

**Everything Old is New Again:  
Regulating Labor Standards in the U.S. Apparel Industry**

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## **Everything Old is New Again: Regulating Labor Standards in the U.S. Apparel Industry**

While President Franklin D. Roosevelt was in Bedford, Massachusetts campaigning for reelection, a young girl tried to pass him an envelope. But a policeman threw her back into the crowd. Roosevelt told an aide, “Get the note from the girl.” Her note read,

I wish you could do something to help us girls...We have been working in a sewing factory...and up to a few months ago we were getting our minimum pay of \$11 a week...Today the 200 of us girls have been cut down to \$4 and \$5 and \$6 a week.

To a reporter’s question, the President replied, “Something has to be done about the elimination of child labor and long hours and starvation wages.”<sup>1</sup>

The problem of regulating labor conditions in the nation’s workplaces (and specifically the apparel industry) is an old one. But it is even older than suggested by the above incident. In 1893, The Committee on Manufactures of the House of Representatives released a report regarding their investigations of the “sweating system” of production. Among other conclusions, the Committee concluded that 80 percent of production originated in sweatshop production.<sup>2</sup> Several years later, President McKinley appointed a commission made up of members of Congress and private citizens to study the problem. Arising from their study running from 1898-1901, the commission documented extensive abuses including long hours, low pay, and unsanitary conditions.<sup>3</sup>

One of the most disturbing aspects of the regulation of working conditions in the U.S. apparel industry is the persistence of the problem itself. Despite periods when

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<sup>1</sup> Description excerpted from Franklin D. Roosevelt, *Public Papers and Addresses*, Volume V (New York: Random House, 1936), pp. 624-625.

<sup>2</sup> See U.S. Congress, House of Representatives, Committee on Manufactures, “The Sweating System,” *House Reports*, 52<sup>nd</sup> Congress, 2<sup>nd</sup> Session, Vol. 1, no. 2309, 1893, pp. iv-viii.

public and private policies seemed to have brought the problem under control, sweatshop conditions have reemerged again and again over the past century.

This article discusses the problem of regulating labor standards in the U.S. apparel industry today. It does so by first placing the regulatory problem in the larger context of economic forces surrounding the apparel industry. Many of the forces underlying sweatshops are as old as the problem: intense price competition at the contractor and subcontractor level; access to a low wage pool of immigrants; a system of production characterized by low capital intensity and high labor costs and small scale workplaces. Others, however, are more recent in vintage, creating new problems and opportunities for enforcement. With the market forces as a backdrop, I turn to enforcement activity of the U.S. Department of Labor and in particular recent efforts that try to take advantage of certain aspects of current market forces to enhance regulatory effort. The impact of enforcement on compliance behavior is then examined. The paper concludes with a discussion of the implications of these findings to future efforts to regulate labor standards domestically and internationally.

### **The Statutory Framework**

The definition of “sweatshop” has changed over the past century.<sup>4</sup> At the turn of the century, the term applied to the crowding and hygiene problems associated with contract work conducted in tenements. Much of the public concern over sweatshops, in fact, revolved around the transmission of communicable disease from garment workers to

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<sup>3</sup> Reports of the Industrial Commission on Immigration and on Education. Washington, D.C.: Government Printing Office, 1901, vol. XV. A discussion of the history of regulating labor standards in the apparel industry can be found in Abernathy, Dunlop, Hammond, and Weil (1999), Chapters 2, 10, and 15.

consumers.<sup>5</sup> The death of 146 women in a fire at the Triangle Shirtwaist Company on March 25, 1911 refocused public attention on the safety dangers facing workers in apparel shops and led to passage of some of the first factory safety regulations.

Since 1938, however, the definition of sweatshop within the U.S. is primarily based on the labor standards outlined in the Fair Labor Standards Act (FLSA), passed in that year.<sup>6</sup> The FLSA sets minimum wages, overtime compensation for work exceeding 40 hours, and restrictions on child labor. As such, FLSA creates the “floor” by which minimum working conditions—including those in apparel—can be measured.<sup>7</sup>

Enforcement of FLSA is carried out by investigators of the Wage and Hour Division (WHD), located in 400 offices around the country (and in particular in three major apparel manufacturing centers: New York City, Los Angeles, and San Francisco). WHD investigators conduct inspections of workplaces as well as respond to employee complaints. If in the course of workplace inspections, violation, of wage, hour, or child labor provisions are found, employers are liable for back pay to workers equal to the difference between actual earnings and those they were entitled. Employers may also be assessed liquidated damages equal to back pay, as well as assess civil penalties for repeat violations, violation of child labor prohibitions, and other serious infractions (29 U.S.C. 201, et seq., Section 16).

