



FREEDOM OF ASSOCIATION POLICY REVIEW

*Final Report and Recommendations
by the Worker Participation Committee
May 2018*



Freedom of Association Policy Review

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University of Notre Dame

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Executive Summary

Since 2001, Notre Dame has had a Freedom of Association Policy that stipulates University licensed products cannot be manufactured in countries that do not have the legal right for workers to organize and form independent labor unions. Eleven countries (Afghanistan, China, Equatorial Guinea, Iran, Laos, Oman, Qatar, Saudi Arabia, Somalia, Turkmenistan, and United Arab Emirates) were identified as having national laws that fail to meet the policy's standards. In 2013, Executive Vice President John Affleck-Graves invited a committee to review the Freedom of Association Policy to see if changes should be made. In undertaking this review, the committee focused its attention on one of these eleven countries—China.

In May 2015, the committee submitted a full report with four recommendations, the primary one being that the University explore both a factory-centric and a country-centric approach. To contrast these two approaches, the committee recommended that the University conduct a pilot program in China to determine whether workers' rights have improved to the extent that factories meet and can sustain an acceptable standard of performance. University President Rev. John I. Jenkins, C.S.C., approved the recommendations in September 2015, and the committee began to implement the pilot program. This document provides an update on the committee activities, as well as final recommendations based on those activities.

The committee ultimately decided to assess fourteen factories in five countries to better understand the status of worker participation in various countries that manufacture University licensed products, regardless of the country's legal protection of freedom of association. Six factories in China became part of the pilot program, while another eight factories in Bangladesh, El Salvador, Guatemala and India, where the University currently allows production, were also selected to be assessed. Licensees nominated these factories to the Director of Licensing, who recommended that the Worker Participation Committee include them in the assessment. After careful deliberation, the committee selected an independent company, Verité, that specializes in providing the knowledge and tools to eliminate the most serious labor and human rights abuses in global supply chains. The committee commissioned Verité to help develop assessment tools and to conduct the initial factory assessments in China. Verité administered an online self-assessment of management and then conducted on-site assessments at each of the Chinese factories, including individual interviews with managers and workers. Subsequently, Verité worked with the committee to revise the assessment tools and conducted follow-up assessments of the Chinese factories, as well as the eight other factories in other countries. In addition, several committee members visited some of the factories and confirmed the results of the Verité assessments.

Of the six factories in China that Verité audited, two initially met the threshold set by the committee for adequate worker participation. The remaining four were given the opportunity to implement corrective action plans. Verité then conducted follow-up audits of these four factories to ensure they met the standards established by the committee in order to be allowed to produce

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Notre Dame licensed products. Upon review of the audits, the committee found that three of the four showed sufficient improvement against their corrective action plan to start production, and, in April 2016, five of the six factories began production. Verité next conducted assessments of the remaining eight factories in Bangladesh, El Salvador, Guatemala and India (two factories per country). They concluded that some of the factories would not have met the committee's minimum acceptable scores set for production, including the presence of several zero-tolerance issues.

After receiving the assessment results from the factories, the committee began to explore ways to assess all factories that produce Notre Dame licensed products. Verité indicated that it does not have the capacity to expand its work to cover a significant number of factories. Additionally, while the committee found the audit Verité provided to be invaluable, it was also quite costly. The committee, therefore, explored other vendors to partner with to expand the assessment. After connecting with other universities that participate in the Fair Labor Association to understand how they hold their licensees accountable, the Director of Licensing found that several schools spoke highly of the vendor Sumerra, which has assessments for both licensees and factories covering a range of human rights concerns. Furthermore, universities that utilize Sumerra have access to the assessment results of any licensee and factory that use the platform. The committee recognized the advantage of having a vendor in common with other universities. At the same time, the committee appreciated the insight of the in-depth audits Verité provided. A hybrid approach to the use of vendors would allow the committee to ensure all licensees and factories are monitored for compliance with the Licensing Code of Conduct through the Sumerra assessment platform, and that those that present the greatest concerns, as determined by the committee, can then be audited using the more extensive Verité review.

The most debated topic by the committee was whether Notre Dame should permit the manufacture of products in countries such as China that do not legally recognize freedom of association. The committee had extensive discussions on whether, by allowing for these exemptions, Notre Dame could play a role in influencing worker participation in countries without legal freedom of association. One argument was that without *de jure* freedom of association, worker participation could not be guaranteed at the factory level. Specifically, workers could be punished in these legal systems for exercising their human right to freedom of association. Another was that treating factories in countries without legal freedom of association differently does not hold all factories to the same standard. In other words, it does not treat the factories of all countries equally based on their actual corporate practices, but rather discriminates based on the operative national legislation.

Several members of the Worker Participation Committee visited eight factories in three countries (China, El Salvador, and Guatemala) in order to assess the efficacy of the Verité tool and to gain first-hand experience of worker participation and conditions in these countries. These visits confirmed the efficacy of the Verité process and, together with the results of the Verité

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assessments, demonstrated that some of the factories in China effectively have a higher level of freedom of association and worker’s participation than many of the factories in countries with legal freedom of association. In addition, all of the factories responded positively to the process and instituted changes on the basis of the Verité recommendations, demonstrating that Notre Dame can improve the situation of workers’ rights at the factory level, even in non-freedom of association countries.

After much debate and discussion, the committee felt that the University’s goal of being a source for good in the world could be most effectively accomplished by engaging at the factory level to ultimately influence behavior on shop floors in countries both with and without *de jure* freedom of association. The committee also agreed that freedom of association at the national level should remain a strong consideration in the appraisal of factories for production, allowing exceptions for high performing factories in non–freedom of association countries. For these reasons, the committee makes the following recommendations:

1. Establish a Standing Committee to monitor the University’s progress toward the goals outlined below, and consider additional aspirational goals inspired by Catholic Social Teaching to advance its commitment to workers’ rights, as well as other human rights, and to promote corporate responsibility.
2. The Standing Committee should expand its review of licensees and factories to address a broader range of human rights issues. These assessment tools should be reviewed annually to ensure they address the broad spectrum of human rights concerns as required by the University’s Licensing Code of Conduct.
3. In countries that recognize freedom of association by law, every licensee should be required to participate in the Sumerra assessment process to evaluate their organization’s current corporate responsibility program and the level of knowledge of manufacturing practices within their contracted factories. For each licensee, Sumerra should also conduct an audit of all overseas factories where licensed products are manufactured. These factories would be under the ongoing oversight of the Standing Committee.
4. In countries that do not recognize freedom of association by law, the Standing Committee may consider, within its discretion, a limited exemption to manufacture products in those countries only after the factory has successfully completed both the Sumerra assessment and a more in-depth audit by Verité. These factories would also be under the ongoing oversight of the Standing Committee.
5. The University should cultivate partnerships with other organizations to advance respect for workers’ rights and other human rights and to promote corporate responsibility in the supply chain.



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Preface: WPC Charge, Membership and Process

The University of Notre Dame is committed to conducting its business affairs in a socially responsible manner that is consistent with its religious and educational mission. In 1997, Notre Dame became the first university to adopt a Licensing Code of Conduct. In 2001, the University amended the Licensing Code of Conduct to include a Freedom of Association Policy that aligns with its mission and responsibilities as a Catholic institution. Taken together, these policies are intended to ensure that Notre Dame’s business partners and licensees engage in practices that follow workplace standards consistent with the University’s mission in the production of licensed products.

In 2013, the University undertook a formal process to assess the substance and effectiveness of the current policies. The current review began when Executive Vice President John Affleck-Graves established the Worker Participation Committee (WPC) to review the current policies, engage the University community in conversations about the policies, and make recommendations about possible changes.

The WPC has remained largely intact since it was formed in 2013. The following members have participated on the WPC:

- John Affleck-Graves, Executive Vice President
- Bernard Akatu, Senior Advisor, Office of the Executive Vice President
- Matthew Blazejewski, Director of Talent Acquisition, Office of Human Resources
- Dennis Brown, Assistant Vice President, News and Media Relations
- Doug Cassel, Professor of Law, International Human Rights
- Chris Cervenak, Associate Director, Center for Civil and Human Rights
- Alex Coccia '14, alumnus, Student Body President 2013-14
- Marianne Corr, Vice President and General Counsel
- Brian Coughlin, Associate Vice President, Student Development
- Georges Enderle, Professor of International Business Ethics
- Tomi Gerhold, Director of Licensing
- Dave Harr, Associate Vice President, Auxiliary Operations
- Craig Iffland, PhD Candidate, Moral Theology
- Lionel Jensen, Associate Professor, East Asian Languages and Cultures, History
- Rev. Bill Lies, C.S.C., Vice President for Mission Engagement and Church Affairs
- Jonathan Noble, Assistant Provost for Internationalization
- Hannah O’Brien, Undergraduate Student, Class of 2019
- Armani Porter, Undergraduate Student, Class of 2018
- Lauren Vidal '15, alumna, Student Body President 2014-15

In the course of this review, the WPC established working groups to explore specific topics that could inform deliberations about the recommendations. Representatives of students,

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administrators, and members of the Notre Dame faculty participated in each of the following subcommittees:

- Campus Engagement Subcommittee
- Criteria Subcommittee
- Local Conditions Subcommittee

In addition, a Student Subcommittee was also created, comprising student representatives from various campus organizations, including Student Government, Human Rights ND, the Graduate School, the Higgins Labor Program, and Student International Business Council.

Early in this review, the WPC acknowledged that freedom of association¹ does not exist in certain countries, such as China, and that it is beyond the University's scope of influence to change national legislation. The WPC then agreed to explore the related concept of worker participation. Worker participation is defined as a process by which employees are actively involved in factory management and decision-making at different levels.

The executive vice president called for the WPC to be wide-ranging in its review and recommendations. To that end, the WPC submitted a preliminary report to University President Rev. John I. Jenkins, C.S.C., in May 2015. Specifically, the WPC recommended:

1. That the University conduct a pilot program in China to determine whether worker rights have improved to the extent that selected factories meet and can sustain, over time and under review, a standard of performance acceptable to the University.
2. That the University engage Verité to conduct an assessment of four to six nominated factories in other countries using the same tools and process used in China.
3. That during the pilot program, the University should review its current Licensing Code of Conduct to ensure it addresses other human rights concerns in ways that are consistent with best practice and the principles of Catholic Social Teaching.
4. That the University provide a forum for continuing campus participation and feedback, including the establishment of a student subcommittee to the WPC.

The recommendations were approved in September 2015. A copy of the preliminary report can be found in the Appendix as **Attachment 1**.

The following is a summary of Notre Dame's licensing history, an overview of the pilot program, the WPC's conclusions, and finally, the WPC's recommendations.

¹ Freedom of Association is the right of individuals to form and join independent labor unions (and other organizations) of their own choosing and to engage in some form of collective bargaining between employers and worker organizations.

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I. Development of Recommendations

a. Notre Dame’s Licensing History

The University of Notre Dame’s Licensing Program was created in 1983. It encourages and rewards licensees to evolve business practices that promote fair labor. Notre Dame has always been at the forefront of efforts to improve wages and working conditions at foreign factories that manufacture Notre Dame licensed products. Furthermore, Notre Dame became a founding member of the Fair Labor Association in 1999 and a member of the Worker Rights Consortium in 2001. Below is a high-level overview of the program:

Overview of Notre Dame's Licensing Program

Number of Licensees	189
Number of Licensees’ contracted factories	561
Location of Factories	35 countries
Domestic vs. Foreign Factories	55% located within the United States 45% located overseas
Factory Ownership	15% owned by the licensees 85% are independently owned and operated

This information is dynamic and fluctuates based on decisions made by the licensees.

In 1999, President Rev. Edward A. Malloy, C.S.C., appointed a Task Force on Anti-Sweatshop Initiatives (“1999 Task Force” or “Task Force”). The Task Force stressed that the new policy had been informed by Catholic Social Teaching, and reported, “Catholic Social Teaching has long recognized the rights of workers throughout the World to form labor unions and engage in collective bargaining with their employers...The University, as a Catholic institution of higher learning, is naturally committed to upholding the social teachings of the Church and to the rule of law.”

At the time, the Task Force decided that the current policy was the “most effective and efficient way to give voice to these commitments” and made the following three recommendations:

1. Products bearing the name or other trademarks of the University shall be manufactured only by workers who enjoy the legal rights to freely associate, form labor unions, and collectively bargain with their employers concerning wages, hours, working conditions, and other terms and conditions of employment.

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2. A system of limited public disclosure, which would only require the disclosure of factory locations to the University and its designated monitors.
3. The creation of a regional pilot monitoring program.

In 2001, Notre Dame adopted a Freedom of Association Policy based on the Task Force's recommendations, stating that Notre Dame licensed products cannot be manufactured in countries with no legal right for workers to organize and form independent labor unions of their own choosing. The policy addresses the legal right of workers to bargain collectively with management for improved wages, hours, working conditions, health and safety issues, and other terms and conditions of their employment. Because the focus of the policy is on the laws of countries where factories are located rather than practices at individual factories, the policy lists countries whose national laws do not meet the policy's standards—Afghanistan, China, Equatorial Guinea, Iran, Laos, Oman, Qatar, Saudi Arabia, Somalia, Turkmenistan, and United Arab Emirates.

Following the creation of the policy, the University has entered into agreements with licensees to manufacture licensed products in numerous countries across the world that recognize freedom of association by law. However, over that same period, the University has not been able to develop and implement a comprehensive program for monitoring the factories to assess whether workers' rights are being respected, as envisioned by the 1999 Task Force.

Since 2001, companies, including some of Notre Dame's current licensees, have made positive strides in understanding how codes of conduct and direct engagement at the factory level (rather than attempting to influence national law) can advance workers' rights and corporate responsibility.² In addition, auditing firms have improved their assessment of working conditions in individual factories. The WPC's view is that these advances deserve consideration in determining whether the practices and conduct of particular factories might viably guide the University's decisions regarding foreign production of licensed products.

Furthermore, while the current policy prohibits the manufacture of Notre Dame licensed products in China, the University has expanded relationships in China in recent years in other areas. This includes the number of Notre Dame undergraduate and graduate students who visit China, the number of Chinese students who come to study at Notre Dame, the opening of the Notre Dame Global Gateway in Beijing, investments held by the endowment, and the many non-licensed products that the University purchases from China annually.

² Corporate responsibility is a policy commitment of the business organization (licensee, factory) to act ethically with regard to all economic, social, and environmental aspects of corporate performance that come under the control of licensees and/or factories.

