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# Divided by Compliance and Non-Compliance: The Clothing Industry after the Introduction of Social and Environmental Standards

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# Divided by Compliance and Non-Compliance: The Clothing Industry after the Introduction of Social and Environmental Standards

*Abstract*

Poor working conditions are common problem in the clothing industry. Some companies address this problem by setting social and environmental standards for their suppliers. Seven case studies of Moroccan clothing producers reflect on the challenges resulting from such standards for the supplier. Standard compliance is only profitable when contracts with companies can be secured that pay a premium prices. Otherwise a strategy of selective or non-compliance can secure the financial survival of the firm. Compliant firms also have to compete against companies that successfully deceive auditors – a practice that is reported to become more sophisticated and systematically implemented by some companies. The aim of the paper is to explain the causes and to point out the consequences of low standards, non-compliance and deception in the clothing industry.

## Introduction

In the clothing industry a majority of American and European companies have outsourced their production. Large brand companies such as Adidas, Puma, Reebok and Nike do no longer own production sites, but rely on a large network of suppliers (Arnold & Hartman, 2003). This allows them to adapt their production volume quickly and to source wherever labor costs are low. However, media reports of hazardous and abusive working conditions at suppliers resulted in a public outrage and in the 1990s a number of NGOs such as the Clean Clothes Campaign were founded in order to fight against such practices (Roloff, 2006). The companies facing public criticism and skeptical costumers started to demand and monitor minimal social – and in some cases – environmental standards in their supply chains. Several multi-stakeholder initiatives such as the Fair Labor Association, the Ethical Trading Initiative and the Fair Wear Foundations were established in order to advice on and assist in the process of standard implementation and verification (Wick, 2003).

This paper explores the process from the point of view of the suppliers. Referring to seven case studies carried out in Morocco, the rational behind the decision is analyzed to either implement social and environmental standards and to accept monitoring or to chose more cost oriented clients that do not audit the working conditions. In order to understand the situation that managers are confronted with, the development of the global textile industry is described. Afterwards the arguments from Moroccan managers for or against complying with standards imposed by major clients are presented and evaluated. The paper ends with an overview of recent developments in the field that suggest that the clothing industry is divided in three distinct groups: companies that apply sound social and environmental standards, companies that try to appear to be in compliance and companies that work for the large number of clients that asks no questions concerning working conditions.

**Social and Environmental Standards in the Textile Industry**

Violations of worker's rights and poor working conditions are frequent in the textile industry where the majority of the workforce consists of young women that do a job that needs no prior qualifications. In particular, the confection is labour intensive and hardly allows any technological advancement. Since labour costs are a key factor determining production cost, the apparel production moved from highly industrialized countries to regions with lower labour costs. Today, Asian countries, notably China, dominate the international clothing production. This trend became even more prominent after the regulations defined by the General Agreement on Tariffs and Trade (GATT) for the textile trade ended in 2005 and American and European companies increased their trade with China by more than 40 percent and with India by approximately 20 percent (Nordås, 2004; Perez-Lopez, 2006). The comparative advantage of Asia roots in low labour costs that allow low prizes, sufficient product quality and punctual delivery – the premises of textile trade. The strong competition between low cost countries results in declining prizes everywhere (de Haan, 2004; Weisbrot et al., 2004). In addition, the trend of lean retail arrived from the food industry the apparel retailers (Nordås, 2004). As a result, many major retailers such as Wal-Mart or Hennes & Mauritz seek to shorten their lead times.

This trend adds to the pressure in the clothing factories. In peek times, excessive overtime is a frequent phenomenon. But employing more workers is no solution in the eyes of many factory owners. De Haan cites a Chinese factory owner on this topic: "Now we have 800 workers. Even if we hire 400 more right now to diminish the overtime this would increase the overhead costs in turn and the buyers then cannot get the price they want" (de Haan, 2004: 10). Excessive and at times forced overtime is not the only problem in the textile industry. All kind

of violations against human rights and international labour law as defined by the International Labour Organization (ILO) have been reported. Compared to other industries, that have international supply chains, violations in the textile industry have been more prominent in the international media (Sethi, 2003). In addition, the textile industry is addressed by several international NGOs such as the Clean Clothes Campaign, SweatshopWatch, Oxfam and others. As a reaction to the public attention, several apparel brand companies formulated basic social standards for their supply chains and developed implementation mechanisms.

