and confidentiality; policies and procedures in relation to complaints and corrective action. SOMO and the CCC have proposed that they continue their joint work on monitoring and verification. Specifically, they propose to continue tracking the European monitoring and verification initiatives, with an eye toward harmonizing terminology and methodology, and to develop several monitoring and verification tools.

Dominique Bé, of the European Commission's DG of Employment and Social Affairs, which funds the SOMO/CCC project, explained how the project fits in within the European Commission's other corporate social responsibility activities. He discussed the EC agenda in relation to corporate social responsibility. This has become an important topic in many forums. Next to labour rights also the environment and other human rights are under consideration, and next to the role of consumers and workers organizations also responsible shareholders are important. It has proven difficult to measure the actual performance of companies, and equally difficult to assess the 'business case'. Are companies that are ethically performing well benefiting? The EC is organizing a large conference end of November on CSR, and last summer a Green Paper was published on this topic. He invites all present to give their comments and input regarding the Green Paper, available on the web, before the 31st of December.

A stakeholder panel was convened to get input from a variety of actors involved in monitoring and verification initiatives to get a sense of why they feel it is worthwhile to be involved in such projects and what they think are the issues that urgently require attention.

Lara Cataldi, representing the Bern Declaration, an NGO active in the Swiss CCC Project on Independent Verification, reported that working with companies is difficult work involving lengthy negotiations about publishing findings. There are limitations on their work, such as capacity problems (the work load is huge, while their means are very limited). She recognized that stakeholders have different ambitions. As an NGO, she said, they want dialogue, but they have to maintain leverage.

Astrid Kaag of the Dutch Federation of Trade Unions (FNV), which is active in the Fair Wear Foundation, explained that the initiative in the Netherlands involves three parties: branch organizations, the FNV (at the industry and confederation level) and NGOs. This was probably a bigger step for the NGOs to take. Though the FWF was founded in 1999 it was preceded by very long negotiations. Trust had to be built. They stuck it out because they thought joining the initiative would strengthen the campaign, which has a main aim of improving working conditions. Demands were clarified and an alternative (the FWF) was offered. The only other alternative to the multi-stakeholder approach is company codes. Now they are working together on pilot projects with five companies. For NGOs a challenge is to figure out the balance between campaigning and negotiation. A balance between transparency and confidentiality needs to be reached. Though the biggest retailers in the Netherlands have not yet joined the foundation, the FNV is happy with their choice. They are confident that together they will build a system in the Netherlands.

Satish K. Bhardwaj of the National Institute of Fashion Technology (NIFT) in India provided information regarding the (supplying) companies in the South. Managers at this level have receive training and become aware about workers rights and the Northern initiatives that aim to regulate them. If this is not organized he feels that the initiatives will not meet with success. There are local institutes such as NIFT, which is a government institute, that could provide such trainings. He believes that in the long run also productivity will go up and relations with the buying companies will improve, which is an important message also for the management of the supplier companies.

Jacqueline Peltier from Auchan, one of France's major retailers, explained that they became involved in these issues in the middle of the nineties and developed a code in 1997. They believe that implementation of this code is essential but it is also very complicated, but they have taken concrete steps and for example trained their buyers (in cooperation with the French CCC) as part of their own monitoring programme. They also work have social audits done at there suppliers, so far by commercial audit firms. A pilot with the French CCC regarding methods for social auditing is under discussion.

## **Afternoon Workshops**

### **Workshop 1: Code Implementation**

After adopting a code of labour practices the next step for retailers and suppliers is to start implementing those standards in the workplaces throughout their supply chains. Erika Spil, of the National Association of World Shops in the Netherlands, chaired this session which explored issues in relation to code implementation. The discussion was led by Frans Papma, of the Fair Wear Foundation (FWF) in the Netherlands; Dan Rees of the Ethical Trading Initiative (ETI) in the UK, Alicija Kostecka, a researcher in Poland who has worked with the FWF on a pilot project in Poland, Wong Ying Yue of the Hong Kong Confederation of Trade Unions, and Derek Jackson of CWS Retail (The Co-op) one of the UK companies participating in the ETI.