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<sup>4</sup> Defining “sweatshop” is a problem in the public discourse regarding “sweatshop” labor at the international level, a topic that will be returned to in the conclusion.

<sup>5</sup> For example, Commons and Andrews (1936, pp. 204-205) comment “The fact is that [tenement work] has usually proved a menace to health, to wage standards, and to the existing labor laws. Congestion, insanitary [sic] quarters, lack of restriction on child labor, absolutely unregulated hours, and miserable pay combine to create a condition which endangers the lives not only of the workers, but of the purchasers of their product.”

<sup>6</sup> 29 U.S.C. 201, et seq. The 1938 Act was signed on June 25, 1938.

<sup>7</sup> There are broader definitions of sweatshops that also incorporate other workplace regulations. The General Accounting Office (1988) defines a sweatshop as “...a business that regularly violated both (1) safety or health laws and (2) wage or child labor laws.” Similarly, the U.S. Department of Labor

An important feature of the statute is Section 15(a), the so-called “hot cargo” provision of the FLSA. The provision makes it unlawful for any person “...to transport, offer for transportation, ship, deliver, or sell in commerce...any goods in the production of which any employee was employed in violation...” of the Act. This particular provision provided limited utility to regulatory efforts historically. However, in light of recent market changes, it has become an important component of regulatory strategy as will be discussed below.

### **The Market Context**

The labor standards problem in apparel arises now, as it did in the past, from the structure of product and labor markets. In the U.S., men’s clothing--from the 1920s onward—is primarily produced in factory-type settings, with manufacturers designing, cutting, sewing, pressing, and packaging products. In contrast, the women’s segment of the industry has been characterized by a more splintered production system where different enterprises carry out the design, cutting, and sewing and pressing / packaging of apparel products. For example, a “jobber” may sell a design to retailer, and then contract with a manufacturer for delivery of the product. The manufacturer, in turn, may purchase, and cut the product, but then contract out sewing to one or more companies (which may, in turn further contract out sub-assembly). As a result, sweatshops have been far more a problem characterizing the women’s rather than men’s industry.

In general, as one goes to “lower” levels of apparel production (that is from design and cutting, to stitching) the level of competition intensifies and profit margin per

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sometimes characterizes a sweatshop in terms of routine violations of state and federal labor laws covering the workplace (BNA 1999).

garment diminishes. Sewing contractors—themselves often recent immigrants to the U.S.—compete in a market with large numbers of small companies (on average 25-35 workers in the women’s industry), low barriers to entry, and limited opportunities for product differentiation. This creates classic conditions for intense price-based competition. Because labor costs represent the vast majority of total costs for a sewing contractor, the pressure to strike deals with jobbers and manufacturers that are not economically sustainable if the contractor complied with wage and hour laws is high. This is hardly a new problem, but one exacerbated by the increased bargaining power at the retail end of the industry.<sup>8</sup>

Labor market conditions also tend to push wages towards the legal minimum or below. The apparel industry and sewing in particular has always been attractive to immigrants given its low skill barriers (e.g. Slovaks, Germans, and Jews at turn of century; Hispanic, Chinese and Asian workers today).<sup>9</sup> The consequent elastic supply of workers and the relatively low skill level demands for them keep wage levels low and the incentive to work long hours—even in inhospitable work environments—high. The illegal status of many workers, language barriers, and cultural norms further undercut the bargaining power of these workers (See Kwong 1997 for example for a discussion of these issues regarding recent Chinese immigrants).

These longstanding product and labor market forces have been modified, however, in recent years by a new dynamic in the “channel” of relations between retailers-apparel manufacturers-and textile producers. A new model of retailing--“lean retailing”--takes advantage of information technology to use real time information to

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<sup>8</sup> For an analysis of this problem at an earlier era of the women’s industry, see Carpenter (1972).

reduce exposure to fickle consumer tastes. Apparel suppliers, in turn, must operate with far greater levels of responsiveness and accept a great deal more risk than in the past (Abernathy, Dunlop, Hammond, and Weil 1999). The lean retailing revolution has also increased retail bargaining power relative to the apparel suppliers, and has made such factors as speed of delivery, accuracy of orders, competence in logistics, and sophistication in forecasting and planning essential for apparel company survival. Lean retailing also makes disruptions to the weekly replenishment of retail orders by apparel suppliers a major problem—one that can lead to penalties, cancellation of orders, and even loss of retail customers for those suppliers.