Usually, they encompass a *code of conduct* that summarizes minimum standards, an *internal control system* that adds social audits to the traditional quality audits and some *transparency policy* that aims on communicating any achievements in the field. Under the pressure of the NGOs the social standards demanded by the brand companies converged in the last years. Today they refer to the core labour standards as defined by the ILO concerning child labour, forced labour, freedom of association, non-discrimination, no harassment, health and safety regulations and working hours. In addition, most codes of conduct fix the legal minimum wage, the average industry wage or – in rare cases – the local living wage as the expected remuneration. Not only the standards but also their implementation policies resemble each other. The issues controlled in social audits are to a large extent identical.

When transparency is concerned differences between companies are still visible. Several publish CSR-reports, but not all do this on a regular basis. Even worse: Some CSR-reports offer little substantial information to what extent social standards are implemented as it was the case the Corporate Social Responsibility report that Nike published in 2001. The report was a responds to a lawsuit against the company claiming that Nike had made “misleading and/or incorrect statements” in earlier communications on the working conditions at its

suppliers (DeTienne & Lewis, 2005: 365; Hess & Dunfee, 2007). Fortunately, reports are likely to improve, since growing number of companies apply the guidelines of the Global Reporting Initiative (GRI) on sustainability reporting and some European countries introduced mandatory disclosure on social and/or environmental issues (Hess & Dunfee, 2007).

In addition to company reports, transparency can be gained from *external monitoring*. Several multi-stakeholder initiatives such as Fair Labor Association (FLA) offer such external monitoring and claim to be independent and objective (Wick, 2003). The number of their member companies, though still small, is growing continually. The aim of the FLA is to ameliorate social standards in the apparel supply chain of its member companies. Apart from companies also human and labour right advocates and universities and colleges work together in the FLA (Bobrowky, 2000). They continually discuss how to improve the FLA-standards and procedures and engage in a discourse with critical NGOs and trade unions on latest developments in the textile industry. The central service the FLA offers its member companies is to verify the results of their internal monitoring of social standards through independent audits that are conducted by local auditors. Additionally, they inform the consumers of their members' social performance on their website (www.fairlabor.org).

Activists admit that first results of these efforts are visible on the shop floor. In particular, social and health issues such as fire safety and the use of protective equipment are improved. This is a result of a deliberative process that took place mainly in the industrialized countries where the brand companies' and activists' groups have their headquarters. In general, the discourse concerning which social standards ought to be selected and how they are to be implemented is Western dominated. Until recently, strict, encompassing and objective control

was believed to be the key to achieve standard compliance. Lately, the necessity to improve local capacities is acknowledged too. Both, workers and managers need to learn that social standards are essential for a sound management. In addition, many implementation issues are not yet solved sufficiently. While it is easy to understand that fire exits have to be open and unobstructed, it is much more difficult to determine how freedom of association can be measured and implemented. Given the complexity of the issues that have to be addressed in future, the deliberation on rules for standard implementation ought to shift from venues in the U. S. and Europe to the production sites in Asia and elsewhere. Auditors, local managers and workers need to become the main actors of this deliberation process in order to develop realistic goals and procedures that ensure a sustainable application of social and environmental standards.

**Moroccan Suppliers Evaluating the Value of Social and Environmental Standards**

The case studies presented here are those of Moroccan suppliers of the Puma AG Rudolf Dassler Sport, a German medium-size sport apparel company. Puma introduced in the 90ies a comprehensive programme to enhance the social and environmental standards in its supply chain. Under the title Social Accountability and Fundamental Environmental Standards (S.A.F.E.) the company developed a concept that is according to its CEO Jochen Zeitz “based on the pillars of transparency, dialog, sustainability, social accountability and evaluation” (Puma, 2003: 4). They refined their earlier code of conduct from 1993 and developed an approach to implement and monitor social and environmental standards and to strengthens strategic suppliers in their social and ecological performance. In 2001, Puma achieved its first milestones: All direct suppliers were audited. Also, a manual was distributed among the suppliers that informs in detail of Puma’s social and environmental standards and suggests implementation methods (Puma, 2003). The S.A.F.E.-standards as summarized in Puma’s

code of conduct and defined in the manual are frequently updated since both environmental and social standards evolve. Puma is since 2004 a graduating member of the Fair Labor Association and received full accreditation in 2007 (Puma, 2007).

