The Business Social Compliance Initiative (BSCI)
A Critical Perspective

Clean Clothes Campaign
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Introduction:

On 30 November 2004 the Business Social Compliance Initiative (BSCI) was officially launched. Under the aegis of some of Europe's largest retailers, this initiative sets out to audit and monitor the social performance of their suppliers world-wide by utilising one common system. It is intended as a sector-solution for retail, but it is also open to any and all European and non-European companies or associations. Since the BSCI aims to become a major monitoring initiative, which has already attracted several of Europe's largest retailers, there is a great need for more background information. This document is a first attempt at supplying this essential information.

This document is structured as follows:

- Part 1 provides a descriptive sketch about who is behind this initiative and how it is organised.

- Part 2 looks at how the implementation, monitoring, and verification of the BSCI code takes place.

- Part 3 stipulates several critical issues concerning the credibility of the BSCI from a Clean Clothes Campaign perspective. This requires an assessment on how BSCI is organised and what methods are used by the BSCI to live up to their claims. Since the BSCI has promoted itself with commendable energy, there is an urgent need for anti-sweatshop groups to come up with a plan on how to respond to this initiative.

1. Background: What is the Business Social Compliance Initiative?

The BSCI is presented as a new, efficient platform for the European retail industry to implement ethical procurement and improve social standards in supplier countries on a voluntary basis.

On its website, the BSCI claims to be beneficial for all of its participants through:

- More efficient implementation procedures than other monitoring systems
- Saves cost and time through prevention of multiple auditing
- Optimises working conditions
- Higher satisfaction for workers and consumers
- Same requirements for all suppliers involved through their customers
- Offers a common approach of European commerce
- provides standardized Management Tools for all countries

In Part 3 we will take issue with many of these claims; first, however, we will look who actually drives this initiative.

Who is behind the BSCI?

The Business Social Compliance Initiative (BSCI) was officially launched on 30 November 2004. It represents a co-ordinated effort by the European retail industry to implement a harmonised code of conduct and improve working conditions in supplier countries on a voluntary basis. It has already attracted over 30 European retailers. The driving force behind the BSCI is the Brussels-based Foreign Trade Association (FTA), which is the association for European commerce lobbying particularly on foreign trade issues.[1] On their behalf, the FTA has always lobbied strongly 'against any form of new protectionism, particularly if initiated by European textile manufacturers'.[2] The FTA also lobbied aggressively against the creation of binding rules on corporate social responsibility (CSR). The trade association is particularly concerned about the possible linkage between trade agreements and sustainable development, and that this will result in new barriers to trade liberalisation. The FTA position on the European Commission Green paper promoting a European Framework for CSR states that the 'broad spectrum of social issues connected with business can not be controlled by legislation… Each company must be able to choose and define its own approach to corporate responsibility'.[3]

In an attempt to take the wind out of the Commission's sails, the FTA launched its efforts to 'establish a common platform for the various different European codes of conduct and monitoring systems and to lay the groundwork for a common European monitoring system for social compliance'.[4] At the same time, FTA members were approached in various countries, particularly in Germany and the Netherlands, with ideas about multi-stakeholder initiatives. In addition, some of its members had been highlighted in anti-sweatshop campaigns. This further increased pressure on the FTA to launch its own initiative. By thus creating its own platform for code compliance, the BSCI could simultaneously resist pressure from above by the EU, and pressure from below by civil society groups.

German retailers play an important role in the BSCI. They are organised through the Foreign Trade Association of the German Retail Trade (AuBenhandelsvereinigung des Deutschen Einzelhandel, in short, AVE). The BSCI largely copied the AVE Sector Model Social Responsibility, a CSR initiative that is supported by retail companies like Karstadt Quelle, Otto, Metro, Deichmann and Peek & Cloppenburg. In a Public-Private-Partnership Project set up by the Society for Technical Co-operation (GTZ) and supported and co-financed by the German Ministry of Economic Co-operation and Development (BMZ) the functioning of the AVE Sector Model will be evaluated in 15 countries during a three-year period (2002-2005). During this time, 2,500 suppliers of German clothes, shoe, and toys merchants will be audited in 15 countries in Eastern Europe and Asia. Although the German CCC argued that the program is an improvement over the earlier passive or individual approaches of business companies; it criticised the program because trade unions and non-governmental organisations (NGOs) have no meaningful role in the verification process. For this reason, the German CCC decided not to participate in the advisory council and, later, decided to withdraw from the 'Round Table on Codes of Conduct'.[5]

Companies participating in the BSCI?
The BSCI is already considered a very attractive initiative by various retail companies. The number of participants increased from 14 in March 2003 to over 30 in November

2004. Although the BSCI is comprised mostly of members of the FTA, it is open to European and international trading companies and associations.