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The question for Notre Dame today—and that which the Worker Participation Committee was charged with—is whether the Freedom of Association Policy, as it’s currently written, is the most effective way to give both voice and action to Notre Dame’s commitments as a Catholic institution.

b. Pilot Program Overview

Engagement of an Assessment Partner (Verité)

A key recommendation of the 1999 Task Force emphasized that ongoing assessments should be conducted at factories where Notre Dame licensees manufacture products. The WPC, however, could find only one specific case of such an assessment being conducted.³ As a result, assessments of several factories in China were initiated in order to: (1) better understand the status of worker participation, (2) explore whether worker participation could be influenced by the market and economic leverage of our licensees over local factories by insisting on improved working conditions, and (3) evaluate whether Notre Dame might exert its influence with these foreign licensors to improve and sustain worker participation in specific factories. The WPC concluded that the most prudent course would be to initiate a pilot program in which Notre Dame licensed merchandise would be produced on a trial basis by a few factories.

The WPC recognized the need for expert assistance in evaluating factories in other countries. Proposals from four internationally recognized organizations experienced in assessing compliance with labor codes of conduct and the principles of freedom of association and worker participation were solicited. After careful deliberation, the WPC selected Verité to develop an assessment tool and conduct the factory assessments. Verité is a global, independent, nonprofit organization providing consulting, training, research, and assessment services worldwide. It is based in Amherst, Massachusetts, and has offices in Shanghai. Since its inception in 1995, Verité has partnered with hundreds of multinational brands, suppliers, and international institutions to improve working conditions and social and environmental performance. A copy of Verité’s response to the request for proposal is attached as **Attachment 2**.

Assessment Criteria

The WPC agreed to oversee the factory assessments and develop a framework for evaluating whether to recommend any of the factories for a pilot production program. In designing the pilot program, an emphasis was placed upon measures and definitions of success and possible outcomes. It was agreed that assessment tools would be developed to help define standards of acceptable levels of worker participation worthy of University support. The WPC also agreed that:

³ Notre Dame is a current member of the Fair Labor Association (FLA). While the FLA does administer its own independent factory assessments, it has not assessed the majority of the contracted factories affiliated with its member organizations.

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- Any outcome resulting in the production of Notre Dame licensed products as part of a pilot program would require a level of ongoing third-party verification in each participating factory.
- Factories that failed to demonstrate worker participation at minimum standards to be set by the WPC would not be recommended for a pilot program. They would, however, be invited to develop a corrective action plan, engage in an independent program of capacity building, and potentially request a re-assessment.
- Success of the assessments would not be defined by a recommendation supporting one, or more, factories to engage in pilot production. Rather, success would simply be defined as a fair and well-conducted assessment resulting in a better understanding of the current conditions related to worker participation in Chinese factories.

In the spring of 2014, the WPC worked with Verité to develop the assessment tool. Specifically, the assessment tool targeted three fundamental aspects of worker participation: communication, consultation, and participation in decision-making. The assessment process was designed to begin with a series of online assessments, followed by a factory visit by Verité representatives that included in-person interviews with management and line workers. Verité would then evaluate the data gathered from these assessments (both online and on-site) and score the factory against 71 benchmarks.⁴ These 71 benchmarks were divided into five assessment categories. **Table 1** below summarizes the method used to determine if the factory met what the WPC judged to be a minimum acceptable standard of worker participation for the factory to be considered for the pilot program.

Assessment Categories	Number of Benchmarks	Minimum Acceptable Standard	Required expectations when a factory does not meet the minimum acceptable standards
Zero Tolerance	3	100%	Immediate action required to remedy any issues for the factory to be recommended for the pilot program.
Minimum	16	> 90%	Required development of a continuous improvement action plan to meet the standard within 3 months.
Good	15	> 90%	Required development of a continuous improvement action plan to meet the standard within 6 months.
Better	26	> 75%	Required development of a continuous improvement action plan to meet the standard within 6 months.

⁴ The initial assessment tool was later revised to increase the total number of benchmarks from 71 to 80.

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Best	11	0%	This is a highly aspirational criteria. A factory was not required to meet any of these criteria. The goal was to demonstrate progress toward meeting some of the criteria by the end of the pilot program.
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Table 1: Rating scale and expectations of factories considered for the Pilot Program.

Initial Assessments of Factories in China

With the assistance of the Collegiate Licensing Company, current Notre Dame licensees were invited to nominate factories to participate in the assessment conducted by Verité. Six factories were nominated to participate in the pilot program. **Table 2** below provides a brief profile of the factories.

Factory	Employees	Product
Wintax Caps	458	Headwear
Huai'an Yuan Tong Headwear (ASI)	3,293	Headwear
Jung Myung Textile	190	Apparel
Changshu Jieliang Knitting	121	Apparel
Zhangjiagang Microwood	140	Apparel
Ningbo Kingwell Leisure Products	80	Non-apparel and hard goods

Table 2: Profile of factories in China considered for the Pilot Program.

Verité used the tools developed above to conduct an on-the-ground assessment of the work environment at the six participating factories in May and June of 2014. In conducting these assessments, Verité paid particular attention to the following four priorities:

1. The factory respects and honors workers' rights to collective bargaining.
2. The factory refrains from any acts of interference with the formation or operation of unions or worker representation bodies.
3. The union or worker representation body is capable of upholding workers' rights and interests effectively.
4. The factory management bargains with the union or worker representatives in good faith.

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The performance of the factories on the assessment varied. Verité concluded that two of the factories in China met the threshold established by the WPC.⁵ Two of the factories nominated for the pilot required additional capacity building in order to meet the standards, and the remaining two needed substantial capacity building to reach an acceptable level. **Table 3** below provides a summary of the initial audit results.

Country	Factory	Total Met	Total Not Met	Total N/A	Zero Tolerance Score	Min. Score	Good Score	Better Score	Best Score
China	Wintax Caps	49	19	3	2/3	100%	83%	76%	0%
China	Huai'an Yuan Tong Headwear (ASI)	47	23	1	2/3	100%	100%	56%	0%
China	Jung Myung Textile	35	28	8	2/3	81%	77%	50%	0%
China	Changshu Jieliang Knitting	48	15	8	3/3	87%	69%	62%	0%
China	Zhangjiagang Microwood	27	35	9	3/3	71%	38%	43%	46%
China	Ningbo Kingwell Leisure products	28	34	9	2/3	73%	55%	40%	0%

Table 3: Summary of the Performance of Factories in China after the initial assessment.

The four factories that did not initially meet the WPC's minimal acceptable standards were permitted to request a re-assessment after implementing appropriate corrective action plans. The areas of concern included policy revisions, communication and training, effectiveness of grievance procedures and feedback mechanisms, and limited capacity for change.

Having identified these issues, Verité then conducted targeted follow-up audits of each factory that did not initially meet the threshold. Upon review of the results, the WPC determined that Zhangjiagang Microwood, Jung Myung Textile, and Changshu Jieliang Knitting had made sufficient progress on their corrective action plan. Ningbo Kingwell did not. In April 2016, the five factories that met the threshold began production as part of the pilot program. **Table 4** below provides a summary of the audits conducted after the factories engaged in self-remediation.

⁵ Both factories initially failed to meet all of the WPC's zero-tolerance benchmarks. However, they were permitted to request a re-assessment after implementing appropriate corrective actions. At the factories' request, Verité conducted a thorough, targeted follow-up audit, and verified that all of the issues had been fully addressed.

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Country	Factory	Total Met	Total Not Met	Total N/A	Zero Tolerance Score	Min. Score	Good Score	Better Score	Best Score
China	Wintax Caps	49	19	3	3/3	100%	88%	73%	0%
China	Huai'an Yuan Tong Headwear (ASI)	47	23	1	3/3	100%	100%	54%	0%
China	Jung Myung Textile	35	28	8	3/3	88%	100%	62%	0%
China	Changshu Jieliang Knitting	48	15	8	3/3	88%	100%	81%	0%
China	Zhangjiagang Microwood	27	35	9	3/3	100%	100%	65%	46%
China	Ningbo Kingwell Leisure products	28	34	9	2/3	63%	53%	31%	0%

Table 4: Summary of the Performance of Factories in China after self-remediation.

Verification of China Factory Audits by University Delegation

Following receipt of Verité's assessments from China, a subset of the WPC conducted on-site visits of four factories in China (ASI, Changshu Jieliang, Microwood, Ningbo Kingwell) to evaluate the working conditions at the factories. During the visits, the delegation conducted reviews of the physical plants, working environment, dormitories, and dining halls. The delegation also gained additional insight through personal observation and independent meetings, including interviews with both workers and management. At the conclusion of the visits, the delegation concluded that:

- In general, the delegation was well received at all of the factories. Management at each of the factories were engaged in the pilot program. They demonstrated a genuine willingness to learn from the Verité assessment and make necessary changes to their existing policies and practices.⁶
- Each of the factories visited currently produces a variety of licensed products for other universities, professional leagues, and companies. While there were significant differences across the factories, the delegation's assessment was that three of the four factories have the capacity and willingness to meet the standards Notre Dame would require to allow them to produce Notre Dame licensed products.
- Based on the delegation's time at the four factories, the WPC confirmed that the assessments performed by Verité accurately reflect the working conditions and the state of worker participation at the time of the audits.

⁶ The WPC's observations at Ningbo Kingwell were different from the other factories visited: the factory's management did not seem to understand the pilot program. As a result, the WPC was not confident that the factory met the minimum acceptable standard set for production.

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- Finally, it became evident to the delegation that the oversight provided by regulators in the United States and international companies has had a significant impact on addressing conditions in the factories. Every factory had visits and audits regularly, which led to improvements in health and safety issues and workers’ rights, as well as grievance procedures. As a result, it is not obvious that Notre Dame can add significant value to the assessments currently being performed in these areas. However, the assessment tool adds significantly to the evaluation of workers’ rights.

Following the completion of the initial factory audits, the Criteria Subcommittee worked with Verité to revise the assessment instrument to expand the number of assessment standards from 71 to 80.⁷ As with the previous assessment tool, each standard was still rated on a scale from Zero Tolerance to Minimum, Good, Better, and Best; and more than one rating could apply to the same criteria. The difference in numbers of assessment benchmarks between the initial and revised version of the assessment tool is detailed in the table below:

Benchmarks						
	Total	Zero Tolerance	Minimum	Good	Better	Best
Version 2014/2015	71	3	16	15	26	11
Version 2017	80	6	22	15	27	10

Parallel Assessments of Factories in Other Countries

In 2015, the WPC expanded the scope of the pilot to gain insights into the performance of factories located in countries besides China. To this end, the WPC asked Mike Low, then the Director of Licensing at the University, to utilize his knowledge of the industry to nominate licensees and factories already producing licensed products for the University in other countries to undergo parallel assessments.

Low first considered the other geographic regions that have significant manufacturing industries and ultimately focused on Asia and Central America. Low reviewed the licensees’ contracted factories to select a diverse cross-section of factories based on product, size, and location. Low recommended conducting assessments in eight factories, which was approved by the WPC. **Table 5** provides a brief profile of the factories.

⁷ The 71 initial benchmarks were categorized into 56 criteria. The subsequent 80 benchmarks included 65 criteria.

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Country	Factory	Employees	Product
Bangladesh	One Composite Mills	2,100	Apparel
Bangladesh	Han Apparels Ltd.	345	Headwear
El Salvador	Decotex	317	Apparel
El Salvador	Confecciones del Valle	681	Infant, toddler, and youth apparel
Guatemala	Texsun S.A.	608	Apparel
Guatemala	Jastex S.A.	42	Infant, toddler, and youth apparel
India	RBR Garments PVT India	224	Apparel
India	Leather Craft	225	Wallets

Table 5: Profile of Factories in Other Countries studied for the Parallel Assessments.

The WPC instructed Verité to conduct assessments of the factories using the same method as the factories in China (a series of online assessments followed by a factory visit and in-depth, on-site audit by Verité). This would allow for an objective comparison between the factories among the various countries. Verité began the assessments in fall 2015.

The performance of the factories on the assessment varied. Although the audits were conducted only once, Verité concluded that some of the factories would not have met the minimum acceptable scores set for production, including the presence of several zero-tolerance issues. **Table 6** provides a summary of the audit results.

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Country	Factory	Total Met	Total Not Met	Total N/A	Zero Tolerance Score	Min Score	Good Score	Better Score	Best Score
Bangladesh	One Composite Mills	31	36	6	3/3	65%	50%	27%	36%
Bangladesh	Han Apparels Ltd.	22	45	6	3/3	53%	36%	14%	18%
El Salvador	Decotex	40	27	6	1/3	71%	79%	73%	0%
El Salvador	Confecciones del Valle	50	18	5	2/3	82%	86%	70%	55%
Guatemala	Texsun S.A.	42	25	6	3/3	88%	79%	50%	9%
Guatemala	Jastex S.A.	16	51	6	3/3	41%	29%	9%	0%
India	RBR Garments PVT India	20	48	5	3/3	41%	21%	26%	9%
India	Leather Craft	15	57	1	2/3	22%	29%	19%	0%

Table 6: Summary of the Performance of Parallel Factories after the initial assessment.

Verification of Central American Factory Audits by University Delegation

Upon receipt of Verité’s assessments from the other countries, a subset of the WPC conducted an on-site visit of four factories in Guatemala (Jastex and Texsun) and El Salvador (Confecciones del Valle and DecoTex) to evaluate the working conditions at the factories.⁸ Similar to the earlier visit to China, the WPC learned a great deal from the visits and it confirmed the WPC’s confidence in Verité and the assessment tool.

Of particular note, this visit also confirmed that the oversight provided by licensees in the United States and international companies has had a significant impact on addressing conditions in the factories. Every factory had visits and audits regularly, which led to improvements in health and safety issues and grievance procedures. As a result, it is not obvious that Notre Dame can add significant value to the assessments currently being performed in these areas. However, the delegation discovered from conversations with the factory owners that the existing audits conducted by other brands do not adequately address issues of worker participation. Indeed, the owner at DecoTex stated that the Notre Dame assessment analyzed worker participation at a depth that had not been seen before. The WPC took this information as strong confirmation of the value of engaging in this pilot program.

⁸The WPC also planned to send a delegation to conduct on-site visits of the factories in Bangladesh and India. However, due to safety concerns at the time of the planned trip, the WPC was unable to conduct the review and relied on the results of the assessments provided by Verité.

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Follow-up Assessments of Factories in China

At the conclusion of the pilot program in July 2017, Verité conducted a follow-up audit of all the factories in China. It prepared a final report and concluded that all six factories showed significant improvements since the initial assessment in 2014.⁹ **Table 7** summarizes Verité’s findings in the final report.