The discussion highlighted the fact that many people are working on these issues. The different discussion leaders complemented each others stories, reflecting that the same problems are encountered by different people at different levels. Therefore, solutions should be examined together. Dialogue was seen as very necessary. Management systems were discussed, and their relevance at all levels.

Training of workers came up repeatedly during this session. The retailers, trade unions and researchers all felt this was a very important aspect, but all of them posed questions on how to organise worker training. Costs and the failure of internal monitoring was also mentioned. The role of government was raised as something important to consider.

Several different steps that should be taken to implement the labour standards found in the code were mentioned:

- Communication; both internally as well as externally ( to suppliers). Internally, communication is needed with different audiences, such as functional specialists, buyers, HR teams and managers. There is a need to introduce a routine into these different channels of communication.
- Externally, the communication with suppliers should be a 2 way dialogue, feedback from suppliers on how they implement the code is also needed.
- Risk assessment of suppliers; assessment of the brands that are produced, the location of the supplier and the local problems.
- Site assessment: by the retailer's personnel, using second party auditors, and using mixed audit teams, such as male/female, generalists/specialists, local knowledge and language skills.

Retailers should also try to involve local stakeholders during the process of code implementation. Local stakeholders can be involved in the internal monitoring by the companies.

Different roles and responsibilities for both suppliers and retailers were discussed. The responsibility of the retailers include: knowledge of the whole supply chain, owned and contracted, building of long-term relationships with suppliers. Mapping their network of

suppliers was seen as something difficult for retailers to do, but an important element of code implementation.

Suppliers also have responsibilities, for example having knowledge of the retailer's code and their implications, being transparent with relevant information, and to implement the action plan that was agreed with the retailer.

Role of the management systems in organising code implementation was discussed, and some important elements of management systems were mentioned:

- Management should define a policy for social accountability, which includes a commitment to the code, commitment to applicable law, continuous improvement, how this will be documented and the transparency of the system.
- Clear procedures for communication and documentation have to be established.
- There should be a periodic management review to assess adequacy, suitability and effectiveness of the policy.
- A company representative should be appointed that has the responsibility to ensure implementation.

Dan Rees of the ETI points out some tentative conclusions from the experience of code implementation by ETI members:

- Rapid increase in monitoring activity
- large number of non-compliant practices were picked up and many of these were rectified (if true a significant positive impact on the working lives of employees).
- Huge variations in the techniques used to monitor and in the quality of the auditing/auditors. Much more work needed here
- Auditors seem to be good at spotting H&S violations and these are generally easier to fix.
- Other aspects of the code - especially rights-based elements - do not seem to be getting picked up by companies at the same rate that studies or anecdotal evidence by other parties suggests it should. Why?
- Living Wage and Working hours are showing but they are proving tough to fix. Much more work needed here
- Companies are finding labour abuses everywhere but apply labour standards in the Asian supplier countries (esp. China) is really tough
- We have plenty of problems in our own back yard.. but these seem easier to fix

Some of the aspects that are not yet being implemented:

- Verification of monitoring
- Establishing confidential means for workers to report violations
- Extension of monitoring systems to intermediate suppliers



## Workshop 2: Corrective Actions

In the course of monitoring and verification, code violations are revealed and plans to rectify those violations are supposed to be developed. During this session participants considered the roles that different stakeholders should play in determining what corrective action should be taken, in setting a schedule for complying with those actions requests, and in any other follow up. Sabina Voogd of SOMO chaired this workshop. Renée Andersson, coordinator of the Swedish project on Independent Verification, Ingrid Schüllstrom of H&M, one of the companies participating in the Swedish project, and Maria Roeper of the Workers Rights Consortium (WRC) in the United States led the discussion.

Andersson explained a bit about the structure of the Swedish project, and the role of the pilot study board, and how interviews (done by local NGOs/researchers) with workers outside of the factories (as part of pilot projects in India, China and Bangladesh) yielded evidence of non-compliance. Following the audits there were meetings with management to discuss these problems and they agreed to correction action plans. There were also meetings with the observer and interviewers to discuss the findings. The report from the auditors and the worker interviews were discussed by NGOs, unions, retailer and the independent chairman of the pilot study board. The retailer discussed the corrective action plan with their supplier. Follow up was done by the auditor. The results were sent to the pilot board.