### **Enforcement Activity**

Regulatory systems like the one created by FLSA seek to change employer behavior by providing incentives to comply with promulgated labor standards. This can be done by changing the costs and benefits as perceived by the employer of complying or not complying with standards (Weil 1997).

Table 1 presents figures on regulatory activity of the Department of Labor in the apparel industry since 1996. The Wage and Hour division undertook a total of 2,467 investigations in the garment industry between the final three quarters of 1996 and the first quarter of 1999, or an average of 206 investigations per quarter. Although this represented an increase in enforcement effort, the annual probability that a given contract shop will receive an inspection is below 10%.<sup>10</sup>

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<sup>9</sup> Professor John R. Commons wrote about this issue in Part III of the Industrial Commission report (1901) cited above entitled “Immigration and Its Economic Effects.”

<sup>10</sup> This is based on the following calculation: There were roughly 10,000 establishments in the segments of the apparel industry that are the focus of WHD regulation (primarily the women’s and to some extent the

Penalty policy is the other aspect of enforcement that affects contractor compliance with labor standards. As mentioned above, the FLSA provides for two types of penalties: payment of back wages to compensate workers for foregone earnings due to violations and civil penalties. Based on the figures reported in Table 1, investigations yielded an average recovery of lost wages of \$368 per effected worker.<sup>11</sup> This is a significant amount of earnings for workers in the industry: With average hourly earnings in the women's industry for 1998 of \$8.18, this recovery represents about 45 hours of work, or a little over one week's pay.<sup>12</sup>

Back wage recovery also provides a measure of the "benefits" of noncompliance for contractors. On the basis of information in Table 1, the average contractor paid about \$6,600 in back wages. WHD investigators currently focus their attention on a 90 day period prior to the investigation, implying that the amount of back wages is roughly equal to not paying 1.5 workers their wages during the 90 day period. Given that average contract shops have between 25 and 30 workers, this implies that the benefits to contractors of skirting the law are significant.<sup>13</sup>

The average civil penalties—that is the fine assessed on top of back wages-- equaled \$126,478 per quarter, or about \$1,298 per contractor. Taking the low probability of inspection, the expected civil penalty, and the "benefits" of noncompliance suggested by the above analysis, the deterrence effect presented by WHD is modest. In fact, a

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children's industry). Given that there were an average of about 800 investigations conducted annually by WHD investigators, the annual probability of inspection is about .08. Focusing on one particular city yields similar estimates: there were a total of 260 investigations in New York City in 1998. Given that there are about 2600 apparel establishments, the probability of inspection in that year was .10.

<sup>11</sup> This is based on the average back wages recovered for workers in investigations per quarter (\$642,000) divided by the average number of workers recovering wages per quarter (1,744).

<sup>12</sup> Average hourly earnings for Women's, misses and juniors outerwear, SIC 233 for 1998 reported in Bureau of Labor Statistics, *Employment and Earnings*, March 1999.

rational contractor should choose noncompliance if they are balancing its benefits (i.e. not paying wages equivalent to what is required by FLSA) against the costs of noncompliance (which are the probability of being caught in violation multiplied by the having to pay back wages plus civil penalties).<sup>14</sup> This simple calculus, played out in the context of extremely competitive product market conditions for sewing contractors explains the economics underlying the intransigence of the sweatshop problem.

This calculus, however, misses other changes in the enforcement strategy pursued by the Wage and Hour Division in concert with the shifts in the market described above. These changes may have substantially increased the potential effect that the WHD enforcement effort can have on compliance both by raising the threat effect posed regulators and the costs of noncompliance.

*FLSA Enforcement Strategy:* Enforcement of labor standards in low wage industries has been a priority of the Department of Labor since early in the Clinton administration, particularly when Robert Reich served as the Secretary of Labor (U.S. Department of Labor 1998b).<sup>15</sup> These efforts included convening a number of high profile events directed at bringing together “stakeholders” in the apparel industry together to discuss, debate, and devise approaches towards the problem and bringing national

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<sup>13</sup> This calculation assumes average straight time wages for women’s outerwear in 1998 (\$8.18) plus 15 percent; 40 hours of straight time work for 12 weeks.