Sweden	German	Netherlands	Finland	Swiss	FI	Spain	France	Others
KappAhl	METRO Group	HEMA BV	Kesko	Migros	Hobby Hall (FI)	Inditex SA	Celio	Novi footwear (Swiss/Singapore)
AB Lindex	Neckerman Versand AG	C&A	Intrade Partners Oy	Charles Vögele	Seppälä (FI)			
JC	Karstadt Warenhaus AG	Claudia Sträter	Stockmann (Zara)	COOP				
Textilimportörema (trade association)	Peek & Kloppenburg KG	Difrax B.V.						
	Quelle Aktiengesellschaft	Euretco NV						
	Otto GmbH & Co KG / Esprit Tom Tailor AG (G)	Hunkemöller						
	Deichmann Schuhe GmbH & Co. KG (D)	WE International						
	AVE (trade association)	De Bijenkorf						
		M&S Mode International BV						
		Miss Etam						
		Promiss						
		Perry Sport						
		Vroom & Dreesman Warenhuizen BV						
		Wehkamp						
		Intres						

Source: http://www.bsci-eu.org/content.php?page=BsciCompanies

Organisational structure of the BSCI

There are two types of membership: regular and associate membership. Regular members are actively participating in the auditing and integration of suppliers into the BSCI qualification and auditing program. Associate members can be any companies, associations, or institutions with an interest in the process, but no active involvement.[6] All regular members and associate members are represented on the Members Board that convenes at least twice annually and is responsible for long-term planning and strategic decision making. Regular decisions are taken on the basis of a simple majority. Existential decisions are taken with a 2/3 majority.[7]

The Members' Board decides on the annual budget and membership fees, by which the BSCI is financed. The Members' board can establish working groups for specific issues. One permanent working group is the Pilot Group that prepares concrete proposals regarding the system.

The Representative Committee
The Representative Committee consists of at least three senior members representing the Members' Board and one representative of the Secretariat. The Representative Committee is the initiative's official representative to government and other institutions, in public and at official occasions. It will publish regular public reports.[8]

On the Representative Committee we find Javier Chercoles (Indetex), Anne Le Rolland (Modsys), Heinz-Dieter Koeppe (KarstadtQuelle), Dr. Johannes Merck (Otto Group) Jan A. Eggert (FTA-BSCI secretariat).

The Advisory Council
The BSCI claims that it wants to involve all stakeholders interested in Corporate Social Responsibility through the establishment of an Advisory Council. The objective of this Council will be to advise the BSCI in general, support planning and realisation, and to optimise the work through proposals and constructive criticism. The Advisory Council supposedly represents the interests of major stakeholders regarding social issues. The BSCI anticipates that the Advisory Council will be comprised of representatives of trade unions, NGOs, import and export business associations, the European Commission, the ILO and a UN Global Compact representative. The Advisory Council plans to convene twice annually and will advise the BSCI on questions concerning social standards monitoring and the BSCI itself. It will supposedly also deal with complaints arising from the BSCI auditing activities. To our knowledge, no stakeholder has yet confirmed the Advisory Council.

The members of the Advisory Council are obligated to keep all the information they receive through documents or discussions in the Advisory Council strictly confidential, particularly information concerning individuals and business secrets. [9]

2. The Implementation, Monitoring, and Verification of the BSCI Model

Part two discusses the standards of the BSCI code of conduct, how it is implemented, monitored, and verified.

Ethical Standards

The BSCI code of conduct is based on:

- ILO core labour standards of the International Labour Organisation[10]
- United Nations Conventions on children's rights
- United National Conventions to eliminate all forms of discrimination
- The United Nations Universal Declaration of Human Rights.

The code does explicitly name these conventions.

The living wage is partly covered in the phrase: 'In situations in which the legal minimum wage does not cover living wage expenses and provide some additional disposable income, companies *shall strive* to provide employees with adequate compensation to meet these needs' (emphasis added).[11]

BSCI member-supplier contracts
Recognition and application of the BSCI code is part of BSCI members-suppliers contracts. Suppliers and their subcontractors must accept and implement these standards as a condition of these contracts.

Request for an audit
Request for an audit is made by a BSCI Member Company or by supplier themselves. This audit is based on the BSCI Audit Questionnaire, the BSCI Audit Report and the BSCI Audit Guidelines. The audit is comprised of three parts:

a. Master data
b. BSCI Social Requirements
c. Best Practice for Industry such as SA8000 or equivalent certification schemes.