The corrective action process involved everyone except the workers, but was based on the original interviews with workers and the inspection visit. Hopefully another round of interviews will be made before the follow-ups later this year in China and Delhi, to verify the findings of the audit firms.

The pilots raised many issues. The most difficult (due in part to the local context in terms of labour law and union dynamics) were in relation to freedom of association and collective bargaining; wages and working hours. Andersson also raised the problem of retailers in determining when breaking contracts due to non-compliance. What to do when owners do not accept the findings? She highlighted the need for training for management and workers, and for a management system for suppliers to follow. In terms of roles, Andersson noted that the Swedish stakeholders (Swedish CCC) wanted local stakeholder (including worker) participation in the corrective action process, but for various reasons there was reluctance and this proved to be difficult.

Ingrid Schüllstrom explained that H&M has had a code of conduct since 1997 and has 30 people working full time in its internal monitoring system. She said that suppliers are very much stakeholders, and that corrective action plans are negotiated with them, they are not just imposed. There has to be an understanding of "why". They try to provide tools to help them find solutions (ex. where to buy safety products). Some issues take time to address, and a step by step approach is necessary. For example, pay rolls. In

some cases a better payroll system had to be instituted before the issue of payment could be dealt with. Methods of reporting should also show improvements, not only problems, showing gradual improvements, and in that way providing encouragement. NGOs could play a role in corrective action plans, because it's difficult for buyers to have direct contact with unions.

Maria Roeper of the WRC outlined the process of investigation that took place at the Kuk Dong facility in Mexico, following a labour dispute there in which 650 workers participated in strike and were later locked out. There was a long process leading up to the formation and legal recognition of an independent union and the negotiation of a collective agreement between the union and management.

Overall, three critical issues were pinpointed during this session, which need to be dealt with. First, once the point is reached when corrective action should be taken, it is difficult to determine what is correct in terms of freedom of association, wages and hours. Secondly, if a corrective action system is to be set up it should be a multi-stakeholder system, otherwise many problems will arise. Workers must be involved, and to be involved there needs to be education. And finally, following a discussion of the impact of cost structure on the implementation of codes, it was noted that production processes cannot be improved if prices are kept low.

### **Workshop 3: Local Stakeholder Participation**

Because it has been unclear what roles NGOs and trade union based in production countries should play in monitoring and verification processes, and because the roles of factory management in these processes is also not always clear, this workshop brought together participants from various monitoring and verification initiatives to discuss the possibilities. Phil Wells, an ethical trade consultant and researcher, chaired this session.

Diana Auret, of the Agricultural Ethics Association in Zimbabwe, which participated in one of the ETI's pilot projects, opened up the workshop. In her experience social auditing is an ongoing process. Local auditors are trained in the relevant methodology, the national legislation and the code of practice. She explained the multi-stakeholder approach used in the ETI pilot, which meant that NGOs, unions and producers were represented at all levels (executive body, accreditation committee, etc.). This tripartite arrangement made use of their different skills and capacity.

Monina Wong of the Hong Kong Christian Industrial Committee, which participated in the Swedish Verification Project, raised the issue of power dynamics amongst stakeholders. Power relations can be altered, for example via forging alliances. While companies might not have enough leverage regarding certain suppliers, NGOs can help create pressure. Ignoring certain stakeholders will have consequences, she noted and cautioned that workers, NGOs and trade unions should not only be seen as informational resources.

Overall, relationships built on trust are needed.

Lesley Roberts of Pentland, a group of 12 companies, which participates in the ETI, also stressed that audit is not a good term for what is really a process. She said local organizations are identified as possible partners, but they decide if they want to work with them. She also noted that local government can be involved, for example, the health and safety inspector and the labour department.

Marc Deluzet of the Confédération Française Démocratique du Travail (CFDT), which is involved in the French CCC's monitoring and verification initiative, reminded the group that monitoring is a tool, not an end, to improve the local situation. They want to have international cooperation. Equal partnership means negotiation. They want to work with local partners/organizations chosen by workers. Experts who are being trained should not only represent the interest of companies but of local partners.

Lynda Yanz of the Maquila Solidarity Network in Canada stressed the need to respect freedom of association. Part of increasing workers capacity is their ability to build their own unions.