<sup>14</sup> This can be demonstrated using a simple, one-period compliance model. If the cost of compliance is “C”, the probability of being caught “p” and expected penalties “f”, then the cost of not complying is  $p*(C+f)$  and the benefits of not complying are  $(1-p)*0$ . A risk neutral contractor should be indifferent between complying and not complying where  $C=p*(C+f) + (1-p)*0$ . Solving for the cost of complying at this point of indifference yields  $C=[p/(1-p)]*f$ . Given that  $p=.1$  and the average civil penalties of \$1298, the indifference point between complying and not complying is \$144. If the cost of complying with FLSA are above that level, the contractor should not comply in the period; if they are less, they should comply. Since the average amount of back wages owed in the period was \$6,592, the rational, risk neutral contractor should choose non-compliance on a period by period basis.

<sup>15</sup> There were also efforts directed specifically at the problem of child labor in the U.S. apparel industry during the Bush administration (GAO 1989, 1990).

attention to incidents like the 1995 discovery of a major sweatshop in El Monte, California that provided goods for well known apparel and retail companies.<sup>16</sup>

A second prong of DOL strategy toward sweatshop regulation began in 1992, originating in discussions among senior staff. The “No Sweat” strategy incorporates a variety of operational level policies in order improve WHD enforcement effectiveness, from inspection targeting through the creation of new means to improve contractor compliance.<sup>17</sup>

Investigative procedures have been refined considerably since the mid-1990s, beginning with more careful selection of inspection targets and careful preparation for enforcement efforts in advance of the actual inspection. In this spirit, the new enforcement strategy relies almost entirely on surprise inspections in contrast to the practice prior to 1992 when contractors were contacted by the WHD in advance.

In addition to increasing the number of investigators assigned to the apparel industry, WHD increased the number of investigators able to communicate with workers at contract shops who are primarily Hispanic, Chinese, and other Asian immigrants. For example, in NYC, the size and composition of WHD investigators changed from have 1 Chinese and 2 Spanish speaking investigators of the staff of 13 devoted to apparel in 1992, to 7 Chinese and 6 Spanish speaking among the staff of 18 in 1999.

The conduct of investigations has also been changed to improve effectiveness. Two investigator typically conduct an inspection, with one investigator focusing on review of employer payroll as well as production and business records, and the other

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<sup>16</sup> These efforts are discussed at length in Ziff and Trattner (1999).

<sup>17</sup> I am grateful to Rae E. Glass of the U.S. Department of Labor in Washington, D.C. and Louis Vanegas, Assistant District Director of the Wage and Hour Division in New York City for discussions regarding these operational changes.

investigator conducting interviews with contract shop workers. In addition, investigators focus only on the prior 90 days of business operations (rather than the prior 2 years under previous protocols) to improve the turnaround of enforcement efforts—and recognizing the high level of turnover among contract shops (U.S. Department of Labor 1998; 1999b). Although the amount of back wage recovery is reduced because of this shorter time horizon, the penalties of noncompliance are increased by the use of criminal sanctions, including the October 1999 arrest of two contractors accused of making false statements to FLSA investigators (U.S. Department of Justice, 1999).

Most importantly, however, the “No Sweat” strategy shifts the focus of enforcement in response to the realities of the apparel market itself. Rather than attempting to regulate labor standards one contractor at a time, the “No Sweat” strategy emphasizes enforcement at the channel level. This involves using the long ignored “hot cargo” provision of the FLSA (described above). The opportunity to embargo goods afforded by Section 15(a) had limited impact in the traditional retail-apparel relationships where long delays in shipments and large retail inventories were an expected part of business. Invocation of the hot goods provision today, however, raises the potential costs to retailers and their manufacturers of lost shipments and lost contracts. Interrupting the flow of goods creates channel-level penalties arising from FLSA violations that quickly exceed those arising from lost back wages and civil penalties. As described in a Labor Department publication for manufacturers and retailers:

The Department of Labor will not lift its objections to goods being shipped or sold until the contractor’s employees have received the back wages owed them *and suitable assurances of future compliance are received*. Thus, it’s in your best interest to ensure that your contractors comply with the FLSA. (U.S. Department of Labor 1998).