Factory	% Overall Criteria Met in 2014	% Overall Criteria Met in 2015	% Overall Criteria Met in 2017	% Change in FOA Criteria Met	% Change in WP Criteria Met
Wintax Caps	72%	N/A	85%	11%	16.40%
Huai'an Yuan Tong Headwear (ASI)	67%	N/A	79%	19%	6%
Jung Myung Textile	56%	70%	62%	17%	8%
Changshu Jieliang Knitting	60%	79%	84%	3.30%	9.80%
Zhangjiagang Microwood	44%	80%	61%	-11.10%	-24.60%
Ningbo Kingwell Leisure Products	44%	N/A	52%	19.90%	2.50%

Table 7: Change in the performance of factories in China over the course of the pilot program.

Pilot Program Results/Findings

Based on Verité’s work, the WPC was able to compare the performance of all of the pilot factories. The results revealed that some of the factories located in China performed better on the assessed criteria than many of the factories located in other countries. **Table 8** provides a ranking of all the pilot factories based on the percentage of the University’s criteria that each factory satisfied.

⁹ Verité assessed the Microwood factory three times and the results are as follows: 44% in 2014, 80% in 2015, and 61% in 2017. Verité attributed the change in Microwood’s performance from 2015 to 2017 to turnover in factory management who were responsible for overseeing the assessment program. The new management was not familiar with the requirements, but expressed a commitment to Verité to take actions to address the issues identified.

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Factory	Country	Criteria	Met	N/A	% Met
Wintax Caps	China	80	67	1	85%
Changshu Jieliang	China	80	66	1	84%
Huai'an Yuantong	China	80	63	0	79%
Confecciones del Valle	El Salvador	73	41	20	77%
Decotex	El Salvador	73	35	19	65%
Jung Myung Textiles	China	80	49	1	62%
Texsun	Guatemala	73	33	19	61%
Zhangjiagang Microwood	China	80	48	1	61%
Ningbo Kingwell	China	80	41	1	52%
One Composite	Bangladesh	73	24	22	47%
RBR Garments	India	73	20	5	29%
Han Apparel	Bangladesh	73	13	21	25%
Leather Craft	India	73	15	1	21%
Jastex	Guatemala	73	11	19	20%

Table 8: Ranking of all the factories studied during the pilot program.

At the conclusion of the follow-up factory assessments, the WPC asked Verité to provide its conclusions about the pilot program overall. Verité determined that:

- All factories in China demonstrated improvement from the 2014 assessments.¹⁰
- Improvement was sufficient at several key suppliers to proceed with sourcing decisions, although on a pilot basis only.
- Performance of factories outside China varied, and although only audited once, some would not have met the University criteria developed for this project (including based on the presence of several zero-tolerance issues).
- Suppliers in China can achieve continuous improvement on freedom of association and worker participation at the factory level, although this requires commitment from management.

Engagement of a Secondary Assessment Partner (Sumerra)

After receiving the assessment results from factories in Bangladesh, El Salvador, Guatemala, and India, the WPC began to consider the possibility of assessing all factories (currently 561) that produce licensed products for the University. The WPC discussed this possibility with Verité, and it was made clear that Verité does not have the capacity nor interest in significantly expanding its work to cover all of the factories. Additionally, it would be very

¹⁰ Although the conformance rate of the Microwood factory declined from 2015 to 2017, the factory's conformance rate improved by 17% (from 44% in 2014 to 61% in 2017) over the course of the entire pilot program.

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costly to conduct such detailed assessments in all factories. As a result, the WPC explored other approaches and vendors capable of implementing the assessment process on a broader scale.

During this period, the licensing program director actively engaged other universities to understand how they monitor their licensees and factories. Several of the universities recommended Sumerra and offered positive reviews of their partnerships. The licensing program director reached out to Sumerra and invited the organization to present to the WPC in spring 2017.

Sumerra is a global for-profit organization that provides supply chain management, compliance management and consulting services worldwide. It is based in Portland, Oregon, with offices in Hong Kong, Bangalore, and Dhaka. Sumerra has partnered with multinational brands, organizations, licensees, and factories who are striving to improve working conditions and promote the fair treatment of workers. Sumerra has a multi-pronged assessment platform. Users can choose the portions of the platform that are most appropriate for their needs. The platform includes an assessment for both licensees and factories to evaluate a wide range of human rights and environmental concerns. Schools that partner with Sumerra receive access to the assessment results of any licensee and factory that uses the platform. As a result, licensees that Notre Dame has in common with others schools do not need to conduct additional assessments. At the time of the WPC's initial meeting with Sumerra, 46% of Notre Dame's current licensees had already completed the Sumerra survey at the request of another school.

Following the introductory meeting, the WPC conducted a thorough review of Sumerra's assessment instruments. The Criteria Subcommittee determined that there was substantial convergence between the zero-tolerance and minimum criteria identified by Verité and Sumerra's auditing tool. Given this convergence, the Criteria Subcommittee suggested adding additional criteria to supplement the Sumerra tool. Sumerra expressed a strong willingness to incorporate all of the requested suggestions. After careful consideration, the WPC concluded that it was appropriate to develop a comprehensive solution in conjunction with Verité and Sumerra to monitor the licensees and their contracted factories.

c. Conclusions

Based on all of the information gathered over the course of this four-year process, the WPC reached the following conclusions:

- While the current policy has met Notre Dame's commitment to Catholic Social Teaching and freedom of association values, the University has not succeeded in having other institutions adopt a similar policy.
- There has been a lack of follow-through on conducting the factory audits recommended by the 1999 Task Force.

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- The University does not presently have a robust framework in place for independently evaluating and monitoring factories to ensure compliance with the values expressed in the Licensing Code of Conduct.
- The pilot program provided a fair and well-conducted assessment, resulting in a better understanding of the current conditions related to worker participation at the factories studied.
- The results of the assessment reflect that the working conditions at the factories vary widely from one to the next even within a country.
- Some factories in China currently achieve a higher level of freedom of association and worker participation at the factory level compared to some factories in countries where the University presently manufactures licensed products.
- The on-site visits confirmed that the assessments performed by Verité accurately reflected the working conditions and the state of worker participation in the factories at the time of the reports.
- By collaborating with licensees and factory management throughout this process, Notre Dame’s involvement and pressure show that workers’ rights and freedom of association can be improved at the factory level and corporate responsibility can be advanced.

II. Recommendations of the Worker Participation Committee

Based on the above, the WPC concludes that there is a sufficient basis to amend the current policies to build on the University’s enduring commitment to workers’ rights. Specifically, the WPC proposes the following recommendations:

1. Establish a Standing Committee to monitor the University’s progress toward the goals outlined below, and consider additional aspirational goals inspired by Catholic Social Teaching to advance its commitment to workers’ rights, as well as other human rights, and to promote corporate responsibility.
2. The Standing Committee should expand its review of licensees and factories to address a broader range of human rights issues. These assessment tools should be reviewed annually to ensure they address the broad spectrum of human rights concerns as required by the University’s Licensing Code of Conduct.
3. In countries that recognize freedom of association by law, every licensee should be required to participate in the Sumerra assessment process to evaluate their organization’s current corporate responsibility program and the level of knowledge of manufacturing practices within their contracted factories. For each licensee, Sumerra should also conduct an audit of all overseas factories where licensed products are manufactured. These factories would be under the ongoing oversight of the Standing Committee.

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4. In countries that do not recognize freedom of association by law, the Standing Committee may consider, within its discretion, a limited exemption to manufacture products in those countries only after the factory has successfully completed both the Sumerra assessment and a more in-depth audit by Verité. These factories would also be under the ongoing oversight of the Standing Committee.
5. The University should cultivate partnerships with other organizations to advance respect for workers' rights and other human rights and to promote corporate responsibility in the supply chain.

Each of these recommendations is described in detail below.

Recommendation 1: **Establish a Standing Committee to monitor the University's progress toward the goals outlined below, and consider additional aspirational goals inspired by Catholic Social Teaching to advance its commitment to workers' rights, as well as other human rights, and to promote corporate responsibility.**

The WPC views these recommendations as the University's commitment to act with greater deliberation toward upholding workers' rights and human rights generally, and promoting corporate responsibility in factories across the world. Through this review, the WPC has gained a deeper understanding of engaging in a complex global industry: It developed and validated a pilot program to address these concerns and observed positive changes in China and Central America. In order to build on the progress to date, a Standing Committee should be established to implement these recommendations, refine the assessment process and continually reassess its effectiveness. The Standing Committee will continue to advise the Executive Vice President and will include students, faculty, and administrators appointed by the Executive Vice President. In addition, the Standing Committee should be granted broad authority to ensure that the University's business partners and licensees engage in business practices and follow standards of corporate responsibility consistent with these recommendations.

With these objectives in mind, the WPC recommends that the specific charge of the Standing Committee should be as follows:

1. Monitor enforcement of the Licensing Code of Conduct and promote the University's commitment to advance corporate responsibility with respect to fair labor practices, human rights, living wages, factory locations disclosures, and sustainability in its licensing operations.

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2. Conduct meaningful analysis of whether manufacturers and licensees of the University’s licensed products are compliant with the Licensing Code of Conduct and recommend appropriate course of action when licensees or manufacturers are noncompliant.
3. Participate in compliance-monitoring organizations with which the University may be affiliated; assess concerns about licensees raised by these organizations or through other governmental or non-governmental organizations; and recommend appropriate University actions in response.
4. Assess new programs and policies across the licensed product supply chain to ensure the Licensing Code of Conduct is reflective of the ever-evolving global industry. This includes periodic reviews of the Licensing Code of Conduct and defining necessary updates.
5. Determine when an exception to the Licensing Code of Conduct (including the process of evaluating and monitoring factories as described below) may be appropriate. Any future exception shall be made with consideration of the University’s commitments in mind.

As a steward of the University’s assets, the Standing Committee will be expected to conduct its responsibilities as efficiently as possible. To keep the campus community informed of its progress, the Standing Committee’s work should be updated annually through digital reports available at evp.nd.edu or by any other appropriate means. The WPC has drafted a charge for the Standing Committee, and it can be found in the Appendix as **Attachment 3**.

Recommendation 2: The Standing Committee should expand its review of licensees and factories to include a broader range of human rights issues. These assessment tools should be reviewed annually to ensure they address the broad spectrum of human rights concerns as required by the Licensing Code of Conduct.

While freedom of association is one particularly strong mechanism to advance Catholic Social Teaching and human rights in the workplace (especially where robust unions operate), the University’s licensees are in a position to take responsibility for protecting the broader spectrum of human rights and values of Catholic Social Teaching in their operations.

The WPC recommends that the University should expand the scope of human rights explored in its work. The 1999 Task Force underscored the importance of focusing on the full spectrum of human rights concerns. The WPC agrees that, in addition to freedom of association,

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other areas—wages and benefits, working hours, child labor, prison or forced labor, health and safety, environmental impact, and disciplinary practices—related to human rights are essential. The University has always considered these factors in its choice of licensees, and they are an integral part of its current Licensing Code of Conduct.

To that end, the WPC, in collaboration with the University’s Licensing Department, Daniel Graff (Director, Higgins Labor Studies), and Barbara Fick (Associate Professor, Kroc Institute for International Peace), reviewed and updated the Licensing Code of Conduct to reflect best practices in ensuring licensees and their contractors respect human rights in their operations, along with core values of Catholic Social Teaching. The group has drafted a revised Licensing Code of Conduct, and it can be found in the Appendix as **Attachment 4**. The WPC recommends that in the future, the Licensing Department review the Licensing Code of Conduct annually, in consultation with the Standing Committee, to ensure that the Code of Conduct remains an effective mechanism to ensure respect for human rights in the production of Notre Dame’s licensed products.

Additionally, the U.N. Guiding Principles on Business and Human Rights (specifically, Principles 11-24) are relevant here with respect to corporate responsibility. They require all business enterprises to: (1) respect all human rights; (2) adopt a forward-looking, proactive attitude with regard to all human rights; and (3) assume their responsibilities independently of the government’s duty to respect and protect human rights.

Therefore, to effectively implement this recommendation, the WPC recommends utilizing comprehensive and consistent assessment tools to incorporate the broad spectrum of human rights and provisions of Catholic Social Teaching as required by the Licensing Code of Conduct. Many tested self-surveys and audit tools incorporate this wide range of human rights concerns; Notre Dame should identify specific Catholic Social Teaching values emphasized in the Licensing Code of Conduct and ensure that they too are reflected in the assessment tools.

Recommendation 3: In countries that recognize freedom of association by law, every licensee should be required to participate in the Sumerra assessment process to evaluate their organization’s current corporate responsibility program and the level of knowledge of manufacturing practices within their contracted factories. For each licensee, Sumerra should also conduct an audit of all overseas factories where licensed products are manufactured. These factories would be under the ongoing oversight of the Standing Committee.

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Background

Notre Dame's Code of Conduct establishes the minimum standards for the University's licensees and their contractors, including the legal rights to freedom of association. When one or more of these minimal requirements are not met, the University may require the licensee to implement a corrective action plan acceptable to the University or exercise its discretion to terminate the business relationship with the licensee.

One of the major challenges with the current Licensing Code of Conduct is that it does not specify a criteria, tool or methodology to enable the University to identify and objectively assess the efficacy of worker participation activities at the factories. Rather, it simply requires that:

1. Notre Dame or its designated representatives have access to visit all of the factories.
2. Licensees provide the University with the contact information for each factory.
3. Licensees notify the University when they create or end relationships with factories.
4. Licensees participate in the Fair Labor Association.

None of these options, however, has produced a reliable monitoring scheme to ensure that Notre Dame's licensees and their contracted factories are engaging in standards or corporate responsibility that are consistent with the University's ideals.

This issue continues to remain a challenge. Presently, the University has contracts with 189 licensees. Collectively, those licensees have agreements with 561 factories in 35 countries across the world to manufacture licensed apparel and goods for the University. Overall, 55 percent of all factories are located within the United States. Only 15 percent of all factories are owned or operated by the licensees, while the remaining 85 percent of the factories are independently owned and operated. To address this dynamic, the WPC recommends utilizing the assessment tools and methodology that have been developed in collaboration with Verité and Sumerra to evaluate and monitor all current and future licensees and their contracted factories located outside the United States.

The WPC views the need for the proposed amendments to the current policy as three-fold: (1) to establish the minimal requirements for the production of Notre Dame's licensed goods in the contracted factories; (2) to provide clear direction in the evaluation and monitoring of Notre Dame's licensees and their contracted factories; and (3) to outline the processes by which the University can become a more effective collaborator with licensees in monitoring and promoting progressive improvement of corporate responsibility at the factory level.