This workshop tried to find answers to three key questions on who stakeholders are, what their roles are, and how to facilitate the fulfilment of those roles. Participants said that local suppliers were stakeholders, though they haven't been involved in key information-sharing and decision making, and local trade unions. But beyond that there was not total agreement among those who participated in the workshop. Some thought that NGOs, local government (ex. labour inspectorates) and academics (who conduct research) are all stakeholders. Not all local people were seen as stakeholders. Suggested roles for local stakeholders were research and information gathering, though this in itself was not seen as enough. Local stakeholders should be able to give input. Other roles mentioned were trust-building and involvement in remedial action (what and how to implement). As stakeholders workers should be involved in developing the code. Stakeholders should be involved in the institutional framework. The main obstacle to the local involvement of stakeholders is knowledge (ex. knowledge of the code and its relevance) and capacity (limited resources means getting involved with codes quickly overwhelms an organization and prevents them from doing their other work).

#### **Workshop 4: Transparency & Confidentiality**

The monitoring and verification systems currently being experimented with call for vast amounts of information to be disclosed regarding workplace operations and conditions. At the same time there are legitimate concerns that some information should remain confidential for various reasons (ex. to protect workers). Fenny Eshuis, of Max Havelaar in the Netherlands, chaired a session to discuss the need to disclose information and/or keep it confidential. Jacqueline MacDonald of the U.S. non-profit auditing organization Verité, opened up the session. She explained that since starting their work in 1995

Verité's system of confidential reporting have changed somewhat. Verité has carried out audits in 52 countries. Their reports are compiled at their headquarters in Amherst, Massachusetts (U.S.) and then go to their clients, who own the information. Sometimes the report also goes to the supplier, but not always (this is up to the company that has contracted the audit). She said that now in some cases some information can be disclosed (for example for certain research projects). Country information is provided to social investment funds. She noted that without providing a certain level of confidentiality they would not be able to enter the factories. NGOs who work with them sign confidentiality agreements, but still find it worthwhile to participate because they get access to the factory and to the workers. She discussed how crucial interviews with workers are (only superficial audits without them), but also how risky this is for workers (especially where there is not union, ex. workers fired, deported, orders cut) and how extremely vulnerable they are. She also noted that talking with workers can also raise their expectations that problems will be solved (an implied contract), therefore companies must be committed to follow up, though this doesn't always happen. She reported on workers being coached on what to say to auditors ("meet and greet") and the "audit fatigue" that is developing in some countries.

Shubi Singh, a researcher/consultant who worked on the Swedish Project on Independent Verification, also discussed her experience with worker interviews (outside the factories, though management knew these were going to take place they did not know when or where). Important information on wages and hours was only revealed through these interviews. She suggested that more should be disclosed to the media and the unions at the national level, they should be involved, because local level work can be irrelevant if there are no changes at the national level. Policy makers need to be reached. Transparency is essential to bring about change, she concluded, it reduces the need for confidentiality.

Dwight Justice of the International Confederation of Free Trade Unions said that there is a moral obligation to be more transparent. In China for example, where companies cannot immediately do a lot they could at least provide total transparency. There are debates within the ETI about the confidentiality of reporting. For unions this is a question - do they want to be bound by a confidentiality agreement? There are mixed feelings on this. Foundations will come up against similar dilemmas. If you want to be ethical you have to be transparent. In a sense companies hire auditing companies to do risk assessment, but there is a danger when the relationship of these two is that of a company and an agency of a company. Without sanctions and rules the relationship is an agency relationship. Without a rule-based system backed by sanctions there can't be real transparency. Companies operating in closed societies, such as China, have greater obligations to be transparent. He also noted that membership in multi-stakeholder initiatives can never mean not campaigning. There can be some confidentiality (ex. go to companies with concerns first) but not any curbs on campaigning.

Referring to how quickly fashion ideas are stolen, Betty Arenthals of the Association of Small and Medium-sized Retailers (MITEX) in the Netherlands, said that some information on suppliers should be kept confidential but she said it is in the interest of the retailer to disclose as much information as they can. They like transparency, she said, because they can deal better with their suppliers and satisfy consumer requests for information.