Thus, the focus of DOL efforts is not simply securing back wages for workers from the previous 90-day period. Instead, the policy uses violations as a lever to persuade manufacturers and potentially retailers to agree to “Compliance Monitoring Agreements” with their contractors. These agreements provide for an array of different monitoring activities undertaken by the manufacturer (or parties hired by the manufacturer) on its contractors. These include, at minimum, assurances that the contractor will comply with the stated policies of FLSA. More importantly, the agreements provide for a more advanced set of monitoring arrangements and work practice agreements including use of electronic time clocks; agreement not to subcontract work without prior approval of the manufacturer. They may also stipulate the right of monitors to review of contractors’ payroll records and timecards; interview employees; advise contractors of compliance problems, and make unannounced visits (U.S. DOL, 1996; 1998; 1999a).

The Garment Enforcement report suggests growth in the number of voluntary agreements: In NYC in 1997, only 10 percent of contractor shops surveyed had entered into monitoring agreements; by 1999, 51 percent of the surveyed contractors had such agreements. Similar increases in these arrangements have also been documented in San Francisco and Los Angeles (U.S. DOL, Wage and Hour Division 1999a). The impact of this channel based enforcement strategy is also demonstrated by the growing number of companies entering into the independent monitoring field—most of them for-profit enterprises like accounting firms.

## Compliance Picture

How successful have the traditional and new tools of enforcement been in changing contractor behavior? Compliance patterns in the three major apparel markets, presented in Table 2, portray the difficulty of changing contractor behavior in the industry. Table 2 presents the results of randomized surveys conducted by WHD during the period 1994-1999, in terms of overall compliance (all provisions of FLSA) and compliance specifically with minimum wage and overtime provisions.<sup>18</sup> The most recent surveys revealed low levels of compliance in the New York (35% of surveyed contractor in compliance in 1999) and Los Angeles markets (39% in compliance in 1998). The surveys also reveal the difficulty in improving overall compliance over time. Overall compliance with FLSA *fell* between 1997 and 1999 in New York City and San Francisco, and remained unchanged in Los Angeles between 1996 and 1998. Table 2 also shows that contractors in all three markets were more likely to be in compliance with minimum wage than overtime provisions of FLSA. As in the case of overall compliance, compliance levels with these provisions decreased somewhat over the two more recent time periods studied. In all three cities, child labor was rarely found in any of the survey periods.

Table 3, also based on the randomized surveys conducted by the WHD, examines the impact of monitoring arrangements that have been recently promoted on compliance behavior. Monitoring agreements between manufacturers and contractors (or involving

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<sup>18</sup> The WHD conducts compliance surveys in the three markets on a randomized basis in order to accurately assess current compliance levels. This provides a more accurate picture of compliance than the number of investigations with violations (final column of Table 1) since investigations are targeted towards potential non-compliers. The results in Tables 2 and 3 are based on these randomized compliance surveys. See U.S. Department of Labor, Wage and Hour Division (1999). The compliance surveys are carried out during different time periods in the different WHD offices.

retailers, manufacturers and contractors) show some promise. Table 3 compares compliance levels for each market among contractors with no monitoring arrangements, compared to those with “low” or “high” monitoring arrangements.<sup>19</sup> The presence of at least one of a range of monitoring activities between contractors and manufacturers or retailers—including review of payroll records, time cards, employee interviews, advisory discussions, and unannounced inspections—seem to raise compliance levels relative to those contractors that do not have such agreements. The presence of a number of these factors together further increases compliance.<sup>20</sup>

The New York City compliance numbers also allow one to compare the effect of WHD inspections to relative to monitoring arrangements: Contractors previously inspected by WHD are still more likely to be in compliance at the time of the survey than those with even “high” levels of monitoring in place. It is also interesting to note that the subset of contractors that have agreed to unannounced inspections by monitors working for manufacturers or retailers have almost as high overall levels of compliance (48%) as those that have been previously inspected by the government. Surprise monitoring itself may be a key ingredient to a system of either private or public enforcement.

*Conclusion:* Despite innovations at WHD, compliance with labor standards in the apparel industry is no where near 100%. Part of this difficulty must be attributed to the relentless role of the market on contractor decision-making, and the fact that the simple economics of noncompliance still dominate the behavior of very small, transient, and

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<sup>19</sup> See the footnotes to Table 3 for a definition of “low” and “high” monitoring arrangements.

<sup>20</sup> Future analysis will attempt to assess the relative effect of different elements of monitoring on expected compliance, as well as deal with the issue of causality in interpreting these numbers (e.g. examining whether contractors with higher *a priori* levels of compliance are more willing to agree to monitoring agreements in the first place).

mobile garment shops. At the very bottom of this manufacturing system, the pressure on contractors to cut costs remain enormous, and the incentive to subvert law great.