Minimal Requirements

The University expects its licensees to demonstrate a real, substantive commitment to increased worker participation in their contracted factories. To that end, the WPC recommends

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the following as **non-negotiable conditions of all licensing contracts** involving the University and its licensees:

1. All licensees and their contracted factories shall respect human rights implicated in the workplace, including the rights of workers to engage in a meaningful exercise of their legal right to freedom of association.¹¹
2. All licensees and their contracted factories shall demonstrate factory compliance with all applicable domestic labor laws.
3. The University will expect all licensees and their contracted factories to demonstrate progressive improvement toward high levels of worker participation.¹²

Instruments of Evaluation and Monitoring

The University's evaluation of its licensees will be based on the licensee's capacity to monitor, regularly review, and achieve high levels of respect for human rights, including worker participation, in all their contracted factories. The instruments that will be used for compliance with the University's expectations are three-fold:

1. The Sustainable Manufacturing Assessment Questionnaire ("SMAQ" or "Pre-survey") administered by Sumerra to assess a licensee's level of understanding and commitment to corporate responsibility within their contracted factories.
2. The Sumerra assessment tool ("Sumerra audit") used to monitor factory compliance. This is a comprehensive set of 410 requirements that cover the level of freedom of association and worker participation that exists in a factory, the exercise and protection of all human rights, and numerous environmental demands implicated in the workplace.

¹¹ In June 2011, the United Nations Guiding Principles on Business and Human Rights were endorsed by consensus of the 47-member States of the UN Human Rights Council, including the United States. Although the Guiding Principles do not apply to a not-for-profit university, Principles 11-24 establish the global standard that is expected from businesses to "respect" human rights and "remedy" human rights violations within their business operations.

¹² For the purposes of determining progressive improvement, the University may assess various elements, including the following: (1) the existence and effective operation of an independent labor union in the factory; (2) the existence and effective operation of a worker representative body or company union in the factory; (3) factory policies and procedures that include workers in factory decision-making; (3) the factory has democratically elected worker representatives or union members included in the factory's board of directors; and (4) the factory has worker representatives or union members who can and have exercised a direct role in formally approving significant management decisions related to workplace issues, including, but not limited to, wages, working hours, terms of employment, working conditions, health and safety issues within the factory, solicitation of feedback on factory policies, investigation and resolution of grievances, etc.

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3. The more in-depth Verité assessment tool (“Verité audit”) that is used to measure the level of worker participation in the factory, as well as the capacity of workers to exercise their right to form independent unions and engage in collective bargaining.

The WPC recommends that the University continuously assess and review these instruments. Where appropriate, the University may identify and utilize other instruments that are equivalent or superior to these instruments.

Process for Evaluation and Monitoring

The WPC recommends the following three-step process for evaluating and monitoring Notre Dame’s licensees and their contracted overseas factories:

- Step 1:** All current and prospective licensees will be required to complete Sumerra’s Pre-Survey to provide the University with a better understanding of each licensee’s corporate responsibility program.¹³
- Step 2:** For each licensee, Sumerra will conduct an audit of all overseas factories, as well as new factories abroad where products will be manufactured in the future.

¹³ Although conformity with all 410 requirements of the Sumerra assessment tool is not required in order for a factory to be permitted to manufacture or to continue manufacturing Notre Dame licensed goods, the expectation is that all factories demonstrate, through the development of corrective action plans and progressive improvement in areas of noncompliance, a commitment to achieve full compliance.

The Sumerra assessment tool contains a host of zero-tolerance requirements identified at the discretion of the WPC. Non-conformity with any one of these zero-tolerance requirements will automatically disqualify a factory from the production of Notre Dame licensed goods. Some examples of zero-tolerance criteria are credible evidence that factory management has engaged in the following behaviors:

1. Interferes with, or attempts to suppress, the exercise of a worker’s right to join a labor union or to engage in collective bargaining.
2. Makes use of child or forced labor, including the employment of prisoners.
3. Engages in or permits systemic sexual, physical, or psychological harassment or abuse of workers.
4. Punishes workers who refuse to work in unsafe conditions.
5. Has not taken sufficient precaution to ensure structural integrity of factory.
6. Punished, or otherwise failed to protect from retaliation, workers who report work-related grievances.
7. Interfered with the work of auditors to assess factory compliance (e.g., bribing or threatening auditors, refusing access to workers for interviews or factory policy documents, etc.).
8. Systematically fails to comply with domestic labor laws and regulations.
9. Engages in unjust hiring practices (e.g., withholding employment contracts, providing false information about wages or compensation, etc.).

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Step 3: When the University has concerns about a factory (based on the results of the Sumerra Pre-Survey, the factory audit, or any other appropriate reason) it may require the factory to complete a more extensive audit.¹⁴ Under these circumstances, the extended audit will be conducted by Verité, or another appropriate organization, using an assessment tool that has been approved by the University.

The University will facilitate the evaluation and monitoring process as outlined above. In every instance, the University may cease to allow production by a licensee or their contracted factory if the results of the assessment is unsatisfactory to the University or if any significant deficiencies have not been addressed within a reasonable time using an appropriate action plan.

This recommendation is the result of more than four years of deliberation by the WPC, including the creation and successful implementation of a pilot program. The insights developed through the pilot program allowed the University and its licensees to make informed decisions about specific ways to improve the working conditions at each factory. The WPC believes that by implementing the assessment process, the University will significantly enhance its ability to make a meaningful impact on corporate responsibility in the supply chain, and particularly workers' rights, as well as their working conditions in factories across the world.¹⁵

Recommendation 4: **In countries that do not recognize freedom of association by law, the Standing Committee may consider, within its discretion, a limited exemption to manufacture products in those countries only after the factory has successfully completed both the Sumerra assessment and a more in-depth**

¹⁴ A decision to exercise heightened scrutiny would be warranted for a number of reasons, including, but not limited to: (1) other deficiencies in national legislation related to FOA or worker rights; (2) a political or social climate that is demonstrably hostile to the exercise of fundamental human rights; (3) credible suspicion and/or evidence that implicates the licensee, or any contracted factory, in the suppression of worker rights and increased worker participation; (4) the number of workers employed in the licensee's partner factory; (5) the length, scope, and financial or public significance of envisioned partnership between Notre Dame and the licensee; (6) internal studies designed to assess the effectiveness of the instruments to measure increased worker participation, freedom of association, and collective bargaining in factory partners of licensees; and (7) internal studies designed to assess the effectiveness of the University's engagement with licensees in bringing about sustained improvement and progress in the level of worker participation in their factory partners.

¹⁵ The WPC is mindful of the feasibility and potential costs of monitoring more than 500 factories annually. In an effort to faithfully steward the University's resources, the WPC proposes initially focusing on factories located overseas. The WPC assumes that workers in the United States currently enjoy the rights to freely associate as envisaged by the Code of Conduct. Therefore, monitoring those factories presents a less pressing priority where the same rights may be more vulnerable in other countries.

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audit by Verité. These factories would also be under the ongoing oversight of the Standing Committee.

The University’s policy on freedom of association was developed by the 1999 Task Force as part of the collegiate anti-sweatshop movement. The policy prohibits licensees from manufacturing licensed products in any country where workers do not enjoy the legal rights to freedom of association. The rationale for the policy was to “give voice” to the commitments of Catholic Social Teaching, which “has long recognized the rights of workers throughout the world to form labor unions and engage in collective bargaining with their employers.” The policy was also guided by the U.N. Universal Declaration of Human Rights, which states that, among numerous human rights, “the right to freely associate is fundamental and should not be infringed.” The underlying concern of the policy was “to help ensure acceptable wages and working conditions over time for the laborers who manufacture Notre Dame licensed products, especially in the developing world.” At the time, the 1999 Task Force determined that the policy was the “most effective and efficient way to give voice to these commitments.”

Over the course of this review, the WPC saw its primary task as discerning the best approach for improving the working conditions in every country—regardless of whether it had *de jure* or *de facto* freedom of association—where licensed products may be manufactured for the University. The key question for the WPC to answer, therefore, was what does it mean, in practice, to *effectively* give voice to the University’s commitment to the rights of workers throughout the world? To be effective, the U.N. Guiding Principles encourage organizations to employ appropriate tools, at the factory level and independently of the government, to assess their response.¹⁶ Here, the WPC found widespread agreement, even unanimity, with an approach to countries that currently recognize freedom of association *by law*. But with regard to countries that lack *de jure* freedom of association, the WPC wrestled to identify an approach that was most likely to achieve the ideal outcome for the workers at the factory level. Under the circumstances, the WPC identified and discussed three possible approaches.

The **first approach** was to consider maintaining the current policy. The WPC is particularly mindful of the ongoing concerns with China’s record on human rights, current political climate, and national legislation, for example. In a country where freedom of association is not recognized by law, workers are not legally protected when exercising their freedom of association rights, such as forming an independent labor union. Therefore, there is always the risk that these workers may be punished, even imprisoned, for exercising these rights. Those fears are even more disconcerting when coupled with a history of human rights violations. In an

¹⁶ As previously noted, Principles 11-24 of the UN Guiding Principles set forth the global standard that is expected for States and businesses to “respect” human rights in their business operations. Specifically, it states that “in order to verify whether adverse human rights impacts are being addressed, business enterprises should track the effectiveness of their response.” According to the Guiding Principles, “tracking should: (a) be based on appropriate qualitative and quantitative indicators; and (b) draw on feedback from both internal and external sources, including affected stakeholders.”

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environment such as this, it is reasonable to be skeptical for several reasons. From this standpoint, a legitimate question to ask is whether the progress that was made during the pilot program can thrive and endure in a country such as China. The WPC spent considerable time discussing whether the presence of a factory, or a handful of factories in China, is capable of creating an ideal workplace that can withstand attacks on the fundamental rights of the workers' in the future.

There are several benefits of maintaining the current policy. First, regardless of whether workers actually join an independent union, at the very least, this approach ensures that licensed products will only be made in countries where a worker's right to do so is legally protected. Additionally, in the event that factory management infringes on a worker's legally protected rights, the workers may access legal remedies.

On the other hand, while the current policy takes an important principled stand, it also raises several issues. As the WPC has recognized, some of the factories in China have the capacity to perform at a higher level on the worker participation criteria than factories in other countries that legally recognize freedom of association. In addition, the pilot program has shown that the University can make a positive impact at the factory level. However, to influence the entire system, a set of standards around worker participation is needed that will make it more likely for Notre Dame to partner with other organizations that share our values. After the current policy was created in 2001, no other college or university followed Notre Dame's lead in prohibiting production in non-freedom of association countries. Whereas, a more effective approach would facilitate partnerships between Notre Dame and other licensors that allow production in China in order to positively impact the workers' rights to freedom of association and other human rights.

A second approach that the WPC contemplated was to eliminate the current preference for countries that currently recognize freedom of association by law (as a minimal standard), in favor of an approach that treats factories in all countries equally, based on their corporate responsibility independent of the government. Under this purely factory-centric model, any factory that is capable of meeting and sustaining the assessment criteria established by the University should be permitted to manufacture licensed products. In contrast to the current policy, a factory-centric approach is closely aligned with the U.N. Guiding Principles as discussed above. This approach also prioritizes the corporate responsibility of Notre Dame's licensees and their contracted factories to uphold the ideals and expectations of the University.

The WPC acknowledges that there is an equitable basis for seeking to subject all of the factories to the same assessment standards. While the WPC is confident in the ability of the assessment tool to accurately reflect the working conditions and state of worker participation at a particular factory, it is important to acknowledge that concerns about human rights continue to persist in China (and many other countries) today. The WPC's hesitation with a purely factory-

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centric approach is that it lacks the legal framework to ensure that every worker is able to enjoy these rights, even where other important rights may be adequately addressed.

The WPC recommends a **third approach**, which is a hybrid. In countries that do not recognize freedom of association by law, the University may consider granting a limited exemption to begin production only after the factory has successfully completed an extended assessment process. This recommendation is based on several reasons:

First, the 1999 Task Force developed the current policy with the goal of improving the conditions for the workers at the factory level. Based on the work of the WPC, however, there is little evidence that the strategy has had the desired outcome in any country that does not currently recognize freedom of association.

Second, when considering the objective, third-party results of the factory assessments, the factories in China performed favorably compared to the factories in other countries. In addition, all of the licensees and factory management that were engaged through the process demonstrated a commitment to progressive improvement in worker participation at the factory level. While these changes are not expected to result in immediate changes to national legislation, the pilot program has demonstrated that progress on worker participation and engagement is possible.

Third, since China continues to be the dominant player in the manufacturing sector today, the University unnecessarily limits its ability to learn from operating in that environment and the opportunity to be an agent for meaningful change by precluding production. For the first time, the results of the pilot program have provided clear measures of success. As we continue to build our knowledge base, the lessons learned will allow the University to better understand the potential and constraints of our leverage in the larger licensing system; and provide a testing environment to develop solutions that can be applied to other challenging areas of the world where the University currently manufactures licensed products.

Fourth, under this approach, the University will remain vigilant with respect to factories in non-freedom of association countries that fail to meet the University's standards. To that end, the Standing Committee will be responsible for enforcing these standards. Regardless of whether a country recognizes freedom of association or not, the University may cease to allow production by a licensee if the results of the factory audit are unsatisfactory, or if any significant deficiencies have not been addressed within a reasonable time using an appropriate corrective action plan.

Finally, given Notre Dame's history in collegiate licensing and position of influence, the University should strive to improve the working conditions for *all* workers. The insights, tools, and methodology that have been developed through this review have equipped Notre Dame well to lead in the effort to bring needed improvements. To be clear, the WPC does not expect that the University, its licensees, or even a consortium of organizations can be an effective force to influence legal change in countries such as China. Rather, the scope of influence—and its intrinsic limits—is limited to exerting influence at the licensee and factory level.

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Accordingly, the University may consider granting a limited exception allowing licensees to manufacture products in specific factories in countries that do not recognize freedom of association by law. To do so, the University will require the factory to complete an extended audit. Under these circumstances, the extended audit will be conducted by Verité, or another appropriate organization, using an assessment tool that has been approved by the University. In addition:

1. Each licensee will be required to submit a written request. The request must be granted before any production commences;
2. In order to receive an exemption, the results of the extensive factory audit must satisfy the requirements established by the University;
3. The cost of the audit shall be at the expense of the licensee; and
4. Once approved, the request will be recognized as an exemption from the University's current policy. In the first year of the proposed policy, the University may grant up to six total exemptions.

A significant majority of the WPC supports this particular recommendation. However, some members of the committee respectfully dissent.¹⁷

Recommendation 5: The University should cultivate partnerships with other organizations to advance respect for workers' rights and other human rights and promote corporate responsibility in the supply chain.

Acting on its own, the WPC is not confident that Notre Dame is capable of having a lasting impact on workers' rights unless we collaborate with other key stakeholders. In addition to working closely with our licensees, this effort should involve other universities, organizations, and corporate responsibility partners.