*Data Collection*

Puma sources its products from a large range of countries, among them Portugal, Turkey, Cambodia, Bangladesh and China. In order to accommodate its rapid growth the company frequently contacts new textile companies as potential suppliers. In 2002, Puma was offered by its Portuguese sourcing agency to get in touch with Moroccan factories. Up to this date only two Moroccan suppliers worked occasionally for Puma. In 2002, two new companies were contracted and, in 2003, another three textile plants were taken into consideration. In July-August 2003, the author accompanied Puma's auditor to Morocco in order to witness seven social audits of established and aspiring suppliers. During the first phase of data collection, audits of four established subcontractors and three companies which applied for contracts were observed. The audits encompassed inspections of production sites, workers' interviews, examinations of the company's records (working hours, pay roll, work contracts, etc.) and discussions with the management. Beside the extent of a subcontractor's compliance to the audited social, security and ecological standards data were collected about the audit methodology and the communication style between auditor and management. In a second phase, six of the audited companies were revisited and management representatives were interviewed concerning their company's history, their cooperation with the client, their attitude and appraisal of audits, social and environmental standards and their view on the current political and economic situation of the textile industry in Morocco. The interview with the seventh company was not realised due to time difficulties of the factory's managers who travelled abroad in order to visit an international faire.

The sampled companies are significantly larger than the average Moroccan textile plant. They employed between 175 and 1300 persons while the Moroccan average is 34 employees per textile factory (Clean Clothes Campaign, 2003). The sample represents some the leading textile companies of the country that set standards in terms of quality, reliability and – more and more often – good working conditions. The owner of one company visited was presented by the Moroccan magazine 'Homme' as one of Morocco's most successful self-made business man and the factory is praised: "Mais au-delà du gigantisme et de la modernité des équipements, c'est le souci évident de développer le côte social et humain qui interpelle dans cette construction. Cantines, restaurants, terrasses, salles de repos, toilettes et douches, lieux de culte, cabinet médical..." (El Atouabi, 2003: 28). Of course, not all companies in the sample would trigger this amount of praise, but all of them display high standards compared to a large number of informal and semi-formal enterprises in the Moroccan textile industry. Informal enterprises are factories that are not officially registered and do not pay any tax or other dues. They might be small backyard workshops with only a couple of sewing machines. Semi-formal enterprises in contrast are officially registered and might pay taxes, but fail to register some or all employees at the office for social security, the Caisse Nationale de Sécurité Sociale (CNSS). This is a frequent phenomenon in Morocco. The Spanish section of the Clean Clothes Campaign published a report on working conditions in informal and semi-formal textile factories in Northern Morocco and documented a large number of violations in these companies (Clean Clothes Campaign, 2003).

*Communicating Social Standards*

Social audits play a central role in the implementation of social standards. They serve two functions: First, they assess the status quo and, second, they offer an opportunity to discuss

social standards and give room for mutual learning. The latter is important in order to reach an adequate and sustainable implementation and to avoid a superficial standard compliance that is bypassed whenever feasible. Research conducted in China indicates that some suppliers develop sophisticated deception techniques in order to pass social audits. For example, salary list and time cards are systematically forged and employees are paid for given the 'right' answers to the auditors (Egels-Zandén, 2007). In order to avoid such behavior, it is necessary that the management of the supplying firm is convinced that the company will benefit from the standards' introduction. In order to encourage the supplier to invest both, effort and money, in the process, he or she should have a voice concerning the objectives. It is necessary to work together when developing adequate ways to implement the standards according to the client's expectations and the supplier's abilities.

In the past, the benefits of social standards were often assumed to be found in the moral sphere. It is about doing things in the right way. Less often economic reasons were cited for their implementation and, if any were mentioned, they usually referred to risk avoidance. Given this argumentation it was frequently assumed that supplying firms in developing countries have little interest in social standards, either because they cannot afford them or because they face hardly any legal risks in absence of enforced laws and regulation. In contrast, introducing social standards was often claimed to be risky, since that raises the cost structure and prizes and endangers the suppliers' competitiveness. Interestingly, the Moroccan managers who were interviewed contradict this view. According to them, the strongest incentive for the implementation of social standards is the promise of future orders from Puma and other clients which demand similar social standards. Another reason for implementing standards is the assumption that improved social standards lead to higher productivity, since workers become more motivated and fewer accidents occur. In general, the

Moroccan managers view social standards as a tool to achieve international competitiveness and they welcome the promise of an even playing field. One manager explains his expectations:

> "[...] I am happy that all these brands do these kinds of audits, because I know that I am in competition with [companies] that have the same cost structure that I have. If it was just free – without audits, without anything – I am sure that the competition would be tougher. [...] Given that before they start working they take a look at how things are running inside the company and they choose only the companies, theoretically, that are ... that can reach the standard. That means that we are in a safe competitive environment. I mean competition with companies that must apply the same standards as we do."[i]

The introduction of social standards is just one aspect of their strategy that aims at achieving a leading position in Morocco. In addition to social standards, several companies also introduced other improvements such as quality control according to ISO-standards, computer-based payroll accounting, etc.