This problem is further exacerbated by the ongoing interaction between the regulatee and the regulator (Dunlop 1976). In the apparel industry, this dynamic results in an ongoing “cat and mouse” game between WHD investigators and contractors. For example, in the early 1990s, the vast majority of contractors in New York City kept hours of work via written records. This made the records review by WHD investigators difficult and time-consuming and falsification of records easy. As a result, WHD put pressure on contractors to adopt time clocks as part of their ongoing compliance activities. By the late 1990s, the vast majority of contractors used time clocks. However, a market for “pre-punched” time cards was discovered in 1998, allowing contractors to buy packages of employee time card records that meet FLSA standards. This allows the common practice of contractors keeping two (or even three) sets of time cards to track hours.

Nonetheless, the “channel” focus of WHD efforts, and the use of the hot cargo provisions of FLSA to persuade manufacturers and retailers to enter into more comprehensive monitoring arrangements shows promise. The continuing opportunities and challenges of regulating labor standards in the apparel industry are discussed in the concluding section.

## **Conclusion**

In 1938—only several years after the incident that began this article—*Life Magazine* ran a cover story profiling the International Ladies Garment Workers Union

and its activities in New York City. The story noted “Still numerous in 1933, the sweatshop is virtually gone today.”<sup>21</sup> Despite such optimism, the problem of sweatshops in the domestic apparel industry has resurfaced again and again.

*Domestic regulatory options:* The use of FLSA’s hot cargo provision in an increasingly time sensitive industry remains the most potent tool available to domestic regulators. The growth of for-profit monitoring services among major accounting, consulting, and other for-profit enterprises suggest that manufacturers and retailers value the service provided by monitors if they can help avoid supply chain disruptions. An open question concerns which elements of independent monitoring prove most effective in increasing compliance with the law (the data presented above suggest that surprise monitoring is an important element).<sup>22</sup>

Effective private monitoring arrangements ultimately beg the question as to the economic sustainability of contracts made between small contractors and their jobber or manufacturing customers under conditions of compliance. The Department of Labor, recognizing the importance of retailers in the competitive dynamics of this channel, are seeking to bring them in more centrally to monitoring agreements.<sup>23</sup>

Other tools that may become important to improving labor standards enforcement are the same information technologies that underlay lean retailing and supply chain restructuring—bar codes, scanning, and electronic data transfer to capture the origin and

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<sup>21</sup> See “A Great and Good Union Points the Way for America’s Labor Movement.” *Life Magazine*, August 1, 1938.

<sup>22</sup> The factors that lead to substantially higher rates of compliance in San Francisco relative to New York City and LA also bear further scrutiny. From a policy point of view, it is important to understand the relative effect of market forces which cannot be affected by government policies versus regulatory and / or institutional factors driving compliance differences.

<sup>23</sup> Sabel, O’Rourke, and Fung (1999) provide an interesting proposal regarding the use of competition among monitors as a regulatory device at the international level. Given the market driven demand for

destination of products found in non-compliant contracting operations. Public and private monitors of small shops also need tools to better assess the ability of contractors to meet their agreed upon contracts without violating the law. Finally, the use of third parties in seeking solutions on a product and labor market basis that raise both competitive and labor standards within key supply areas (NYC, SF, LA) also need to be pursued. There have been some attempts in this arena by groups like Garment 2000 in San Francisco and the Garment Industry Development Corporation in NYC. For example, these efforts might integrate programs that attempt to improve the ability for manufacturers and contractors to undertake short cycle manufacturing for retail customers—a continuing opportunity for domestic manufacturers operating in a lean retailing environment--while also addressing the human resource practices of the firms involved in such efforts.<sup>24</sup>

The prospects for improving labor standards at the domestic level, however, must be balanced against the countervailing market force to move production out of the U.S. to proximate, but lower cost sources of assembly. The enormous growth of Mexico and the CBI as sources for apparel sewing operations with low labor costs remain a viable response for suppliers to lean retailers. This will continue to place boundaries around the

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monitoring described above, their proposal might be more pertinent for the domestic rather than international arena.