¹⁷ The dissenting view does not believe that meaningful freedom of association can be exercised in China, where independent labor unions are prohibited; where workers and their lawyers face the prospects of prison and torture in the event they defy the authorities; where no judicial remedies can be expected from courts, which are controlled by the Communist Party; and where the press is not free to report on labor abuses. The dissent also believes that, while particular factories in other countries may have worse records than some Chinese factories, in those other countries, whose laws recognize freedom of association, and whose courts have a degree of independence, legal remedies for violations of freedom of association can be obtained, public political advocacy in support of freedom of association is possible, and the free press can expose violations of labor and other human rights. None of these essential safeguards of freedom exist in today's China.

Worker Participation Committee – 2018 Report and Recommendations

Through its work, the WPC has developed a better understanding of the realities that limit Notre Dame's ability to drive the changes we seek. Only 15 percent of the factories are owned by Notre Dame's licensees, and Notre Dame only accounts for a nominal percentage of the production at each factory. This underscores the need to establish strategic partnerships. Despite the present structural dynamic of the factories, the positive results from the pilot program are tangible evidence that suggests that change is possible when there is a strong commitment by factory management, the University, and licensees to the values expressed in the Licensing Code of Conduct. To maximize the impact of the recommendations, the University should strive to play a leading role in engaging institutions in the conversation. While collaborating with other organizations is important, the WPC does not recommend cultivating partnerships that would require the University to confirm its standards of acceptable practices to those of other colleges or universities.

III. Conclusion

This process began with the aim of giving voice and action to Notre Dame's commitment to the rights of workers. The current policy was a significant step forward, but has otherwise had a limited, practical impact. This has been, in part, due to the lack of follow-through on the audits the Task Force recommended in 2001. In the 17 years that have elapsed since the policy was developed, there continues to be legitimate reasons to be concerned about workers' rights in various areas across the world, including China. Those concerns, however, should not be limited to countries without *de jure* freedom of association. Over the past four years, the WPC's deliberations have resulted in the development of assessment criteria and tools that can provide a broader guide for the University's partnerships with licensees and factories. Working in concert with licensees and management at their contracted factories, the University will be better able to make a measurable impact on the corporate responsibility of our licensees and their contracted factories.

Notre Dame's licensed products are a source of immense pride and a symbol of brand loyalty among students, parents, alumni, friends, and fans. While the University's actions to date have spoken with a clear voice to reflect our commitment to workers' rights, further action is required to fulfill Notre Dame's responsibilities in the way we operate. The members of the WPC do not have any illusions that these recommendations will address all of the concerns identified in this report. Rather, they simply represent the WPC's best effort to take the next step forward to develop a meaningful understanding of these challenges, so that we may continue to collaborate with our partners to address them, one licensee and factory at a time.

For the foregoing reasons, the Worker Participation Committee respectfully submits this report and recommendations for consideration as an amendment to the current Licensing Code of Conduct and Freedom of Association Policy.

University of Notre Dame

Review of the Freedom of Association Policy

Worker Participation Committee
May 2015

EXECUTIVE SUMMARY

Since 2001, Notre Dame has had a Freedom of Association Policy (attachment 1) that stipulates Notre Dame licensed products cannot be manufactured in countries with no legal right for workers to organize and form independent labor unions. Eleven countries were identified as having national laws that fail to meet the policy's standards, including China.

In recent years the University has expanded relationships in China in other areas, including academic programs, University purchases, and endowment pool investments. So in 2013, Executive Vice President, John Affleck-Graves invited a committee to help review the policy on freedom of association to see if changes should be made, specifically with regard to China. Early on, the committee acknowledged that the concept of freedom of association does not exist in China and that it is beyond the University's influence to change the laws and practices there and in other countries to allow for full freedom of association. The committee then agreed to determine if any alternative concept could meaningfully guide the University's decisions concerning foreign manufacturing of Notre Dame licensed products. The committee ultimately decided to focus on the concept of *worker participation*, defined as a process by which factory management actively involves and/or engages employees in management and decision making.

The committee also decided to assess several factories to better understand the status of worker participation in China and countries without legal protection of full freedom of association. After careful deliberation, the committee selected Verité to help developing assessment tools and to conduct the factory assessments. Next, existing Notre Dame licensees were invited to nominate factories to be evaluated by Verité, and the committee selected six factories nominated by five licensees.

In the spring of 2014, the committee worked with Verité to develop the tools that would clearly indicate ways in which both line workers and management experience rights and protections. This led to 71 criteria against which all factories were measured as well as an agreed upon standard of acceptable performance against those criteria.

Verité next administered an on-line self-assessment of management and then conducted onsite assessments at each of the six factories, including individual interviews with managers and workers. As a result, Verité determined that two factories met the committee's standards; two required additional improvements to meet the standard; and the remaining two need substantially more capacity building to reach an acceptable level. In addition, seven committee members visited four of the six factories in September 2014 and confirmed the results of the Verité assessments.

In January 2015, the committee took steps to create a campus-wide conversation and dialogue on this issue by scheduling four events: two panel discussions, a Higgins Labor Café, and an Open Forum. The committee also established a website to share the work of the committee and its process of deliberation.

After considering all of the data gathered from the assessments and the valuable feedback received through the four campus-wide events, the committee respectfully submits the following four recommendations:

- 1. That the University conduct a pilot program in China to determine whether worker rights have improved to the extent that selected factories meet and can sustain, over time and under review, a standard of performance acceptable to the University of Notre Dame.**
- 2. That the University engage Verité to conduct an assessment of four to six nominated factories in other countries using the same tools and process used in China.**
- 3. That, during the pilot program, the University should review the current Notre Dame Licensing Code of Conduct (attachment 2) to ensure it addresses other human rights concerns in ways that are consistent with best practice and the principles of Catholic Social Teaching.**
- 4. That the University provide a forum for continuing campus participation and feedback, including the establishment of a student subcommittee to the Worker Participation Committee.**

Throughout the recommended pilot project the committee will continue to gather opinions on possible changes to the existing Freedom of Association Policy in a variety of ways, including, but not limited to:

- A website that brings feedback to the committee;
- Panel discussions that bring together internal and external experts on this topic;
- Encouraging faculty to take this discussion to their classrooms;
- Targeted meetings with groups and departments on campus that have a strong interest in this work, especially with respect to Catholic Social Teaching.

The completion of the pilot program will enable the University to make the following assessments based on the results and the data gathered:

1. Assess the feasibility of allowing Notre Dame licensed products to be manufactured in ways that meet the University's mission and responsibility, even in countries without the legal protection of full freedom of association.
2. Ensure that Notre Dame's current Licensing Code of Conduct is elevated to meet the highest worldwide standards.
3. Evaluate the feasibility of conducting ongoing, on-site assessments of freedom of association and worker participation on a rotating basis in all facilities where Notre Dame licensed products are produced.

At the completion of the pilot program, the committee will develop a plan to engage other university and corporate social responsibility partners in a broader program to improve worker participation in factories throughout the world. The successful execution of this pilot program will give Notre Dame the credibility to attract these other universities in helping workers globally, thereby expanding our effectiveness well beyond the University's direct impact.

REPORT ON ACTIVITIES OF THE WORKER PARTICIPATION COMMITTEE

Introduction

Notre Dame has always been at the forefront of efforts to improve wages and working conditions at foreign factories that manufacture Notre Dame licensed products. In 1997, Notre Dame was the first university to adopt a labor code of conduct for licensees. It was a founding member of the Fair Labor Association and is a member of the Worker Rights Consortium.

In 1999, President Rev. Edward A. Malloy, C.S.C., appointed a Task Force on Anti-Sweatshop Initiatives. It is important to stress here that these initiatives have been informed by Catholic Social Teaching, which was the primary factor behind the task force's recommendations in 2001. *"Catholic Social Teaching,"* the task force noted, *"has long recognized the rights of workers throughout the World to form labor unions and engage in collective bargaining with their employers.... The University, as a Catholic institution of higher learning, is naturally committed to upholding the social teachings of the Church and to the rule of law."* At the time, the task force decided that this policy was the *"most effective and efficient way to give voice to these commitments."*

The task force made three recommendations:

1. Products bearing the name or other trademarks of the University shall be manufactured only by workers who enjoy the legal rights to freely associate, form labor unions, and collectively bargain with their employers concerning wages, hours, working conditions and other terms and conditions of employment.
2. A system of limited public disclosure, which would only require disclosure of factory locations to the University and its designated monitors.
3. The creation of a regional pilot monitoring program.

Based on the task force's work and recommendations in 2001, Notre Dame adopted a Freedom of Association Policy stating that Notre Dame licensed products cannot be manufactured in countries with no legal right for workers to organize and form independent labor unions of their own choosing. The policy addresses the legal right of workers to bargain collectively with management for improved wages, hours, working conditions, health and safety issues and other terms and conditions of their employment. Because the focus is on the laws of countries where factories are located rather than practices at individual factories, the policy lists countries whose national laws do not meet the policy's standards, including China

and 10 other countries (Afghanistan, Equatorial Guinea, Iran, Laos, Oman, Qatar, Saudi Arabia, Somalia, Turkmenistan, and United Arab Emirates).

While it was hoped that other universities would follow suit and adopt similar policies, none did. Currently, it is unclear whether the policy: (1) appropriately captures whether worker participation is respected in factories where Notre Dame licensed products are currently manufactured; and (2) has meaningfully impacted workers' rights in countries in which the University has not allowed manufacturing of licensed products. There is some sense that the policy has not had such an impact and is purely symbolic. In making its recommendations in 2001, the task force itself admitted that *"lobbying by licensees is unlikely to have much of an impact upon the policies of governments as large and powerful as the Chinese government."*

Since 2001, companies, including some of Notre Dame's current licensees, have made positive strides in understanding how codes of conduct and direct engagement at the factory level (rather than attempting to influence national law) can advance workers' rights and corporate social responsibility. In addition, auditing firms have honed their ability to assess working conditions in individual factories. The committee's view is that these advances deserve consideration as we determine whether the practices and conduct of particular factories might viably guide the University's decisions regarding foreign production of licensed products.

Furthermore, while the current Freedom of Association Policy prohibits the manufacture of Notre Dame licensed products in China, the University has expanded relationships in China in recent years in other areas, including the number of Notre Dame undergraduate and graduate students who visit China, the number of Chinese students who come to study at Notre Dame, the opening of a University office in Beijing, investments held by the endowment, and the many non-licensed products that the University purchases from China annually.

The question for the Notre Dame today — and that which the Worker Participation Committee was charged with — is whether the Freedom of Association policy as currently written is the most effective and efficient way to give *both voice and action* to Notre Dame's commitments.

Current Committee

In 2013, Executive Vice President, John Affleck-Graves invited a committee to review the current policy and to determine whether any changes to the policy should be recommended, specifically with regard to production in China. The committee includes:

- John Affleck-Graves, Executive Vice President
- Matthew Blazejewski, Senior Advisor to the Executive Vice President
- Dennis Brown, Assistant Vice President, News & Media Relations
- Douglass Cassel, Notre Dame Presidential Fellow, Professor of Law
- Christine Cervenak, Associate Director for Center for Civil and Human Rights
- Alex Coccia, Student Body President (2013-14)
- Marianne Corr, Vice President and General Counsel
- Brian Coughlin, Associate Vice President, Student Affairs
- Georges Enderle, Professor of International Business Ethics, Fellow in Kellogg Institute
- Tomi Gerhold, Associate Program Director, Licensing
- Dave Harr, Associate Vice President, Auxiliary Operations
- Lionel Jensen, Associate Professor, East Asian Languages and Cultures, Fellow in Kellogg Institute
- Rev. William M. Lies, C.S.C., Vice President for Mission Engagement and Church Affairs
- Michael Low, Program Director, Licensing
- Jonathan Noble, Associate Professional Specialist, Notre Dame International
- Lauren Vidal, Student Body President (2014-15)

Engagement of an Assessment Partner

Within the first few months, the committee acknowledged that the concept of freedom of association does not exist in China and that it is beyond the University's influence to change the laws of China, or any other country, to allow for full freedom of association. Therefore, the committee agreed to target workers' rights at the factory level and focus on ***worker participation defined as a process by which factory management actively involves and/or engages employees/workers in business management and decision making.***

One of the key recommendations of the Father Malloy task force emphasized that ongoing assessments should be conducted at factories where Notre Dame licensees manufacture their products. The committee, however, could find only one specific case of such an assessment being conducted (although Notre Dame remains a member of the Fair Labor Association, which does administer factory assessments independently).

So the committee decided to initiate assessments of several factories in China (1) to better understand the status of worker participation there, (2) to explore whether worker participation could

be influenced by the market and economic leverage of foreign licensors over local factories by insisting on improved working conditions, and (3) to evaluate whether Notre Dame might exert its influence with these foreign licensors to improve and sustain worker participation in specific factories.

The committee concluded that the most prudent course forward would be to start a pilot program in which Notre Dame licensed merchandise would be produced on a trial basis by any factory that appeared to be a potentially viable partner as a result of the assessments.

The committee recognized the need for expert assistance in evaluating factories in other countries. So the committee solicited proposals from four internationally recognized organizations experienced in assessing compliance with labor codes of conduct and the principles of freedom of association and worker participation. (A review of those organizations is available in Attachment 3.)

After careful deliberation, the committee selected Verité to develop the assessment tools and conduct the factory assessments. Verité is a global, independent, non-profit organization providing consulting, training, research, and assessment services worldwide. It is based in Amherst, Massachusetts, with offices in Shanghai. Since its inception in 1995, Verité has partnered with hundreds of multinational brands, suppliers, and international institutions to improve working conditions and social and environmental performances.

A copy of Verité's response to the RFP is attached (Attachment 4).

Selection of Participating Factories

The committee agreed to oversee the factory assessments and develop a framework for evaluating whether to recommend one or more of the factories for a pilot production program. In exploring that, an emphasis was placed upon measures and definitions of success and upon possible outcomes, and it was agreed assessment tools would be developed to help define standards of acceptable levels of worker participation worthy of University support. The committee also agreed that:

- Any outcome resulting in the production of Notre Dame licensed products as part of a pilot program would require a level of ongoing third-party verification in each participating factory.
- Factories that failed to demonstrate worker participation at minimum standards to be set by the committee would not be recommended for a pilot program. They would, however, be invited to develop a corrective action plan, engage in an independent program of capacity building, and potentially request a re-assessment.

- Success of the assessments would not be defined by a recommendation supporting one, or more, factories to engage in pilot production. Rather, success would simply be defined as a fair and well-conducted assessment resulting in a better understanding of the current conditions related to worker participation in Chinese factories.