When the companies' strategies are taken into consideration, it is no longer surprising to find out that the Moroccan managers tend to welcome social audits. Here, the data from Morocco contradict data gathered elsewhere. The World Bank, for example, published 2003 a report on corporate social responsibility in supply chains that among others voiced the suppliers' objections concerning social audits. The factory managers complained about multiple auditing and confusion standards. Some textile factories are reported that have been audited 30 to 50 times in a year. The authors conclude that the "individual supplier becomes too preoccupied with meeting the different requirements of his/her buyers to be able to offer time and resources to address real implementation" (World Bank, 2003: 17). Thus too many audits are seen as non-productive. In addition, the managers criticised in that report that implementation

[i] If not indicate otherwise all citations refer to management interviews. They were conducted by the author of this paper in English and French depending on the respondents' preferences and are cited in the original languages. All managers wished that they statements are presented anonymously.

guidelines of the brand companies vary and, as a result, contradicting recommendations are given. For example, the location of fire extinguishers and first aid boxes that one client has recommended might be objected by the next (World Bank, 2003).

None of this was found in Morocco. The suppliers had little or no prior experience with social audits. In general, they welcomed the audits since the auditor provides them with an assessment of their strengths and weaknesses concerning social, security, health and environmental standards and discusses in detail how the company can improve. Several interviewed managers emphasized that they profited from the procedure and compared it to a consulting that is financed by Puma. The respondents believed that the investments suggested in course of the audit will not only lead to a lasting relationship with Puma, but will also make the supplier more attractive as a partner for other brand companies. Although the managers are aware of differences between clients' standards, they stress that many demands are similar or identical:

> "Because we had already Puma audits – we were already familiar with about 80 percent of the thing. There are some specific specifications for Nike, for example. But mainly, we were already prepared, because we had this Puma audits. So it is pretty much the same, even though there are differences."

Of course, the positive attitude of the Moroccan respondents can be explained by the fact that they not yet face as many audits as their Asian counterparts. It can be concluded that social audits are a good instrument to foster standard implementation, if they are conducted in reasonable intervals and as an open and honest exchange of ideas for improving the factory. In order to reduce the number of audits, companies which demand social standards should coordinate their monitoring efforts whenever they work with the same supplier. In practice, brand companies hesitate to exchange any information concerning their supply chains, since

they are considered to be sensitive data. In theory, a neutral organisation such as the Fair Labour Organization could bridge this gap and coordinate the companies' internal monitoring efforts. But this is currently not the case: The FLA only offers to verify the internal monitoring efforts by random checks. Thus, the positive influence of social audits as a learning forum for social standards is diminished in some factories due to overexposure.

*Adapting Social Standards to Local Specifics*

It is often assumed that the perception of social standards is strongly influence by a countries' culture and that as a consequence not all social standards are applicable everywhere. For example, Fung argues that approaches to combat child labour have to consider the local context and that it may be advisable in countries like India or China to permit some less harmful forms of child labour (Fung, 2003). Puma rejects to adapt its social standards to such extent. The company argues that compliance with the standards outlined in the code of conduct is a precondition for any cooperation, but it offers advice how to achieve it. Given this somewhat inflexible attitude the question arises, if Puma's approach is suitable for a developing country such as Morocco with its Muslim-Berber culture. It is reasonable to expect that at least some of the standards might be ill-adapted to the Moroccan context or even completely incompatible. Surprisingly, this is not the case in the seven companies studied. The data show that even though no company in the sample reached full compliance with all standards and some standards were more often violated that others, each single social standards was sufficiently implemented in at least one of the seven companies. That proves that none of the social standards is incompatible. It is reasonable to assume that Moroccan companies can achieve full compliance without facing an unsolvable cultural conflict.

Of course, the data also show that the implementation of some standards is extremely difficult and needs a lot of effort. The most controversial standard in the eyes of Moroccan managers is the freedom of association. Trade unions were seen at least by one manager as trouble makers whose demands and endless strikes lead to bankruptcy. Though workers frequently stated that they were never hindered to join a union, union members are not present in any of the companies audited. In general, Moroccan trade unions have the reputation of representing political parties rather than workers (Hegasy, 1997). Despite or because of their political affiliation the Moroccan penal code inhibits union activities. A United Nations document sums up:

> „The ministry of the interior often infiltrates unions to monitor activities, and parent political parties intervene to manipulate the election of union leaders. As a result, trade unions are increasingly seen as political tools in the hands of the administration and the political parties, and less than 10 percent of Morocco's 9 million workers are actually unionized. While the constitution provides the right to strike, the law requires compulsory arbitration of disputes, the government uses force to break up strikes, and employers can initiate criminal prosecutions against striking workers" (Maghraoui, 2004: 7).