Deficiencies
If deficiencies are found during an audit, corrective actions must be agreed upon. Corrective actions arising from non-compliance with issues in part B of the Audit questionnaire are compulsory; implementation of corrective actions arising from issues in part C is voluntary.

Corrections and improvements
Corrections and improvements to supplier situations will be carried out by the BSCI members, their representatives, and/or the suppliers themselves. The time frame and intensity of corrective action lies within the BSCI member's discretion and depends in part on the specific nature of the actions required. Termination of a contract is considered a last resort. The audit procedure is repeated every three years, beginning with the start of the initial audit. Suppliers that are certified according to SA8000 are exempted from the BSCI auditing process.

Costs
Costs related to audits, improvement actions, and implementation control of necessary corrective action is negotiated between BSCI members and their suppliers.

Complaints mechanism
The BSCI will set up a complaints mechanism and local round table discussions for interested parties will also be established. These will serve as forums for discussion and the airing of any complaints from BSCI monitoring system activities.

Assessment of the Social audit reports
The auditor prepares a Social Audit Report, which assesses the social audit and indicates the corrective action that one is required to implement (Part B of the questionnaire 'Minimum Social Requirements') or that one chooses to implement (part C of the questionnaire 'Best practice for Industry')

Assessment		Interpretation
2	'Good'	'No deviation from requirements or only minor deviations and full protection of employees is given'
1	'Improvements Needed'	'Deviations in the minority of requirements and no crucial points'
0	'Critical'	'Deviations in the majority of requirements and/or crucial point'
NA	'Not applicable'	'Requirements do not match to the company structure'

Auditing companies

The audits are to be conducted only by auditing companies which can provide evidence of Social Accountability International (SAI) accreditation and have a contract (framework agreement) with the BSCI, laying down the terms and conditions of the co-operation. The following auditing companies are named: Bureau Veritas (Note that Veritas is also a member of the FTA!) CSCC; Det Norske Veritas; Intertek; RINA; RWTUV; SGS; TÜV; WethicA.

3. How Credible is the BSCI Model?

This section is divided in three parts. I will discuss shortly a few points that might be considered positive of the BSCI. After that, the BSCI will be criticized first on the organisational level and second on the programme level.

Positive details of the BSCI include:

- Aligns itself with international labour standards adopted by the ILO.[12]

- Sets into motion an industry-wide process. Anti-sweatshop groups have often observed that a co-ordinated/ collective effort on the side of industry would be helpful in a more systematic approach towards labour abuses (see for example the Play Fair at the Olympics Campaign).

- Adopts an implementation approach. The BSCI distinguishes itself positively compared to most codes of conduct adopted by trade associations that simply lack any form or intention to implement or monitor the standards adopted (see for example the World Federation of Sporting Goods (WFSGI).

- Potential subjects include a larger range of products. Since the BSCI applies to large European retailers, a number of products might also become subject to labour standards monitoring that have thus far been largely ignored in code-related compliance initiatives. Though the initiative focuses initially on textiles, clothing, shoes, and toys.

- Involves companies with a relatively strong (internal) approach to labour standards. 'Forerunner' companies like the Swiss company Migros might pass on their experience to so-called 'laggard' companies in the industry.

- Shares social audit information among its members. This can be viewed as positive as it might reduce duplicated auditing. From an optimistic point of view, reducing duplicated auditing could imply that more financial resources remain available for real improvements in working conditions. (However, from a pessimistic point of view, the BSCI is basically a cost-saving exercise, which has no credible intention of channelling these savings into improving working conditions).

Having said this, there is much in the BSCI to be worried about. This will be discussed in the next part.

Implementation, monitoring and verification
Our key point of criticism is that the BSCI might be considered a step forward with regard to the in-house *implementation* and *monitoring* of labour standards, but scores badly when it comes to the *verification* of these standards. *Implementation* refers here to the range of concrete measures that a company carries out to give effect to a code (Ascoly and Zeldenrust, 2003: 5). This implies a managerial system capable of translating ethical standards into operational practice. This is not only necessary to ensure that the structure and resources are in place to implement the code (Urminsky, 2001: 34), but also to ensure that business is conducted in such a way that suppliers can meet the standards they are supposed to uphold. The latter particularly refers to the need of addressing the negative impact which purchasing practices or sourcing systems can have on code compliance.[13]

