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**Halifax Regional Council**  
**August 31, 2004**

**TO:** Mayor Kelly and Members of Halifax Regional Council

**SUBMITTED BY:**

Bruce Fisher, Acting Director, Financial Services

Wayne Anstey, Q.C., Director, Legal Services

**DATE:** August 10, 2004

**SUBJECT:** Canadian Labour Congress/Oxfam - Anti-sweatshop Campaign Request

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**INFORMATION REPORT**

**ORIGIN**

This report is in response to a presentation that was made by the Canadian Labour Congress and Oxfam Canada to Regional Council on their Anti-Sweatshop Campaign on October 8, 2002. Halifax Regional Council requested a report from staff on this matter.

**BACKGROUND**

Oxfam Canada and the Canadian Labour Congress are participating in the campaign to promote fair wages and working conditions for garment workers. They have proposed that HRM adopt a policy that would ban the purchase of garments that did not meet the labour standards listed within that policy.

The No Sweat campaign is a joint campaign of the Canadian Labour Congress, the Maquila Solidarity Network, Students Against Sweatshops, The Union of Needle Trades, Industrial and Textile Employees, and Oxfam Canada. As part of their campaign they have met with major Canadian retailers and manufacturers to discuss an industry wide solution but agreement was not

possible due to a disagreement on terms. Many of these retailers have continued to create their own code of conduct for contracting of garment manufacturing.

The term "No Sweat" is one of many concepts under the umbrella of ethical and/or sustainable purchasing. There are a number of terms used under this broad topic - Ethical Procurement, No Sweat, Child Labour, Fair Trade, Sustainable Procurement, Environmental/Green Procurement, Social/Local Procurement and some definitions may be helpful.

*Ethical Procurement:* There is no single definition of Ethical Procurement and it has been defined by the Ethical Trading Action Group as a practice that "promotes humane labour practices based on accepted international labour standards." Usage varies, but ethical purchasing policies consistently include such terms as "no sweat", Elimination of "Child Labour," and often extend to "fair trade" and sometimes include sustainable practices.

*No Sweat:* The Canadian Labour Congress has described "*no sweat*" as follows: "Retailers and manufacturers are increasingly outsourcing the manufacture of their apparel products, searching the globe for the lowest waged production facilities and the most lax enforcement of labour regulations; and this race to the bottom is negatively affecting the jobs and bargaining power of Canadian organized garment workers and encouraging the spread of sweatshop practices in Canada; and employers purchase a significant amount of apparel products, including staff uniforms, and could therefore help eliminate sweatshop abuses by requiring that those products are made under humane working conditions, preferably in union shops."

*Child Labour:* Child Labour is defined by the International Labour Organization (ILO) in their convention 182, in relation to work, as comprising of:

"a) all forms of slavery or practices similar to slavery, such as sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; ..."

And "d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children. "

*Fair Trade:* Fair Trade principles address the purchase of agricultural products, primarily coffee, tea, cocoa and sugar grown in Latin America, Africa and Asia. Transfair Canada states that "Canadian importers and distributors must follow certain criteria: pay a set minimum price that covers the costs of production, advances payments or extend credit to producers to help avoid debt while financing next year's production, agree to longer term trading relationships that provide producers with added security to plan for the future and promote sustainable production practices."

*Sustainable Procurement:* Sustainable procurement has been defined by the United Nations Environment Programme (UNEP) as "the process in which organizations buy supplies or services by taking into account: the best value for money considerations such as, price, quality, availability, functionality, etc.; environmental aspects ("green procurement": the effects on the environment that

the product and/or service have over its whole life cycle, from cradle to the grave); the entire Life Cycle of products; social aspects: effects on issues such as poverty eradication, international equity in the distribution of resources, labour conditions, human rights."

*Environmental/Green Procurement* means goods and services purchased must be evaluated by environmental criteria that address recycled content, efficient use of resources, use of renewable rather than non-renewable resources, energy efficiency and waste and emissions in their manufacture.