As a response to the difficulties of implementing the freedom of association effectively in factories without siding with a particular union or forcing workers and managers to get involved in a complex political conflict, the Puma auditor suggests alternative ways of workers' participation. One of his recommendations is to elect workers' representatives that will communicate the workers' interest to the supervisors and managers whenever traditional communication channels are not sufficient. The idea behind this recommendation is that once Moroccan factories gained some experience with elected workers representatives the advantages of this approach might lead to a higher acceptance of union activities as well. Several managers ensured that they will consider elections for their company. One supplier was already preparing elections at the time the audit was conducted. Another company had an

elected workers' council in place and the owner praised the collaboration with it, since it enabled a number of innovations improving workers' motivation as well as working processes.

*The Price of Social and Environmental Standards*

Another area of non-compliance was the application of the minimum wages for all employees and the remuneration and limitation of overtime work. Especially, suppliers which have not yet worked for Puma had shortcomings in these two areas. Under Moroccan law, wages below the minimum wages can be paid up to two years to apprentices. In order to work in quality control or confection, a training of a few days up to two weeks is normally sufficient. Consequently, Puma expects that at least the legal minimum wage is paid for workers that finished a trial period of a comparable length. However, one company applying for contracts with Puma employed about half of its workers as apprentices. Although this practise is legal, it caused the supplier to fail the social audit, despite the fact that the company had otherwise implemented a number of exemplary practises such as providing health and life insurances for employees and offering internships to handicapped and marginalized youths. In order to qualify as a Puma supplier the company has to raise the wages which implies a substantial investment even before the first contract is signed. Once wages are raised it is difficult to reduce them should the incoming contracts not be sufficient to cover them. As a result, implementing Puma's standards puts the supplier in a risky position, since the company depends on receiving reasonably remunerated orders from Puma and similar clients rather than working on a low cost basis for its current less demanding costumers.

**Compliance, Non-Compliance or Deception: Three Strategies in the Clothing Industry**

As the case studies of Moroccan suppliers show companies in the clothing industry have to make a strategic decision concerning their commitment to social and environmental standards. *Standard compliance* will qualify them as suppliers for a number of well-known brand companies. However, the market for monitored clothing production is limited – though substantial. Other clients simply demand in their contracts that certain minimum standards are adhered to, but will never monitor their implementation or adapt their pricing structure accordingly. A strict standard compliance is in practice not necessary, when a supplier works for this kind of clients. As the examples from Morocco show – where all seven companies also worked for clients who do demand, but not control standard compliance – that as long as the company avoids problems with local authorities, a strategy of *selective or non-compliance* is feasible. Those clients which monitor standard compliance still demand competitive prices, although they seem to pay somewhat more than the average in the industry. As a result, a third strategy between compliance and non-compliance becomes attractive: *deception*. Forging salary lists and time cards helps to avoid the most costly standards on minimum wages as well as overtime remuneration and limitation. Some companies are reported to disclose only a part of their production sites to their clients. The disclosed sites run in accordance to the demanded standards, while the majority of the clothes are produced under poorer circumstances elsewhere.

Since clothing production is a very price sensitive and mobile industry, companies in Morocco do compete with those in China, India, Cambodia and Bangladesh. Given the higher living cost and higher minimum wages in Maghreb even small changes in the prize structure affect a supplier's competitiveness. Consequently, investing in higher social and environmental standards is risky despite the fact that some investments may pay off due to

higher productivity, quality improvements, a reduced number of injuries and so forth. Given this environment it is plausible that all three strategies can be found in the clothing industry: compliance, non-compliance and deception. If the number of compliant companies is to be increased, several changes have to take place: On the one hand, the market for clothes that are produced under audited standards has to increase further. For this purpose, consumers need be able to distinguish between brands that control standard implementation and others. Hereby, the market for their products can be strengthened which should allow responsible companies to pay premium prizes to their producers. On the other hand, the advantages of social and environmental sound management have to be communicated to the suppliers by their clients, their governments and the civil society. On national level obstacles for the implementation of social and environmental standards have to be addressed. For example, freedom of association will never be reached in Morocco as long unions are marionettes of political parties and strikes and other union activities are legally sanctioned. In sum, ethical production in the whole clothing industry can only be achieved by a common effort of all actors involved in production, trade and consumption.

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