Internal monitoring or *company monitoring*, in the context of this paper, refers to the procedures and practices a company carries out in order to check that labour standards have been implemented and are continuously observed in the workplace (Ascoly and Zeldenrust, 2003: 5; Justice, no date). Some companies have set up social compliance teams for these tasks, or have extended the tasks of their quality controllers to include the monitoring of labour standards. Other firms employ (third-party) auditing firms to monitor code compliance. They sometimes seek to pass this off as external verification. This is also the case with the BSCI when they suggest that '[t]he practical implementation [of the BSCI code] is controlled through audits by *independent* auditing companies'.[14] Elsewhere, it argues that the BSCI is a credible monitoring system because 'the audits are conducted by external professionals with a high level of expertise about the subject who work with independent auditing companies' (BSCI website).[15]

Labour advocates have always argued that monitoring by an external company is not much different from having the work done by company staff (Justice, no date). They have pointed out that company-initiated procedures alone, while necessary to the integration of ethical standards into business operations,[16] they remain insufficient. Neil Kearney (1999: 214), Secretary General of the International Textile, Garment, Leather Workers Federation (ITGLWF) formulates it as follows;

> 'Self-assessment, no matter how well applied, will not deliver credibility. [Only] verification will confer legitimacy and credibility. In reality companies cannot police and judge themselves when they themselves are the potential offenders'.

Therefore, *verification* is all about establishing the credibility of claims concerning actual labour practices, the observance of code provisions, or the observance of code implementation (Ascoly and Zeldenrust, 2003: 8).[17] This at least implies that verification is carried out by a body independent of the entity whose claim is being verified (ibid.). In addition to the need for independence there is the need for assurance that the activities and programs being carried out to implement and monitor codes are effective and that quality standards are met (i.e., that conditions actually improve). Thus far, all corporate stand-alone attempts to take on this massive and complicated task have failed.

These kinds of criticism have revealed the need for an overarching system for evaluating company claims and to rise above the limits of corporate self-regulation. It has stimulated the creation of a number of so-called multi-stakeholder initiatives (MSIs), which involve a variety of business interests, NGOs, and/or trade unions trying to develop (more) systematic and effective approaches to code implementation, monitoring, and verification, as well as developing structures for accountability to civil society. By moving the debate from corporate self-regulation to co-regulation these initiatives have increased the credibility of voluntary private initiatives by creating space in which trade unions and NGOS have a voice in furthering the development of regulatory initiatives. In the apparel and athletic footwear industries the most important MSIs are: Fair labor Association (FLA); Workers Rights Consortium (WRC); Ethical Trading Initiative (ETI); Social Accountability International (SAI); and Fair Wear Foundation (FWF). The intricacies of the different MSI models are not dealt with in this paper as there are already numerous existing studies (cf. Faure, 2001; Nadvi and Wältring, 2002; Wick, 2003; O'Rourke, 2003).

It is commonly accepted that there are in fact too many MSIs and this multiplicity needs to be addressed. Actions to this effect are underway.[18]

However, Europe's retailers nevertheless decided to set up an additional initiative. The initiators of the FTA could have chosen to join one of the existing multi-stakeholder initiatives or indeed to discuss a common harmonised approach with them. Even this would not be a very big problem *if* the BSCI were to just clearly represent itself as a business-led initiative that aims to harmonise the method of in-house monitoring,[19] and to share the social audit data of their joint suppliers among their members.

In that case, the bottom line of our criticism would be that BSCI members still need to join a verification system to ensure quality and credibility. In some of their documents the BSCI admits that they are a 'company driven initiative',[20] while in other instances, and much prominently, the BSCI portrays itself as a multi-stakeholder initiative. For example, on its website, BSCI argues that 'dialogue and co-operation with stakeholders in the supplier countries and Europe is crucial for the successful implementation of the system' (BSCI website).[21] Its flyer, also available at its website, goes a step further by promoting the BSCI as an initiative that is supported by stakeholders in Europe and supplier countries. Claiming that the

> ‘whole process is accompanied by local and European stakeholder networks, which will ensure the spread, in the long term local ownership of the process. Cooperation with non-governmental organisations, governmental authorities, trade unions and associations will also ensure *social acceptance and independence* of the system’ (emphasis added).[22]
> (http://www.bsci-eu.org/content/bsciflyerweb2.pdf)

However, the independence of the system would require that stakeholders are represented throughout the system: at the design level, at the implementation (production) level, and at all relevant decision-making (governance) levels.[23]

