



**TESTIMONY OF MICHAEL POSNER  
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**BEFORE THE CONGRESSIONAL HUMAN RIGHTS CAUCUS  
“HUMAN RIGHTS AND BRAND ACCOUNTABILITY:  
HOW MULTINATIONALS CAN PROMOTE LABOR RIGHTS”**

**Wednesday, February 8, 2006  
2200 Rayburn House Office Building**

I am pleased to appear before the Congressional Human Rights Caucus. I want to thank the Caucus, and Congressman Lantos in particular, and the staff for your longstanding leadership on a wide range of human rights issues. I also want to thank you for convening this morning’s briefing on the important topic of human rights and brand accountability. I am very pleased to join my colleagues Auret van Heerden, President of the Fair Labor Association, and Marcela Manubens, Vice President for Corporate Responsibility at Phillips Van Heusen. I have worked closely with both Auret and Marcela on these issues, and appreciate the important contributions each of them has made to this field.

You have asked us to examine how multinational companies are promoting human rights and the rights of workers, and specifically how companies are

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implementing codes of conduct. In addressing these issues, I wish to start with a few comments on the broader context in which we consider these questions.

In recent years, much has been written about globalization. An important aspect of the evolution of the global economic system has been the increased reliance by multinational companies on a global supply chain. This reliance is especially obvious in low-wage, labor-intensive industries like apparel, shoes, and toys. But it applies as well to the manufacturing of tens of thousands of component parts of more expensive products like cars, airplanes, and computers. In today's global economy, large multinational companies in most industries have come to rely on a series of contractors and suppliers in a range of countries to produce their products.

Fifteen years ago, very few companies acknowledged any affirmative obligation to address workplace conditions in the factories of their foreign suppliers - factories they neither own nor operate. Today, smart businesses know that they can no longer absolve themselves of the responsibilities that come with such supply chain operations. For these companies, the question is no longer "do we have an obligation to address workers' rights in suppliers' factories," it is "how do we do it, at what cost, and with whom do we collaborate in addressing the problems that exist?"

Over the last decade Human Rights First has been closely involved in the evolving debate on these issues. We address these issues from a human rights perspective, starting with a

commitment to building greater respect for and compliance with relevant national and international human rights and labor rights laws and principles. We welcome the participation here today of Mr. Armand Pereira, the Director of the Washington Office of the International Labor Organization (ILO). For more than 85 years, the ILO has played a key role in developing and refining international labor standards, including core standards prohibiting forced labor, child labor, harassment, and discrimination, and ensuring freedom of association.

In the long term, we view national enforcement of these standards by governments, with the support of international organizations like the ILO, as key to addressing the endemic abuses that plague tens of thousands of factories in countries around the world. We also believe that the surest protection of workers' rights everywhere will exist if national governments protect the right of freedom of association and the right of workers to organize.

Unfortunately, there is long road ahead of us before we reach that level of government commitment to ensuring the rights of workers. And as we continue to advocate for greater governmental accountability in this area, it is clear that we also need to be pursuing a series of interim measures. One set of interim measures focuses on the responsibilities of multinational companies, based in the United States and elsewhere, to address violations of workers' rights in their supply chains. This is the central focus of this morning's briefing.

As the trend towards greater outsourcing accelerates, there is an urgent need to develop a set of “rules of the road” for these supply chain operations, especially relating to the rights of factory workers. There are three main challenges in developing these rules of the road:

- 1) determining what the rules are, or should be;
- 2) deciding how compliance with those rules will be assessed, and by whom; and
- 3) addressing non-compliance with those rules once violations have been identified and reported, and developing models for sustainable compliance.

As we work to encourage companies to address these questions, our primary vehicle has been the Fair Labor Association (FLA). Human Rights First has been closely associated with the creation and development of the FLA since August 1996, when President Clinton convened leaders of the apparel and footwear industries, trade unions, and NGOs at the White House to address sweatshop abuses.

The road since that initial meeting has been eventful - on the one hand long, challenging, and often difficult, but on the other hand rewarding and encouraging because of the real progress the FLA has made. Step by step, the FLA is helping to draft and implement a set of global rules of the road, pressing companies to extend the boundaries of corporate accountability, and enhancing the rights of apparel and footwear factory workers in countries around the world.