<sup>24</sup> The ability to gain control of the sweatshop problem in New York City in the 1930s mentioned in Life Magazine, was in large part a result of the control exercised by the ILGWU in the New York garment industry. In particular, the wide-scale organization of manufacturers and jobbers in the late 1930s provided the union an instrument to ensure that their contractors abided by the same wage and hour provisions of their contractors, and provided a system of significant monetary penalties as well as loss of business from violation of wage and hour agreements. Over time, increased import penetration and the growth of a nonunion sector competing against union contractors with higher labor costs associated with the ILGWU's successful negotiation of health and welfare and pension funds for represented workers undercut this regulatory system. See Abernathy, Dunlop, Hammond and Weil (1999), Chapters 2 and 10 for a more detailed discussion.

domain of a domestic apparel industry—even one in substantial compliance with regulations.

*International regulation of sweatshops:* The issue of labor standards at the international level has become a major issue on college and university campuses, in the labor movement, and the popular press (Appelbaum and Dreier 1999). The difficulties attendant in domestic regulation underscore the range of problems inherent in the international regulation of sweatshop conditions. One is the problem of defining the appropriate labor standards. In the U.S., the terms are fairly clear: Compliance with wage and hour standards of the Fair Labor Standards Act as well as adherence to other applicable workplace standards such as the Occupational Safety and Health Act. But what about the international level? Despite efforts to codify such standards like the ILO Declaration of Fundamental Standards released in 1998, agreement on what standards should apply to countries at different levels of development remain illusive (Baku 1999; Lee 1997; Freeman 1994, 1998; Varley 1998).

Even if one deals with the standards issue, the problem of regulatory enforcement quickly rears its head. The problem of regulatory vehicles is one: in particular, which country's vehicle or international mechanism and by what means? Retailers are as worried about disruptions to supply interruptions at the international level as they are domestically, but there is no "hot cargo" provision comparable to that under FLSA available at the cross-national level. The growth of international monitors may be a function of both the student, labor, and social activism around the sweatshop issue, as well as concerns for possible disruption among "lean retailers" and their suppliers.

However, it does not assure a regulatory system (or systems) that can effectively translate these market forces towards compliance ends.<sup>25</sup>

In short, the difficulty in improving domestic compliance with clearly defined labor standards—even with the use of fairly sophisticated tools of enforcement—poses a sobering lesson for those contemplating international labor standards regulation. In particular, despite prolonged efforts to battle sweatshops domestically, the U.S. experience reveals the difficulty of changing behavior of contractors continually pushed by market forces to cut corners.

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<sup>25</sup> Two recent public reports—one from an independent monitoring group, Coverco, of Liz Claiborne operations in Guatemala, the other by an independent monitor of Reebok in Indonesia—provide a glimpse of the complexities of monitoring arrangements at the international level (see Coverco 1999; Insan Hitawasana Sejahtera 1999).

**Table 1**  
**Enforcement of FLSA in the U.S. Apparel Industry:**  
**1996-1999 (Quarterly)**

Quarter	Number of Investigations	Investigations w/ violations	Back wages recovered <sup>a</sup>	# of employees receiving back wages	Civil Fines Imposed <sup>b</sup>	Percent investigations w/ violations
1996-Q2	223	131	\$ 699,323	2,486		58.7%
1996-Q3	194	118	\$ 786,264	2,208	\$ 108,485	60.8%
1996-Q4	293	123	\$ 827,466	2,200	\$ 196,419	42.0%
1997-Q1	212	102	\$ 486,716	1,367	\$ 52,133	48.1%
1997-Q2	268	107	\$ 1,208,688	2,443	\$ 260,423	39.9%
1997-Q3	212	99	\$ 611,328	1,850	\$ 112,385	46.7%
1997-Q4	221	80	\$ 330,595	1,233	\$ 49,550	36.2%
1998-Q1	201	99	\$ 655,653	1,518	\$ 108,265	49.3%
1998-Q2	232	126	\$ 704,385	2,028	\$ 103,205	54.3%
1998-Q3	154	98	\$ 606,722	1,761	\$ 192,095	63.6%
1998-Q4	175	55	\$ 636,191	1,290	\$ 135,395	31.4%
1999-Q1	82	31	\$ 153,199	548	\$ 72,900	37.8%
<b>Total</b>	<b>2,467</b>	<b>1,169</b>	<b>\$7,706,530</b>	<b>20,932</b>	<b>\$ 1,391,255</b>	<b>--</b>
<b>Average (per Quarter)</b>	<b>205.6</b>	<b>97.4</b>	<b>\$ 642,211</b>	<b>1,744</b>	<b>\$ 126,478</b>	<b>47.4%</b>
<b>S.D.</b>	<b>53.8</b>	<b>29.6</b>	<b>\$ 260,409</b>	<b>575.7</b>	<b>\$ 65,521</b>	<b>10.4%</b>

<sup>a</sup> Back wage settlements with workers during quarter include payment for minimum wage and overtime wage violations documented by the Wage and Hour division in the course of investigations.