With the assistance of The Collegiate Licensing Company, existing Notre Dame licensees were invited to nominate factories to participate in the assessment conducted by Verité. The committee selected the following six factories nominated by five licensees:

- Changshu Jieliang Knitting, Jiangsu – licensee, Knights Apparel
- Huai’an Yuan Tong Headwear (ASI), Jiangsu – licensee, Under Armour
- Jung Myung Textile (Shaowu), Fujian – licensee, Knights Apparel
- Ningbo Kingwell Leisure Products, Ningbo – licensee, Logo Chair, Inc.
- Wintax Caps, Shenzhen – licensee, New Era Cap Co., Inc.
- Zhangjiagang Microwood, Jiangsu – licensee, Colosseum

Two factories produce headwear, three produce apparel, and one produces a variety of non-apparel products (e.g. tailgate tents, chairs, and soft sided coolers). Sizes of the factories range from 80 workers to more than 3,000.

Assessment Criteria and Categories

In the spring of 2014, the committee worked with Verité to develop the assessment tools, focusing on worker participation and the ways in which line workers and management experience these rights and protections and whether such experiences are consistent with Catholic Social Teaching. Specifically, the assessment tool targeted three fundamental aspects of worker participation: communication, consultation, and participation in decision making.

The assessment process was designed to begin with a series of online assessments, followed by a factory visit by Verité representatives including interviews with management and line workers. Verité would then evaluate the data gathered from these assessments (both online and on site) and score the factory against 71 criteria. These 71 criteria (Attachment 5) were divided into five assessment categories and the following method was used to determine if the factory met what the committee judged to be a minimum acceptable standard of worker participation for the factory to be considered for a pilot program:

Three of the 71 criteria were categorized as **Zero Tolerance**. If a factory did not meet all three of these criteria, immediate action would be required by the factory to remedy the issue in order to be recommended for a pilot program.

Sixteen of the 71 criteria were categorized as the **Minimum** level of worker participation. If a factory did not meet at least 90% (15 of 16) of these criteria, it would be required to develop a continuous improvement action plan to meet 90% of the criteria within three months to be considered for a pilot program.

Fifteen of the 71 criteria were categorized as **Good** participation. If a factory did not meet at least 90% (14 of 15) of these criteria, it would be required to develop a continuous improvement action plan to meet 90% of the criteria within six months to be considered for a pilot program.

Twenty six of the 71 criteria were categorized as **Better** participation. If a factory did not meet at least 75% (20 of 26) of these criteria, it would be required to develop a continuous improvement action plan to meet 75% of the criteria within six months to be considered for a pilot program. In addition, an explicit goal in the pilot program would be for each participating factory to demonstrate progress toward meeting all of these criteria by the end of the pilot program.

Eleven of the 71 criteria were categorized as the **Best** level of participation representing highly aspirational criteria that would be quite exceptional. A factory was not required by the committee to meet any of these 11 criteria to be considered for the pilot program, but the goal would be for a participating factory to demonstrate progress toward meeting some of these criteria by the end of the pilot program.

Factory Assessments

Verité used the tools discussed above to complete an on-the-ground assessment of the work environment at the six participating factories in May and June 2014. In conducting these assessments, Verité paid particular attention to the following four priorities:

1. The factory respects and honors workers' rights to collective bargaining;
2. The factory refrains from any acts of interference with the formation or operation of union or worker representation bodies;
3. The union or worker representation body is capable of upholding workers' rights and interests effectively;
4. The factory management bargains with the union or worker representatives in good faith.

In accordance with the assessment tool, Verité conducted its assessment at each factory in two parts — the on-line self-assessment instrument and the onsite inspection of the factories, including individual interviews. Great care was taken to ensure anonymity of responses. The onsite inspections were conducted by two or three Verité assessors over a period of two or three days. Assessors toured each factory and their respective campuses, reviewed relevant documents and records, conducted interviews, and reviewed findings with the factory’s management team.

Using the thresholds for each of the five assessment categories, the results of the assessments indicated that two factories met the committee’s minimum acceptable standard of worker participation; two were identified as needing some additional capacity building in order to meet the minimum standards; and the remaining two needed substantially more capacity building to reach those standards.

The committee also conducted its own on-site reviews, with seven committee members visiting four of the six factories in September 2014. Over the course of six days, the committee conducted reviews of the physical plants, the working environment, safety, dormitories, and dining halls, and gained additional insight through personal observation and independent meetings, including interviews in Chinese with workers and management. These factory visits confirmed the results of the Verité assessments.

Campus-wide Discussions

In November and December 2014, committee members met with small groups of faculty and students on campus to share the work of the committee and invite feedback. Eleven meetings were conducted, including with faculty from the Center for Social Concerns, the Law School, the Kellogg Institute, the Kroc Institute, and the Liu Institute. The committee also met with students representing the Student International Business Council, Progressive Student Alliance, and Human Rights ND. In addition, the committee took steps to create a campus-wide conversation and dialogue by hosting the following four events in January 2015:

- January 20, 2015 – Panel Discussion for faculty (although students were also welcome)
- January 21, 2015 – Panel Discussion for students (although faculty were also welcome)
- January 23, 2015 – Higgins Labor Café open discussion
- January 26, 2015 – Campus-wide Open Forum

The two panels consisted of faculty from the committee, faculty from the Center for Social Concerns, a student, and a recent law school graduate now working for the United Nations. The Higgins Labor Café dedicated one of its sessions to discussing the work of the committee. At the Open Forum, all faculty, students, and staff were invited to share with the committee concerns, ideas, and recommendations for engagement with China. The committee also created a website (<http://evp.nd.edu/worker-participation-committee/>) where updates on the work of the committee could be shared. The site also encouraged participation at the four January events.

Recommendations

Following the deliberations of the Worker Participation Committee, the committee respectfully submits the following recommendations, which, if approved, will be the responsibility of the committee to implement and measure for success:

1. Conduct a Pilot Program in China

The committee recommends that the University conduct a pilot program in China to determine whether worker rights have improved to the extent that selected factories meet and can, over time and under review, sustain a standard of performance acceptable to the University of Notre Dame.

As part of the recommended pilot program, the following conditions apply:

- The pilot program at each factory will be for a minimum of 12 months, but the University will have the option of extending it to 24 months at any factory.
- All companies participating in the pilot program and manufacturing Notre Dame licensed products will be required to engage in a re-assessment after 12 months of production to measure if they have improved worker participation to a level in excess of the committee's standards. If the criteria are not met for a factory, the pilot program will be stopped and cancelled at that factory.
- Based on the assessment conducted by Verité and the visit to China by the committee, the two factories with the highest ratings, ASI (Under Armour) and Wintax Caps (New Era Cap Co., Inc.), should be granted permission to start production of Notre Dame licensed products as part of the pilot program.
- The four factories that have been assessed, and do not currently meet the committee's minimum acceptable standards, will be offered an opportunity to engage in capacity

building. These factories can then request a reassessment to determine if the committee's standards have been met. If the factory meets the required standards, then it will also be offered a 12-month pilot program to produce Notre Dame licensed products.

The recommendation to start production of Notre Dame licensed products on a limited basis in China was arrived at after much thought, careful analysis, and input from all committee members. In making this recommendation, it should be noted that one committee member, Doug Cassel, respectfully dissents from the recommendation to allow production of Notre Dame licensed products in China, unless and until China lifts its legal ban on freedom of association.

2. Conduct a Parallel Assessment in a Country and in Factories in which Notre Dame Licensed Products are Currently Produced

During the campus-wide dialogue in January 2015, the committee received feedback from faculty and students that if a pilot program in China were conducted, it would be helpful to broaden the assessment to selected factories in other countries with legally protected freedom of association in which Notre Dame licensed products are currently produced. ***Therefore, the committee recommends that the University engage Verité to conduct an assessment of four to six nominated factories in other countries using the same worker participation assessment tools and process as used with the Chinese factories.***

Extending the assessments to non-Chinese factories will provide valuable benchmarks on how workers' rights compare across countries and help evaluate the impact that the Notre Dame Licensing Code of Conduct might have on factory conditions regardless of the legal states of worker participation.

Since the factories assessed have already been engaged in producing Notre Dame licensed products, the assessment tool and results will not be used to determine whether or not to produce, but the assessment will be used to encourage continuous improvement as needed by each factory. Similar to the pilot program in China, the assessment period for these factories will be a minimum of 12 months with the option to extend it to 24 months. Ensuing assessments will give the committee insights into the progress that each factory makes toward higher levels of conformance with our criteria.

3. Expand the Scope of Human Rights Assessed

In addition to freedom of association, other areas – wages and benefits, working hours, child labor, prison or forced labor, health and safety, environmental impact, and disciplinary practices – related to human rights are essential. The University has always considered these in its choice of licensees and they are an integral part of its existing Licensing Code of Conduct. Faculty and students emphasized that the pilot program must also include analysis of these rights. Hence, ***the committee recommends that during a pilot program in China and the parallel assessments in other countries, the current Notre Dame Licensing Code of Conduct be reviewed to ensure it adequately addresses other human rights concerns.***

In undertaking this recommendation, the committee will partner with Verité to review the Fair Labor Association’s Sustainable Compliance Initiative assessment tool. The committee will also engage with international human rights leaders, religious leaders, and leaders in corporate social responsibility to provide a wide context for the review of the Notre Dame Licensing Code of Conduct.

4. Other Topics

While attendance at the four campus-wide January events was relatively low, it was clear that groups of students, faculty, and staff have strong feelings about the committee’s work and want to be included in any future efforts. Therefore, throughout the pilot project the committee would continue to gather opinions in a variety of ways, including, but not limited to:

- A website with opportunity to submit feedback to the committee
- Panel discussions that bring together internal and external experts on this topic
- Encouraging faculty to bring this discussion to their classrooms
- Targeted meetings with groups and departments on campus that have a strong interest in this work, especially with respect to the role of Catholic Social Teaching.

Throughout the work of the committee, its members have engaged thoughtfully on the relationship of Catholic Social Teaching to the current policy, and how it must influence its recommendations. Two faculty from the Theology Department, Assistant Professor Margaret Pfeil and Associate Professor Todd Whitmore, participated in some of the committee meetings and shared perspectives that have been

valuable in forming the recommendations of the committee. The committee will continue to invite and encourage feedback in this manner.

The committee also received clear feedback from students that they would like a more formalized structure through which to share their concerns and ideas. ***Therefore, the committee recommends the creation of a student subcommittee, functioning in the following manner:***

- ***A subcommittee consisting of student representatives from a variety of student groups, including, but not limited to: Student Government, Student International Business Council, Progressive Student Alliance, and Human Rights ND.***
- ***The student subcommittee will be charged with gathering student input and feedback during the pilot program and making recommendations to the Worker Participation Committee on how best to communicate to students and engage students during the pilot program.***
- ***Two students from the subcommittee will serve on the larger Worker Participation Committee.***

Finally, the committee also recommends the development of a plan to engage other higher education and corporate social responsibility partners in improving worker participation in factories throughout the world. The committee recommends waiting to implement this plan until completion of the pilot program. The successful execution of the pilot program will give Notre Dame the credibility and information necessary to invite other universities to join this initiative, thereby leveraging the impact of the pilot program well beyond the University's direct impact.

Conclusion

The committee recommends the University undertake a pilot program in China and conduct factory assessments in other countries with the goal of strengthening workers' rights in participating factories in a manner consistent with the University's mission and with Catholic Social Teaching. Following the completion of the pilot program, the committee will be able to assess and make a recommendation as to whether the current Freedom of Association Policy should stand unchanged, or if the policy should be changed to reflect a factory-based rather than nation-based approach to allowing Notre Dame licensed products to be manufactured according to the University's mission and

responsibility. In order for any factory to be considered for production of Notre Dame licensed products, the following criteria would have to be clearly demonstrated during the pilot program:

- The factory respects and honors workers' rights to worker participation and collective bargaining
- No corporate interference hinders the formation or operation of union or other worker representative bodies
- The union or worker representative body is capable of upholding workers' rights and interests effectively
- Management bargains with workers in good faith
- Worker feedback and participation are accepted and encouraged by management

The committee further recommends that the pilot program be used to review the University's Licensing Code of Conduct to ensure it adheres to a broader set of human rights issues including the following:

- Workers' health and safety, wages and benefits and other working conditions
- Direct impact on other stakeholders such as customers, suppliers and owners/shareholders

Finally, the committee will also determine whether on-site assessments can be conducted on an ongoing rotating basis in all facilities as recommended by the 2001 report.



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University of Notre Dame Proposal – Freedom of Association Pilot Program in China-Based Factories

November 25, 2013

INTRODUCTION

The University of Notre Dame wishes to conduct a pilot program whereby up to 6 nominated China-based factories that demonstrate ongoing levels of meaningful worker participation, when assessed against criteria consistent with the principles and values of the existing Freedom of Association policy, will be authorized to produce licensed Notre Dame merchandise.

Verité proposes to develop and implement best-in-class assessment criteria, tools, and methodologies to enable the University identify and objectively judge the efficacy of worker participation activities in nominated factories.

OVERVIEW

ABOUT VERITÉ

Verité, headquartered in Amherst, MA, is a global, independent, non-profit organization which provides consulting, training, research, and assessment services with a vision to ensure that people worldwide work under safe, fair, and legal working conditions. Since its inception in 1995, Verité has partnered with hundreds of multinational brands, suppliers, and international institutions across multiple industry sectors to improve working conditions and overall social and environmental performance within global supply chains.

Our work to align business and social impact has earned us recognition in the social entrepreneurship space, including an award as the Social Entrepreneur of the Year in the US for 2011 by the World Economic Forum-affiliated Schwab Foundation. Verité's programs have been conducted in over 60 countries across Asia, Europe, and North and South America and across multiple sectors, including electronics, apparel, footwear, agriculture, food, hard goods, and toys.

Verité gathers information globally about labor practices, and makes this analysis available to brands, suppliers, governments, investors, NGOs, and trade unions. Our focus is on human rights and labor rights in the production of consumer goods and sourcing of raw materials.

Verité® 44 Belchertown Road, Amherst, MA 01002 USA | **Tel:** +011.413.253.9227 | **Email:** verite@verite.org

As an NGO, Verité is recognized for its independence and unique credibility, as well as the practical usefulness of its information to businesses. Information is sourced from workers, NGOs, and trade unions, and then interpreted to help businesses reduce social risk in their supply chains.

RELATED EXPERTISE

Verité has been auditing, training, conducting research, and consulting in China for over 15 years. Our China office maintains a staff of approximately 20 full-time professionals, and contracts with 20 consultants for auditing, training and other services. Since 1997 we have conducted in excess of 2,000 facility level audits or assessments in China.