This is not the case with the BSCI. Instead, stakeholders have a marginal role and are not equally represented. Stakeholders were not been involved in the design of the system, while at the governance level, their role is reduced to an advisory council that convenes twice a year. It is unclear how the stakeholders will be selected, how representation issues will be dealt with, how they are to communicate with the members boards, etc.[24]

For these reasons, the BSCI is more accurately described as multi-lateralist (involving several corporate actors) rather than multi-stakeholder (involving several stakeholders representing diverging interests). It represents a corporatised initiative, characterised by a top-down elite structure, which is based on a voluntary and incomplete self-regulatory structure, with very little serious participation by non-corporate actors. As it stands now, the BSCI should be clearly contrasted with various MSIs that are at least ‘attempting to build democratic, locally accountable, substantively responsive, participatory strategies of governance’ (O’Rourke, 2004: 31).

At the moment of writing, to our knowledge, no organisations have yet accepted membership to the advisory council. The CCC, Oxfam, and ETUF/TCL have been approached but have thus far refused to accept this role.

Criticism of program level
There are a number of additional points of criticism of the BSCI model. A number of which in part deal with the unclear status of the model with regard to the distinction between monitoring and verification, and partly with the fact that the BSCI does not limit itself to monitoring but ‘provides a comprehensive process’ (BSCI website).[25] Some of the activities the BSCI has adopted are clearly copied from multi-stakeholder initiatives, such as the complaints mechanism or local roundtable meetings. These are tasks that go beyond internal monitoring and should be organised, or at least guided and overseen by a multi-stakeholder initiative. Criticism is also directed at the way the BSCI actually organises in-house monitoring, which is weak on a several of points.

Minimum versus Best Practice compliance
In the BSCI model, at the level of the labour standards themselves, there is a distinction made between ‘Social Requirements’ and ‘Best practice’ (based on SA8000 or equivalent certification schemes). This is confusing and potentially misleading in relation to its scope. For example, while the BSCI Code includes all of the important provisions, it is up

to individual members to decide if they subsequently want to demand compliance on all of these standards. In other words, while the BSCI argues that their code represents a first step towards SA8000 certification, it is more likely that this set of minimum standards will become the dominant level that suppliers have to meet. However, this is not how it is presented by BSCI promotion materials, which constantly refers to SA8000. It is actually more like SA8000 lite.

Low-level public transparency
The BSCI can also be criticised for a lack of transparency. While the BSCI provides information about who is involved in the system and the criteria on which BSCI is implemented, it neither (publicly) discloses information on factory locations, nor social audits. The results of an audit will be sent exclusively to the audited supplier and the BSCI member firm. Even (potential) Advisory Council members will only receive samples of audits. Moreover, the BSCI does not publish an annual report, there is no aggregate reporting from its members, and there is no information about the activities of any of the member companies in terms of the countries where suppliers are located, how many suppliers they have, how many of them have been audited, or will be audited in the near future. Therefore, it is impossible for interested parties to compare and/or evaluate what a BSCI member company is doing. Finally, there will be no public information available on the results of the audits, their length and their scope.[26]

Role of social audits
The BSCI chose to rely predominantly on social audits of executed by global specialised firms. Social audits are also used in other models of code compliance, including multi-stakeholder initiatives. However, the type and nature of social audits within code compliance systems has been the subject of a long debate. Labour advocates have been very concerned about the 'auditization of the CSR space' (Sum, 2005). They have questioned whether these social audits will empower workers, accurately assess labour conditions, and encourage improvements in working conditions (see O'Rourke, 2003; Ascoly and Zeldenrust, 2001). The role of social audits within the BSCI model can be criticised on the following five points:

a) Quality
b) Business interests
c) Lack of trust by workers
d) Lack of knowledge about local circumstances
e) Sharing of costs related to social audits

(a) Quality
Mainstream social auditing consistently manages to miss crucial violations of workplace rights (Auret and Barrientos, 2004; O'Rourke, 2000; Yantz, 2002; MSN, 2004; *Financial Times*, April 21, 2005). Labour advocates argue that if organised well, social audits might uncover violations of code requirements that are quantitatively measurable (such as wages, hours, or certain health and safety requirements), but they are particularly weak in revealing more rights-based issues, such as freedom of association or non-discrimination (gender, race, ethnicity), and non-harassment. For example, while a document review at a

factory site might reveal information about wages and working hours, it is unlikely to be effective in uncovering anti-union discrimination (see Hunter and Urminsky, no date). Furthermore, it does not identify or analyse the causes of the violations, and the 'policing model' adopted by many auditors creates a culture of cheating. Neil Kearney, Secretary General of the International Textile, Garment, Leather Workers Federation (ITGLWF), has therefore concluded that the 'weakest link in today's code are social auditors'.[27]