Human Rights First has made and maintained a commitment to the FLA because of three unique and special aspects of its work. The first is the vitality of the FLA's multi-stakeholder process. From the beginning, when we negotiated a code of conduct and monitoring principles, participants in the FLA process have represented different interests vigorously – companies, workers' rights advocates, consumer groups, the university community. Inevitably, some of these discussions are contentious because of the real differences represented in the room. But it is precisely the presence of these different parties at the table that enhances the credibility of the process and the importance and effectiveness of the decisions we take.

Second, through the FLA, companies have committed to unprecedented transparency, including wide public disclosure of information about violations that independent monitors have found in factories that produce their products. This is not information that companies are eager to promote. And yet, very much to their credit, FLA companies - like Phillips Van Heusen, Nike, Adidas, Liz Claiborne, and Reebok - have agreed to the posting of these monitoring visit reports on the FLA Website: [www.fairlabor.org](http://www.fairlabor.org). These are not reports selected by the companies themselves. They are reports by independent external monitors, accredited by the FLA, on factories chosen by the FLA. In an area where there is great public skepticism about the veracity of claims by companies, this level of transparency is essential.

The third essential feature that has drawn us to and kept us in the FLA is the resourcefulness and resilience of the process, and a shared recognition of our need to constantly reassess the

FLA's means and methods. The FLA is now completing an intensive internal strategic review. One important outcome of this process, which Auret addresses in more detail, is a shared recognition of the need to develop a more strategic approach to monitoring of code compliance. As we reevaluate the FLA's code monitoring process, our focus is on building an assessment process geared toward identifying steps that will optimize sustainable compliance.

### **The Government's Role**

The Federal Government can play a number of important and constructive roles in advancing the objectives we are discussing at this morning's briefing.

First, the Federal Government has a unique capacity to bring different parties – different stakeholders – together toward a common goal. The Clinton Administration was an essential initiator of the FLA process. President Clinton and several key members of his staff, including Gene Sperling and Maria Echeveste at the White House, Kitty Higgins at the Labor Department, and Gare Smith at the State Department, provided an essential catalytic boost in the FLA's early years. Without their investment of time and political capital, the FLA would not have happened. As we and others seek to develop new initiatives in this broad area, this convening role of the government, and the Executive Branch in particular, remains critical.

A second role is that of financial support. Congress and the Executive have also provided much needed funding for some pilot efforts. The FLA has benefited, for example, from federal support for its special initiative in Central America. The U.S. government is currently

supporting a project in Turkey that has brought several multi-stakeholder initiatives together to compare and contrast approaches to code monitoring, and to explore possible future collaboration.

Funding for all of these multi-stakeholder initiatives is tight. Federal funding, therefore, provides essential financial resources to them. It also serves two other purposes: adding a valuable public endorsement of these innovative efforts, and ensuring that organizations like the FLA that draw financial resources from corporate participants are less dependent on such corporate support. In the case of the FLA, federal support will help enhance the organization's independence and its ability to take up new initiatives.

Third, the Congress also can and should play a more active role in overseeing developments in this field and in encouraging recalcitrant companies to become more engaged in this area. Many of the major retailers in the U.S., especially the discount retailers, have been very reluctant to engage with us or other independent groups on supply chain issues. While many claim to have internal codes of conduct and code monitoring programs, their unwillingness to engage with outside groups raises concerns about the scope and effectiveness of those programs. Thus far, Nordstrom is the lone U.S. retailer to participate in the FLA process, though H&M, a large Swedish retailer with many stores in this country, recently agreed to participate - an addition we welcome.

Finally, the U.S. Government must continue to push forward on workers' rights issues through government-to-government processes – whether in the context of trade negotiations or trade preference programs, the establishment and implementation of capacity building programs in developing countries, or in other bilateral or multilateral fora. The Congress has a leadership role to play in demanding that the Executive Branch treats these as priority issues in its bilateral agenda with China, Vietnam, and other countries. Congress was very engaged on these issues during the debates on whether to extend permanent normal trade relations with China. But since then, Congress' interest and attention has diminished dramatically. We are very concerned that these issues do not receive the attention they deserve in bilateral diplomacy. Today, it is important for Congress to become much more actively engaged on these issues. In China and elsewhere, the U.S. government has a leadership role to play in demanding that the Executive Branch treats these as priority issues in its bilateral agenda.

We welcome this morning's hearing as an important affirmation that Congress is watching, and that your interest in these issues is growing. We are eager to work with the Human Rights Caucus and with others in Congress as you continue your assessment of the role of multinational companies protecting the human rights of workers throughout a global supply chain. Thank you again for your attention to these vital issues.