Typical social compliance auditing may not illuminate all working condition problems and the opportunities for improvement within any given business. Verité pioneered a comprehensive model that integrates workers as key stakeholders to effectively monitor labor conditions. Our programs focus on the root causes of non-compliance and the understanding, skills, and systems needed to resolve them. Verité has an unparalleled reputation for depth and quality of multi-source information on conditions and causes.

Verité's work was featured in [an extensive front-page story in The New York Times](#) on Labor Day this year. The article examines the crucial difference between effective assessments -- like the ones we do at Verité -- and superficial, "check-box" inspections performed at the behest of major brands with their suppliers around the world. The NYT article, written by labor reporter Steven Greenhouse and retail reporter Stephanie Clifford, demonstrates that Verité's approach -- consisting of extensive, off-site worker interviews, deep knowledge of the ways workers become vulnerable, and the commitment to solve the problems that we find -- is ultimately what yields results.

PROJECT EXAMPLES

Relevant, recent and ongoing projects include:

New York City Employees' Retirement System (NYCERS): Since 2004 Verité has conducted annual assessments of labor practices in 24 emerging-market countries, including China, to assist NYCERS with investment decision-making. This research comprises a quantitative ranking and country-level performance report based on international labor standards and the efficacy of efforts on the ground to address problems in specific areas such as working conditions, freedom of association, and collective bargaining.

Empowering Workers and their Advocates: Between January 2006 and April 2008, Verité worked with Timberland and supplier factories in China to develop and implement a worker participation model designed to significantly and sustainably improve the labor rights of workers and factory working conditions consistent with the Timberland Code of Conduct. The project involved capacity building workshop trainings for factory management and workers, the development of bespoke factory level

assessment tools, baseline assessments, the establishment and chartering of joint worker-management working groups, and the development and pilot testing of a participatory factory monitoring model.

Engaging Workers for a Sustainable Workforce: Verité is currently pilot testing a program with Apple suppliers in China to address significant labor relations issues with front-line workers engaged in repetitive assembly line work in large scale, highly-regulated factories. The project involves the development and implementation of assessment criteria, methodologies, and tools to measure worker engagement and its correlation to business outcomes. Specific factory level drivers such as workplace communication, worker feedback, and worker participation mechanisms are identified, analyzed, and prioritized. In this phase of the project, Verité conducted baseline assessments in 3 facilities with an aggregate workforce of 60,000. In the capacity building phase, specific interventions will target identified drivers that have the greatest impact on worker engagement.

Electronics Industry Citizenship Coalition Auditor Training: In 2009, the Electronics Industry Citizenship Coalition (EICC)—a coalition of the world’s leading electronics companies working together to improve efficiency and social, ethical, and environmental responsibility in the global supply chain—asked Verité to develop an auditor training program, and to be the exclusive provider of the accredited training for its members and third party firms auditing member factories. The EICC training and Verité’s trainers have been certified by IRCA (International Register of Certified Auditors), the world’s oldest and largest auditor certification body. The program is ongoing and our China office regularly trains brands, suppliers, and audit firms on social auditing in electronics factories.

International Labor Organization eLearning Course: Verité has been engaged by the ILO to design, develop and test a 7 module eLearning course on freedom of association. The course targets enterprise-level management and workers in manufacturing industries and will be implemented across ILO technical cooperation projects globally. Key rights and responsibilities of employers and workers consistent with ILO standards will be the principal focus of the course, which will also include practical, enterprise-level guidance on respecting international standards in legal environments that restrict rights to freedom of association and collective bargaining.

METHODOLOGY, TIMELINE & BUDGET ESTIMATE

1. DEFINE ASSESSMENT CRITERIA, METHODOLOGY AND TOOLS

Using the University Licensing Code of Conduct and Sourcing Criteria on Worker Participation and Freedom of Association as a starting point, Verité will leverage its deep knowledge of the reality of worker participation in Chinese factories to develop auditable benchmarks to be used during the assessment phase to determine the efficacy of factory level practices. Verité proposes to develop and use a factory self-assessment survey in addition to document reviews and structured management and worker interviews during the factory visits. Separate tools will be created and used for each source. The use of this combination of sources to gather relevant, credible, and verifiable data will provide a

comprehensive understanding of the reality of the situation in participating factories and enable a comparison across factories and over time. Confidential, state-of-the-art worker interviewing is the key element in this process, providing verification of information derived from management, documents, and conditions on the day of the assessment, as well as critical insights into issues often missed by other assessment models.

Verité estimates that this work will take 4 consultant-days and will be completed within 4 weeks of contract execution.

Estimated professional fees for this Phase are \$3,600

2. CONDUCT INITIAL FACTORY ASSESSMENTS

Verité’s China-based staff will visit and assess the participating factories against the criteria, using the methods and tools, developed in Section 1. The composition of the assessment team and number of days required for each factory will be determined by the number of workers. Verité’s China office conducts audits and focused assessments in factories with as few as 100 workers and as many as 30,000. Verité understands the nominated factories employ between 200 and 1,200 workers each. For a focused assessment of this nature, we anticipate a team comprised of 2 auditors onsite for between 1 and 2 days per factory depending on the number of workers.

The University will be provided with a detailed assessment report on worker participation within 14 business days of completion. The report will also recommend capacity building measures participating factories that fail to meet the minimally acceptable standards can undertake in order to address shortcomings. The Verité Project Manager (U.S.-based), Verité Program Director (China-based), and Lead Auditor (China-based) will be available for teleconferences to discuss the factory level reports and/or capacity building recommendations.

The assessments can be completed in 4-5 weeks, provided the factory self-assessment surveys are completed and returned before the on-site visits. Verité estimates that the assessment phase could be completed within 8 weeks of contract execution.

Estimated professional fees (excluding expenses) for this phase are between \$3,000 and \$6,000 per factory depending on the number of workers.

3. CAPACITY BUILDING RECOMMENDATIONS

The University envisages unsuccessful factories being given the opportunity to engage in recommended capacity building measures in order to be permitted to be re-assessed at a future date.

Based on Verité’s experience that unsuccessful factories will have different “gaps” and that one size rarely fits all, our recommendations for capacity building measures will fall into 3 broad categories:

- a. Management-Worker Engagement Training: existing stand-alone modules delivered on a workshop basis on topics such as “Labor Laws and Workers”, “Worker Participation: Mechanisms and Models”, Systems to Build a Positive Workplace: Grievance, Harassment & Discipline”.
- b. Social Responsibility Management Systems Training : a more comprehensive approach for factories who need assistance implementing basic worker communication and other relevant HR processes (such as a grievance procedure) in order to meet minimally acceptable criteria. A program of this nature would involve consulting support around action planning, KPIs, tools, training, and implementation.
- c. Establishment of Factory Level Worker Participation Bodies: for factories who want to foster sustainable social compliance through a worker participation model.

As the development and delivery of capacity building measures is not expressly called for in the RFP, timeline and budgetary estimates are not provided.

4. ONGOING VERIFICATION

Verité recommends that successful factories authorized to produce licensed merchandise be re-assessed annually.

Verité recommends that unsuccessful factories that effectively adopt recommended capacity building measures within 6 months of the Initial Assessment be permitted to undergo a limited Verification Audit to determine if they have achieved the minimally acceptable standards.

Estimated professional fees (excluding expenses) for Verification Audits are between \$1,500 and \$2,500 per factory depending on number of workers and subject to scope.

TIMELINE & BUDGET SUMMARY

Activity	Estimated Fee Schedule ¹	End of Month								
		1	2	3	4	5	6	7	8	9
Define Assessment Criteria, Methodology & Tools	\$3,600									
Conduct Factory Level Assessments	\$3,000 - \$6,000 per factory									
Capacity Building Measures	TBD									
Verification Audits	\$1,500 - \$2,500 per factory									

1. Estimated professional fees exclusive of travel expenses. Airfare and hotel are billed at cost, meals on a per diem basis. Expenses for individual China facility assessments are in the \$750 - \$1,500 range. Scheduling in clusters can result in lower overall expenses.

EXECUTIVE TEAM

Dan Viederman, CEO: Dan Viederman has worked closely with NGOs, governments, investors, and the largest multinational brands in the world. As CEO, Dan guides Verité’s efforts in support of the organization’s vision that all workers work under fair, safe, and legal conditions. He assumes a leadership role in Verité’s research, training, consulting, and policy development with companies,

governments, NGOs, and other labor and human rights stakeholders. In 2001 he developed Verité's programs that provided indicators of labour protections for CalPERS, NYCERS and other investors. For the impact that Verité has had on millions of workers around the world, Viederman was the winner of a 2007 Skoll Foundation Award for Social Entrepreneurship, and was named 2011 Social Entrepreneur of the Year in the United States by the Geneva, Switzerland-based Schwab Foundation for Social Entrepreneurship. Dan has managed NGOs in developing countries since 1993 and worked with internationally-recognized institutions such as the World Wildlife Fund (WWF) and Catholic Relief Services. He has lived extensively in Asia and speaks Chinese. Dan is a graduate of Yale University, the Columbia University School of International and Public Affairs, and Nanjing Teacher's University.

Wenjuan Yao, Regional Director, China: For over a decade, Ms. Yao has designed and overseen the implementation of Verité's sustainable workforce, management systems and other capacity building interventions for apparel, footwear and electronics suppliers in China. Wenjuan's programs focus on building supplier internal capability to engage workers, including training-of-trainer programs and participatory auditing models for the electronics and footwear industries. Ms. Yao led two publicly-funded multi-year, multi-million dollar projects: one of which involved thousands of workers and hundreds of managers at 18 factories in labor rights training; and the other which introduced corporate social responsibility (CSR) to over a thousand college/vocational students and created China's first CSR curriculum and textbook. She directs the Mobile Training Program, which has trained over 200,000 workers and thousands of managers on management systems and worker engagement. She is currently leading the implementation and impact evaluation of \$1.5 million of training programs to empower workers and create a more sustainable workforce. In addition to establishing Verité audit teams across China, Wenjuan has personally audited hundreds of factories in China. Wenjuan is a graduate of the Sun Yat-Sen University, School of Humanities, Guangzhou, China, Northwest University, School of Humanities, Xi'an, China, and the University of Massachusetts, School of Education, Amherst, MA.

Lydia Long, Senior Programs Director: Lydia has managed programs at Verité for 15 years, and currently oversees Verité's Training and Consulting Programs worldwide. She facilitates the development and implementation of programs that help companies build the capacity to manage risk of the most vulnerable workers throughout their supply chains, with a focus on robust worker engagement as a key component in any solution. A sample of the strategic programs Lydia has led includes:

- Verité Systems Approach (VSA) tools and training for such companies and multi-stakeholder initiatives as Walmart, Sedex, EICC, Hershey, McDonald's, Gap, Hewlett Packard, Apple, Inditex/Zara, Starbucks, Home Depot, and numerous others
- Fair Hire – Fair Labor capacity building programs for supplier management of forced labor risk
- Social Responsibility Program Gap Assessments and strategic consultation with brands such as Starbucks, Motorola, Levi, Mars and others
- Lead Auditor Certification Training program for Electronics Industry Citizenship Coalition (EICC)

- Multi-year, multi-million dollar government and foundation grants directed at raising workplace standards and enabling workers as stakeholders in improving conditions

Examples of recent workshops and consultations Lydia has delivered directly include:

- Systems approach to social responsibility risk control workshops for procurement, quality and audit teams in US, UK, Ireland, India and Istanbul
- Supply chain management program development consultation for US-based Disney licensees
- Fair Hire – Fair Labor supplier training to reduce labor trafficking risks in Tirupur, India
- Roundtable on Dhaka Principles of Migration with Dignity in Dhaka, Bangladesh
- Responsible Recruitment/Anti-trafficking Roundtable in Delhi, India

PROJECT TEAM BIOS

Jon Pitoniak, Audit Program Manager: Jon has worked with Verité on corporate social compliance labor and human rights issues for the past nine years. He is mainly involved in assisting corporations in improving working conditions at factories, farms, and other workplaces where CSR program development results in improved working conditions for vulnerable populations of workers. Jon’s projects include the development and delivery of training programs, on-site assessments, risk assessments, and other consulting activities for companies, auditors, and NGOs. The past few years have seen Jon’s work shift to include a focus on issues of forced and bonded labor in a variety of corporate supply chains, with special focus on migrant and child workers. He collaborates closely with a network of assessment teams, and has field audited in the agriculture, construction, electronics, and manufacturing sectors. He has assisted multinational corporations in developing CSR codes of conduct and implementation programs, and conducted research on legal frameworks for migrant workers. Other responsibilities involve helping companies understand and effectively alleviate labor risks at the bottom of their supply chains, supporting audit teams through improvement of assessment tools and information gathering from workers, as well as developing corrective action and remediation plans for companies. Jon has an education background in East Asian Studies and Government; has lived, worked, and studied in China; and has other field experience in East/Southeast Asia, the Middle East, and South America.

Andrew Wang, Supplier Programs Director, Lead Auditor: Andrew has been working for Verité as lead factory auditor, senior trainer and consultant, and senior report writer and editor for more than 13 years, and he has extensive experiences as a research and training program manager. Mr. Wang has in-depth knowledge of Chinese labor law and regulations, international labor conventions and standards, and CSR-related issues. He has broad factory experiences, including auditing, systems assessment, and management and workers’ training. He is familiar with dialogue training, and is a very skillful facilitator

for adult learning and group discussion. He is IRCA certified lead trainer for the EICC-GeSI Labor and Ethics lead auditor training. Before joining Verité, Mr. Wang was a senior social science researcher for 15 years, accumulating extensive knowledge on both social and economic aspects of Chinese society. Andrew has a masters degree in International Politics from Renmin University of China and a masters degree in sociology from University of Massachusetts, USA.

For further information, please contact Dan Viederman at dviederman@verite.org or Declan Croucher, at dcroucher@verite.org

UNIVERSITY OF NOTRE DAME
STANDING COMMITTEE FOR LICENSING LABOR STANDARDS AND HUMAN RIGHTS

EXECUTIVE SUMMARY

Mission

The University's Standing Committee for Licensing Labor Standards and Human Rights is appointed by the Executive Vice President to provide advice concerning policies and procedures to address issues in the production of licensed goods (items sold with the University of Notre Dame's name, logos, marks, or other symbols). The Committee includes students, faculty, and staff and reports its recommendations to the central administration.