(b) Business interests

Companies which perform audits are heavily influenced by business interests. It is argued that they might therefore 'hesitate to present truly damaging information, based on a desire to maintain good business relations and to receive future work from the client' (Manic, 2003: 54). Also, fake bookkeeping or the use of model factories by subcontractors are often difficult to detect. The *Financial Times* writes that in China more than half of the factories are falsifying some of their records which they have to show during social audits. These factory managers have become 'increasingly sophisticated at falsifying worker time cards and payroll documents to disguise irregularities including underpayment, excessive hours and inadequate health and safety provision' (*Financial Times*, 21 April 2005).

(c) Lack of trust by workers

Social auditors are often associated with factory management. For that reason, they often lack the trust of workers during interviews. These interviews are often held inside the factory and managers know exactly who is being interviewed, for how long, and on what issues (O'Rourke, 2003). As a result, workers are often afraid to speak freely with auditors. Also, workers are increasingly instructed on what to tell the auditors.

(d) Lack of knowledge about local circumstances

Social auditors often lack the knowledge of local circumstances and therefore lack the capacity to establish meaningful contacts with local trade unions and NGOs. This is another concern (Utting, 2004), especially when it comes to the development of effective remediation. This is why the Fair Wear Foundation decided not to work with commercial auditors, choosing instead to train their own audit teams, in which local stakeholders near factory sites play an important role. This is one example of development of a more sustainable or participatory model of social auditing. The FWF as well as other MSIs – particularly the ETI – have in fact undertaken substantial work in this area because they recognise the limits of the mainstream approach.

(e) Sharing of costs related to social audits

The BSCI states that costs related to audits, improvement actions, and implementation control of necessary corrective action will be negotiated between BSCI members and their suppliers. However, the unequal power relation between buyers and suppliers will in practice mean that suppliers will put up with the overwhelming share of the costs related to the monitoring of compliance. Labour advocates have always argued that suppliers must be adequately compensated for the costs involved in meeting compliance.

Competition with multi-stakeholder initiatives

Officially, the BSCI claims that it is not meant as a replacement of any of the established multi-stakeholder verification systems (BSCI code, page 1). However, by assigning functions related to complaints handling to the advisory council, and by the suggestion that auditors hired by member companies will 'carry out verification' (BSCI G&P, page 4) the suggestion is that this model does, in fact, perform such functions. Furthermore, the BSCI presents itself towards companies as if it is a multi-stakeholder initiative. For example, the Dutch *Vereniging of Grootwinkel Bedrijven* (VGT) decided not to participate in the Fair Wear Foundation initiative in favour of the BSCI.

Roundtables

The BSCI monitoring system has plans to establish a local multi-stakeholder roundtable. In the AVE project, which started three years ago and is the forerunner of the BSCI, the German ministry of Development Co-operation (GTZ) arranged a series of roundtable meetings in about 10 countries, (usually 1 or 2 annually). The nature, content, participation, and outcomes of these meetings seem to vary widely, but since no reports are available, we only have verbatim records of those meetings to which our union and NGO partners happened to be invited. However, the point is that local multi-stakeholder 'roundtables' should not be set up by the industry alone. This important process needs to undertaken carefully and in close co-ordination with stakeholder representatives at the international level. Because, in this manner, the industry gets to decide which unions and NGOs can or cannot participate, what is on the agenda, and how it will be reported. It creates a non-replicable model as well: we are rapidly moving toward a situation wherein each (group of) companies has begun establishing their own stakeholder consultation mechanisms, which is clearly as unproductive and inefficient as each company developing its own code and creating its own auditing mechanism.

Complaints mechanism

Labour advocates have long emphasised the importance of a mechanism to handle complaints in code monitoring and verification systems (Ascoly and Zeldenrust, 2003: 4). A complaints mechanism would create an opportunity for workers to bring workplace concerns to the attention of the MSI or sourcing company. Such a mechanism is not only a way to ensure direct input at any time from workers and their organisations in the monitoring/verification process, it might also balance and supplement the limitations of snapshot monitoring which only allows workers to voice their grievances once in every three years (ibid.). Setting up a complaints mechanism must be done carefully because workers must have safe and sound means to register complaints, with absolutely no fear of retaliation for doing so. Although experiences with handling complaints within MSIs have garnered results, it also shows that this requires huge amounts of resources and professional handling (ibid.). In the BSCI model, however, a 'round table' is expected to be the sole way of handling complaints. In the present set-up, this 'round table' consists of representatives of a number of organisations attending a meeting once or twice a year. This cannot be seen as a serious attempt at handling complaints as there is a

> 'general consensus that handling complaints in practice requires huge amounts of time from all parties involved, and this is time that is difficult to schedule in

> advance. Frequently an intensive time investment has to be made in a relatively short period. Given the importance of handling complaints effectively in order for code compliance to have credibility, all stakeholders will need to recognize that serious investment in terms of capacity is needed' (ibid. 27).