<sup>b</sup> Civil penalties represent fines to employers above and beyond back wage settlements.

*Source:* Based on data reported in U.S. Department of Labor, Wage and Hour Division, Garment Enforcement Reports (issued quarterly).

**Table 2**  
**Compliance with FLSA Labor Standards in 3 U.S. Cities:**  
**Selected Years<sup>a</sup>**

	<i>New York City</i>		
		<b>1997</b>	<b>1999</b>
<i>Overall</i>		37%	35%
<i>Minimum wage</i>		80%	69%
<i>Overtime provisions</i>		46%	39%
	<i>Los Angeles</i>		
	<b>1994</b>	<b>1996</b>	<b>1998</b>
<i>Overall</i>	22%	39%	39%
<i>Minimum wage</i>	39%	57%	52%
<i>Overtime provisions</i>	22%	45%	46%
	<i>San Francisco</i>		
	<b>1995</b>	<b>1997</b>	<b>1999</b>
<i>Overall</i>	57%	79%	74%
<i>Minimum wage</i>	84%	100%	92%
<i>Overtime provisions</i>	57%	79%	75%

<sup>a</sup> Compliance defined as percent of establishments in compliance with all provisions of Fair Labor Standards Act (“Overall”) or specific provisions of FLSA (Minimum wage; Overtime provisions).

*Source:* Based on data reported in U.S. Department of Labor, Wage and Hour Division, Garment Compliance Surveys for New York City, Los Angeles, and San Francisco.

**Table 3**  
**Impact of Monitoring and Enforcement Activities on**  
**Compliance with FLSA Labor Standards:**  
**3 U.S. Cities, 1998 / 1999**

<i>New York City, 1999</i>					
Compliance <sup>a</sup>	All	Non-monitored	Monitor-Low <sup>b</sup>	Monitor-High <sup>c</sup>	Previous WHD Inspection <sup>e</sup>
<i>Overall</i>	35%	33%	38%	46%	52%
<i>Minimum wage</i>	69%	63%	74%	79%	90%
<i>Overtime</i>	39%	39%	38%	46%	52%
<i>Los Angeles, 1998</i>					
Compliance <sup>a</sup>	All	Non-monitored	Monitor-Low <sup>b</sup>	Monitor-High <sup>d</sup>	Previous WHD Inspection <sup>e</sup>
<i>Overall</i>	39%	20%	40%	56%	NA
<i>Minimum wage</i>	52%	33%	56%	72%	NA
<i>Overtime</i>	46%	40%	48%	56%	NA
<i>San Francisco, 1999</i>					
Compliance <sup>a</sup>	All	Non-monitored	Monitor-Low <sup>b</sup>	Monitor-High <sup>d</sup>	Previous WHD Inspection <sup>e</sup>
<i>Overall</i>	74%	57%	76%	90%	NA
<i>Minimum wage</i>	92%	71%	94%	95%	NA
<i>Overtime</i>	75%	57%	78%	95%	NA

<sup>a</sup> Compliance defined as percent of establishments in compliance with all provisions of Fair Labor Standards Act (“Overall”) or specific provisions of FLSA (Minimum wage; Overtime provisions).

<sup>b</sup> Monitor-Low for establishments is defined as: Contractor shops have at least one of the following seven monitoring components in their agreements: review of payroll records; review of timecards; interviews of employees; providing compliance information; advising compliance problems; recommending corrective action; making unannounced visits.

<sup>c</sup> Monitor-High for NYC establishments is defined as contractor shops in which four or more of the seven monitoring components occurred.

<sup>d</sup> Monitor-Low for LA and San Francisco establishments is defined as contractor shops in which six or seven of the monitoring components occurred.

<sup>e</sup> New York City provides information on compliance among contractor shops that had been previously investigated by the Wage and Hour division.

*Source:* Based on data reported in U.S. Department of Labor, Wage and Hour Division, Garment Compliance Surveys for New York City, Los Angeles, and San Francisco.

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