Charge

The Committee shall advise the University concerning policies and practices to ensure that licensees and their contracted factories adhere to the University's Licensing Code of Conduct for Labor Standards and Human Rights in the manufacture of licensed goods. The Committee is charged to:

1. Monitor enforcement of the Licensing Code of Conduct and promote the University's commitment to advance corporate responsibility with respect to fair labor practices, human rights, living wages, factory locations disclosures, and sustainability in its licensing operations.
2. Conduct meaningful analysis of whether manufacturers and licensees of the University's licensed products are compliant with the Licensing Code of Conduct and recommend appropriate course of action when licensees or manufacturers are noncompliant.
3. Participate in compliance-monitoring organizations with which the University may be affiliated; assess concerns about licensees raised by these organizations or through other governmental or non-governmental organizations; and recommend appropriate University actions in response.
4. Assess new programs and policies across the licensed product supply chain to ensure the Licensing Code of Conduct is reflective of the ever-evolving global industry. This includes periodic reviews of the Licensing Code of Conduct and defining necessary updates.
5. Determine when an exception to the Licensing Code of Conduct (including the process of evaluating and monitoring factories as described below) may be appropriate. Any future exception shall be made with consideration of the University's commitments in mind.

The Committee will have at its disposal such resources as are reasonably required to meet its goals.

Membership

The Executive Vice President shall appoint a committee that is comprised of faculty, staff members, students, and the Director of Licensing. The Executive Vice President shall appoint a Chair. The Committee shall elect a Vice-Chair. Committee members who are faculty or staff shall serve staggered three-year terms. Students shall serve one-year terms. Members may be appointed to serve a second term. The Executive Vice President shall appoint a designee to the committee to serve in an ex-officio capacity.

Procedures

The Committee shall meet at regularly scheduled intervals during the academic year. The Chair shall be responsible for producing and distributing meeting agendas and minutes and for facilitating meetings. The Chair will meet with the Executive Vice President annually to review the Committee charge. The Committee shall report to the Executive Vice President on its activities at least once a year to include a review of the Licensing Code of Conduct. Simple majority of members shall constitute a quorum. All votes shall require a quorum present.



Licensing Code of Conduct

I. Introduction: The University of Notre Dame du Lac (“Notre Dame”) is committed to conducting its business affairs in a socially responsible manner consistent with its religious and educational mission. Notre Dame expects nothing less of its business partners and licensees. Therefore, Notre Dame will not do business with those who engage in business practices or follow work place standards inconsistent with this Code of Conduct.

II. Application: This Code of Conduct shall apply to all Licensees of Notre Dame. Throughout this Code, the term “Licensee” shall include all persons or entities who have entered a written License Agreement with Notre Dame or its authorized licensing representative, as well as Licensee’s contractors, subcontractors, vendors, manufacturers, sublicensees and any related entities throughout the world which produce or sell products or materials incorporated in products which bear the name, trademarks or images of the University. This Code of Conduct constitutes a guideline for Notre Dame Licensees and is applicable and mandatory with respect to every Licensee of Notre Dame. When differences or conflicts in standards arise, licensees are expected to apply the highest standard.

As a condition of being permitted to produce and/or sell licensed products bearing the name, trademarks and/or images of Notre Dame, each Licensee must comply with this Code of Conduct. If the University of Notre Dame, in its sole discretion, determines that any Licensee has failed to comply with this Code, then the University may either terminate its business relationship and License Agreement with the Licensee or require that the Licensee implement a corrective action plan on terms acceptable to Notre Dame.

III. Work Place Standards and Practices: Specifically, Notre Dame Licensees must operate work places and contract with employers whose work places adhere to the following minimum standards and practices:

A. Legal Compliance: Notre Dame Licensees shall adopt and adhere to rules and conditions of employment that respect workers and at a minimum safeguard their rights under national and international labor and social security laws and regulations. Licensees must comply with all applicable legal requirements in conducting business related to or involving the production or sale of products or materials bearing the name, trademarks or images of Notre Dame. Where terms and conditions of this code differ from local laws the higher standard will apply.

B. Environmental Compliance: Notre Dame is strongly committed to environmentally sustainable practices, and expects our business partners to share our sustainability commitment. Licensees will comply with all applicable environmental laws and regulations and are also encouraged to abide by the three principles on the environment that are set out in the United Nations Global Compact: 1) supporting a precautionary approach to environmental change; 2) undertaking initiatives to promote greater environmental responsibility; and 3) encouraging the development and diffusion of environmentally friendly technologies. To demonstrate alignment with these principles, Licensees are urged to use resources and materials that are sustainable, are capable of being recycled and are used effectively with a minimum of waste. Where practicable, Licensees also are to utilize technologies that do not adversely affect the environment; and, when such impact is unavoidable, to ensure that it is minimized.

C. Ethical Principles: Notre Dame Licensees must be committed in the conduct of their business to a set of ethical standards which are not incompatible with those of Notre Dame. These include but are by no means limited to honesty, integrity, trustworthiness, and respect

for the unique intrinsic value of each human being.

D. Employment Standards: Notre Dame will only do business with Licensees whose workers are in all cases present at work voluntarily, not at risk of physical harm, fairly compensated and not exploited in any way. Licensees shall be committed to providing a safe and healthy workplace setting to prevent accidents and injury to health arising out of, linked with, or occurring in the course of work or as a result of the operation of Licensee's facilities. In addition, the following specific guidelines must be followed:

1. Human Rights: Products and materials bearing the name, trademarks or images of Notre Dame shall not be manufactured or produced in any country where the human rights environment, as determined by Notre Dame, in its sole discretion, would prevent the conduct of business activities in a manner that is consistent with this Code of Conduct.

2. Hiring Practices: While Notre Dame recognizes and respects cultural differences, all employment decisions shall be made solely on the basis of a person's qualifications in terms of education, training, experience, demonstrated skills and/or abilities, as they relate to the inherent requirements of a particular job. Employment decisions shall not be made on the basis of gender, race, religion, age (except with respect to the child labor requirements set forth herein), sexual orientation, nationality, political opinion, social group, ethnic origin, marital status, or union affiliation or sympathy. We insist upon doing business with licensees who share this value.

3. Women's Rights and Respect for Life: Female workers should have the same work opportunities as men, without arbitrary restriction on the types of jobs or special limits on hours of work. The sanctity of human life must be respected in all relations with workers. Therefore, licensees shall not use criteria related to marital or reproductive status as conditions of employment. No worker shall be required to undergo pregnancy testing, practice birth control or terminate a pregnancy as a condition of employment or continued employment at any time or for any reason. Employers shall abide by all protective provisions in national laws and regulations benefitting pregnant workers and new mothers, including provisions concerning maternity leave and other benefits; prohibitions regarding night work, temporary reassignments away from work stations and work environments that may pose a risk to the health of pregnant women and their unborn children or new mothers and their new born children, temporary adjustment of working hours during and after pregnancy, and the provision of breast-feeding breaks and facilities. To prevent unsafe exposure to hazardous chemicals and hazardous substances, appropriate accommodations shall be made for pregnant women and workers under the age of 18, as required by applicable laws or the provisions of this Code of Conduct, in a manner that does not unreasonably disadvantage workers. Where such legal protective provisions are lacking, employers shall take reasonable measures to ensure the safety and health of pregnant women and their unborn children

Workers who take maternity leave will not face dismissal nor threat of dismissal, loss of seniority or deduction of wages, and will be able to return to their former employment at the same rate of pay and benefits, or better

4. Working Hours: Licensees shall not require workers to work more than the

regular and overtime hours allowed by the law of the country where the workers are employed. The regular work week shall not exceed 48 hours. Employers shall allow workers at least 24 consecutive hours of rest in every seven-day period. All overtime work shall be consensual. Employers shall not request overtime on a regular basis and shall compensate all overtime work at a premium rate. Other than in exceptional circumstances, the sum of regular and overtime hours in a week shall not exceed 60 hours.

5. Child Labor: The use of child labor is not permissible and will not be tolerated. Workers can be no less than 15 years of age and not younger than the compulsory age to be in school in the country where the work is to be performed. The workplace shall comply with all applicable laws governing work hours regulating or limiting the nature, frequency, and volume of work performed by workers under the age of 18.

6. Prison or Forced Labor: The use of forced labor, indentured or bonded labor and prison labor is not permissible and will not be tolerated. Labor supplied by prisoners working within the United States pursuant to a lawfully authorized work program sponsored by the United States government or a government of one of the fifty states shall only be permissible if the Licensee obtains Notre Dame's prior written consent.

7. Compensation: Workers are entitled to be compensated for regular work week that is sufficient to meet their basic needs and provide some discretionary income. Licensees must provide wages and benefits which comply with all applicable laws, regulations, or contracts and match or exceed the prevailing local manufacturing industry practices. Where compensation for a regular work week is not sufficient to meet workers' basic needs and provide some discretionary income, each licensee shall work to take appropriate actions that seek to progressively realize a level of compensation that does. Employees shall be compensated for overtime hours at such premium rate as is legally required in the producing country, or as designated by a collective bargaining agreement (whichever is higher). If there is no legally established overtime premium, employees shall be compensated for overtime hours at recognized overtime rates or a collective bargaining agreement, whichever is higher. All wages, including payment for overtime, shall be paid within legally defined time limits. When no time limits are defined by law, compensation shall be paid at least once a month.

8. Health and Safety: Licensees must provide workers with a safe and healthy work environment, and be committed to the prevention of accidents and injury to health arising out of, linked with, or occurring in the course of work or as a result of the operation of the workplace facilities. This includes but is not limited to the presence of safe evacuation plans, the training of evacuation procedures, regular testing of alarm systems, the training of a sufficient number of workers in first aid and firefighting techniques, as well as the provision and use of personal protective equipment. All facilities including workplace buildings, toilets, canteens, kitchens, dormitories, and clinics, shall be kept clean and safe and be in compliance with all applicable laws, including relevant sanitation, medical, and safety and health regulations.

9. Work Rules and Disciplinary Practices: Employers shall have written

disciplinary rules, procedures and practices that embody a system of progressive discipline (e.g. a system of maintaining discipline through the application of escalating disciplinary action moving from verbal warnings to written warnings to suspension and finally to termination). Employers shall ensure managers and supervisors are fully familiar with the workplace disciplinary system and in applying appropriate disciplinary practices. Licensees must not use or tolerate corporal punishment or any other form of psychological or physical coercion.

10. Non-Discrimination: Workers must not be discriminated against on the basis of their race, ethnicity, religious belief or affiliation, age (except with respect to the child labor requirements set forth herein), disability, gender, sexual orientation, nationality, political opinion, social group, ethnic origin, marital status, or union affiliation or sympathy. Employers shall not, on the basis of a person's health status, make any employment decisions that negatively affect the persons employment status, including decisions concerning recruitment, termination, promotion, or assignment of work, unless such decision is dictated by the inherent requirements of the job or a medical necessity to protect the worker and/or other workers. Employers are allowed to require routine medical examination to assess general fitness as a condition for recruitment or continued employment but shall not include testing for any disease or illness, such as HIV/AIDS, that does not have an immediate effect on a person's fitness and is not contagious. Employers shall respect the confidentiality of workers' health status and not undertake any action that could lead to a breach of said confidentiality.

11. Harassment or Abuse: Licensees shall ensure that the workplace is free from any type of violence, harassment or abuse, be it physical, sexual, psychological, verbal, or otherwise. Licensees shall refrain from any action, and shall take all appropriate action to ensure that all workers refrain from any action, that would result in an intimidating, hostile or offensive work environment for workers. Employers shall have a system to discipline supervisors, managers or workers who engage in any physical, sexual, psychological or verbal violence, harassment or abuse, through measures set forth in the work rules and disciplinary practices requirements herein.

12. Legal System: Products and materials bearing the name, trademarks or images of Notre Dame shall not be manufactured or produced in any country where the local legal system would prevent Notre Dame, in its sole discretion, from adequately protecting its name, trademarks, images or other interests or from implementing any provision of this Code of Conduct.

In addition, products bearing the name or other trademarks of the University of Notre Dame shall only be manufactured in countries where all workers enjoy the legal rights to associate freely, form independent labor unions and collectively bargain with their employers concerning wages, hours, working conditions and other terms and conditions of employment. In order to satisfy the minimum requirements of this recommendation, any country where Notre Dame licensed products are manufactured must satisfy one or more of the following: (1) be a signatory to International Labor Organization ("ILO") Convention No. 87; (2) be a signatory to I.L.O. Convention No. 98; or (3) have adopted its own national laws which provide all workers within the country (including but not limited to foreign workers) legal rights to free association and to form and join organizations of their own choosing

(including unions) without anti-union discrimination, prior authorization or interference by public authorities or others. Employer created, mandated or sponsored organizations, such as company unions, do not satisfy this requirement.

13. Political, Economic and Social Environment: Products and materials bearing the name, trademarks or images of Notre Dame shall not be manufactured or produced in any country where the political, social or economic environment would threaten Notre Dame's reputation and/or commercial or other interests.

IV. Documentation and Inspections: It shall be the responsibility of each Notre Dame Licensee to ensure its compliance with this Code of Conduct and to verify that its business partners, subcontractors and others involved in the production or manufacture of products or materials bearing the name, trademarks or images of Notre Dame are in compliance with this Code of Conduct. Each Notre Dame Licensee shall maintain on file such documentation as may be needed to demonstrate its compliance with this Code of Conduct and shall make the documentation available for Notre Dame's inspection upon request.

A. Monitoring Compliance: Each Notre Dame Licensee shall provide the University and its designated representatives with physical access to all facilities where Notre Dame licensed products are made, in whole or in part, whether by the Licensee or by third parties with whom the Licensee or its agents or representatives contract, in order to monitor and verify compliance with this Code of Conduct. Upon request, and on January 1 of each year, every Licensee shall promptly provide the University with the following information concerning each such facility where Notre Dame licensed products are made: (1) the name, address, telephone number and facsimile number of the facility; (2) the name, address, telephone number and facsimile number of the owner(s) of the facility; (3) the name and job title of a contact person at the facility; (4) a detailed description of the type and quantity of all Notre Dame licensed products made, assembled or processed, in whole or in part, at the facility; (5) a summary description of the Licensee's relationship to the owners and/or operators of the facility (e.g., company owned, contractual); and (6) any other information the University deems necessary to effectively monitor and verify compliance with this Code of Conduct.

It shall be the Licensee's responsibility under this agreement to promptly notify the University whenever it creates or ends relationships with new entities or facilities for the manufacturer or assembly, in whole or in part, of Notre Dame licensed products. If the Licensee should fail to do so, and/or the University incurs any expense as a result of the Licensee's or a third party's failure to notify Notre Dame or provide factory access as required herein, then the Licensee shall reimburse the University for all of its expenses.

Notre Dame Licensees must participate in the Fair Labor Association ("FLA") at least at an affiliate category level commensurate with Licensee's total annual revenue, with such affiliate category levels set forth by the FLA. Notre Dame Licensees are required to comply with the FLA's Workplace Code of Conduct. In the event the standards set forth in Notre Dame's Code of Conduct differ from those set forth by the FLA, the higher standards shall apply.