Summarising remarks

A credible approach towards code compliance would require that quality in-house monitoring is accompanied by and complemented with a verification system. In such a system, stakeholders would be represented throughout its main bodies. The BSCI does not meet these requirements. It has developed a weak monitoring system based on social audits. The BSCI does not require its members to have an actual programme of work with a clear target with respect to audits, remediation, or consultation activities, even though it does mention all these elements. It is voluntary within the notion that it is voluntary to execute it. At the same time, it decided to marginalise the role of stakeholders. This is particularly unfortunate because this will further impede the quality and credibility of its in-house monitoring activities. Within the Ethical Trading Initiative, companies have to carry out some of these elements in a multi-stakeholder way, through pilots, and they have to report on what they do to the MSI board. Both the Fair Wear Foundation and Fair Labor Association agree on a work plan with their members and then verify whether the work plan has been implemented. Since the BSCI has marginalised the role of stakeholders, it should be seen as a weak form of internal company monitoring still in need for verification.

One must also ask the question why European retailers decided to set up a new initiative. For whatever reason, BSCI-member corporations clearly feel they are not ready to join an MSI preferring instead to establish an institution that is dominated by business interests. The BSCI just adds to the plethora of existing initiatives. The danger is that it will increase public and consumer confusion and undermine the credibility of non-governmental programs to improve working conditions. Furthermore, the BSCI is not accountable to stakeholders outside the acting entity. It does not involve key stakeholders in decision-making positions; nor does it provide information on factory locations or social audit results. Therefore, the BSCI faces an accountability problem towards the wider public (stakeholders).

For these reasons, interested parties will have good reason to doubt whether the BSCI is delivering what it claims, such as 'higher satisfaction for workers and consumers' and 'more efficient implementation procedures than other monitoring systems'. Let alone that it can substantiate the claim that it 'optimises working conditions'.

To summarise, the BSCI

- is a business-dominated initiative
- provides for weak monitoring, not verification
- is focussed on sharing social audits results between corporate members but the quality of these audits must be questioned
- lacks transparency on both supplier and audit results
- increases the role of commercial auditing firms

- has no working complaints mechanism
- has no meaningful participation of key stakeholders
- is likely to transfer the cost of implementing ethical standards to the supplier
- is weaker than existing multi-stakeholder initiatives
- adds yet another monitoring initiative and therefore is likely to increase the confusion

Abbreviations

AVE:	AuBenhandelsvereinigung des Deutschen Einzelhandel
BSCI:	Business Social Compliance Initiative (BSCI)
CSR:	Corporate social responsibility
ETI:	Ethical Trading Initiative
FWF:	Fair Wear Foundation
FTA:	Foreign Trade Association
FLA:	Fair Labor Association
GTZ:	German ministry of Development Co-operation
ITGLWF	International Textile, Garment, Leather Workers Federation
MSIs	Multi-stakeholder initiatives
NGO	Non-governmental organisation
SAI:	Social Accountability International
VGT:	Vereniging of Grootwinkel Bedrijven
WFSGI:	World Federation of Sporting Goods
WRC:	Workers Rights Consortium

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[1] The Foreign Trade Association (FTA) represents national trade associations, both retail and wholesale trade, as well as many individual companies, including Carrefour, Metro, Casino, KardstadtQuelle, Migros, and C&A. These companies belong to Europe's major multi-product retailers.
[2] FTA, press release, 5 May 2004.
[3] FTA, 21 December 2001.
[4] BSCI, November 2004, 'System Description', Foreign Trade Association, Brussel, document on file.
[5] German CCC, 23 November 2004, 'The German Clean Clothes Campaign withdraws from the Round Table on codes of Conduct: The End of an Experiment'.
[6] BSCI, November 2004, 'System Description', FTA, Brussels.
[7] BSCI, November 2004, 'System Description', FTA, Brussels.
[8] BSCI, November 2004, 'System Description', FTA, Brussels.
[9] FTA, letter to Ineke Zeldenrust, 21 April 2004, on file.
[10]This includes:

- ILO Convention 1 (Working Time)
- ILO Conventions 29 and 105 (Forced and Bonded Labour)
- ILO Convention 79 (Night Work of Young Person)
- ILO Convention 87 (Freedom of Association)
- ILO Convention 98 (Right to Collective Bargaining)
- ILO Conventions 100 and 111 (Equal Remuneration for male and female workers for work of equal value: Discrimination)
- ILO Convention 135 (Workers' Representatives)
- ILO Convention 138 (Minimum Age)
- ILO Convention 155 and Recommendation 164 (Occupational Safety and Health)

- ILO Convention 159 (Vocational Rehabilitation and Employment/ Disabled Persons)
- ILO Convention 177 (Homework)
- ILO Convention 181 (Private Employment Agencies)
- ILO Convention 182 (Worst Forms of Child Labour)
- Universal Declaration of Human Rights
- The United Nations Convention of the Rights of the Child
- The United National Convention to eliminate all Forms of Discrimination against Women.

[11] In the CCC Code of Labour Practices for the Apparel Industry including Sportswear, living wage is formulated as follows: ‘Wages and benefits paid for a standard working week shall meet at least legal or industry minimum standards and always be sufficient to meet basic needs of workers and their families and to provide some discretionary income. Deductions from wages for disciplinary measures shall not be permitted nor shall any deductions from wages not provided for by national law be permitted without the expressed permission of the worker concerned. All workers shall be provided with written and understandable information about the conditions in respect of wages before they enter employment and of the particulars of their wages for the pay period concerned each time that they are paid’.

[12] The living wage is partly covered in the phrase: ‘In situations in which the legal minimum wage does not cover living wage expenses and provide some additional disposable income, companies *shall strive* to provide employees with adequate compensation to meet these needs’ (emphasis added). See also note 11.

[13] For example, it has been reported that in the toy industry, Asian manufacturers complain that their profit margins have decreased because Western brand-named companies force them to improve labour conditions but do not want to share the cost in raising labour standards (Anita Chan cited in *The Irish Times*, December 2002, “The Hidden Downside of Santa’s Little Helpers”).

[14] Flyer available at: http://www.bsci-eu.org/content.php?page=BsciHomePage.

[15] http://www.bsci-eu.org/content.php?page=BsciFaq.

[16] Integration of ethical standards means that corporate management systems have a double aim: To ensure that the labour standards in a the code are implemented and monitored, but also to ensure that business is conducted in such a way that suppliers can meet the standards they are supposed to uphold. The second part, for example, concerns the sharing of costs associated with the implementation of ethical standards. (CCC, Newsletter 14 July 2001).

[17] Some people argue that prefacing verification with the word independent is repetitive, as verification already implies independence (Ascoly and Zeldenrust, 2003).

[18] The Joint Initiative on Corporate Accountability and Workers’ Rights, summarised as JOIN, unites six key organizations – CCC, ETI, FWF, SAI, FLA and WRC – in a single program of collaborative work. Each of these organisations believes that codes of conduct can only make an effective and credible contribution if their implementation involves a broad range of stakeholders, including trade unions, governments, employers’ organisations and civil society (JOIN, website). Its collaborative program aims to share the wide range of experiences and ‘best practices’ with monitoring and verification models between these organisations, as well as to start a dialogue on how closer cooperation between these organisations can best be achieved. See for more info: http://www.jo-in.org/.

[19] Despite this, the CCC has a substantial amount of criticism on how the BSCI designed this internal approach outlined later in this chapter.

[20] FTA, 2003, BSCI Management Manual.

[21] http://www.bsci-eu.org/content.php?page=BsciFaq.

[22] http://www.bsci-eu.org/content/bsciflyerweb2.pdf.

[23] Zeldenrust, comments on the BSCI model.

[24] Zeldenrust, comments on the BSCI model.

[25] http://www.bsci-eu.org/content.php?page=BsciFaq.

[26] This in comparison to MSIs: Social Accountability International publicises the names and addresses of certification factories on its website, the BSCI keeps the information on the results of monitoring internal. The Fair Labor Association provides the following information:

- name of the FLA member company whose supply factory is being audited;
- nature, size, and country/region of the facility;
- identity of the external monitoring organization;
- date and length of the external monitoring visit;

- summaries of areas of compliance and non-compliance with the Code; and
- summaries of the remediation instituted and the status of the remediation. (Code Memo 11, 2000).

[27] Neil Kearney cited at the ETI conference, 12 May 2005.