*Social and local procurement* considerations state that ethical, fair trade and environmental principles apply locally. This proposition is that effective procurement can stimulate economic development in City communities by integrating supply chain economics with corporate social responsibility to achieve community benefits.

## DISCUSSION

In evaluating any of these practices, and specifically the "No Sweatshop policy" there are some questions that may be pertinent.

**What is the extent, and value, of the municipal procurement that would be affected by this policy?** - With reference to a policy for clothing purchases, the HRM budgets approx. \$1.3 million in clothing each year. This amount is split between a number of business units and ranges from uniforms to gloves. The HRM is only a small customer in the garment manufacturing market when compared to larger retailers.

**Are there legal / jurisdictional aspects of proposed policy?**- In September of 2002 the HRM received a legal opinion on a proposed policy provided earlier by the "No Sweat Shop" Proponents. At that time the legal opinion provided that the policy, as proposed, would be "ultra vires", or that it goes beyond the jurisdiction of the HRM, in that it attempts to influence matters outside the territory of HRM. This was supported by the decision of the Supreme Court of Canada in the decision RE Shell Canada Products and City of Vancouver (1994) 110 D.L.R.(4th)1. The proposed policy or by-law deals with the issue of international trade which is the exclusive jurisdiction of the Parliament of Canada. The proposed policy or by-law purports to influence minimum labour rights. Labour standards are within the jurisdiction of the Province and not municipal governments. Canada has international obligations under NAFTA and the General Agreement on Tariffs and Trade the proposed policy may have implications under these treaties and may conflict with the federal statutes which ratify these treaties.

**What information do we now have on the place and conditions of the manufacture of these items?** -The current information is limited. For the most part the purchases are made

from suppliers who purchase the clothing from major Canadian distributors who in turn deal with the manufacturer. We have started to request the name and the country of manufacture of these uniforms. The HRM does not have inspectors nor does it hire third party inspection for verification of labour standard compliance of either the manufacture or the subcontractors. In some cases this cost would be greater than the order.

**What mechanisms do we have in place to ensure that suppliers to the HRM are in compliance with International Labour Standards?** - The HRM purchasing section primary focus is with direct suppliers to the HRM. Depending upon the work, we ensure that companies are registered to operate within Nova Scotia, have Workers Compensation clearance, proper safety certifications, and are properly insured. This is a time-consuming job. No mechanism is in place to ensure suppliers and any foreign or domestic subcontractors or distributors in the supply chain are in compliance with any international standards. The application of international standards is also difficult. The International Labour Organization (ILO), a United Nations agency, creates international standards but not all countries, including Canada and the United States, have ratified all of their conventions. The enforcement of labour code violations is a provincial jurisdiction and international trade is within Federal jurisdiction. Both levels of government have large departments to deal with these issues.

**What would be the relevant cost to implement such a policy?** - The implementation of the proposed policy could have financial consequences. The cost of purchases may increase and so would the time to obtain those purchases. Additional staff resources may be required and it may be necessary to purchase third party verification of vendor compliance. Staff would have to work with suppliers to ensure that they can meet the new requirements and the number of suppliers available to supply our requirements may decrease. As the HRM is a very small volume purchaser, firms may choose not to bid. Staff would be required to work with deficient suppliers to encourage improved practices during any phase in period. An example using the manufacture of jackets may be beneficial to illustrate the issues. The jackets may be manufactured in Canada under Canadian laws and regulations. However, are the embroidered crests similarly compliant? The jacket also includes components such as zippers, fabric, lining, insulation, etc. manufactured by other suppliers in perhaps other countries. To confirm compliance each component supplier must also be identified and evaluated. These items may be purchased from other distributors, who purchase them from other factories, perhaps in other countries. To determine the additional cost to the HRM of purchasing clothing under this policy we would have to evaluate each type of clothing and components we purchase, determine if the manufacturing meets the requirements of the standard and determine if there is a firm that meets the standard and then additional cost.

**What is the practice of other Canadian cities?**- The topic of sustainable/ ethical purchasing is a matter of current discussion in various Canadian cities. We have found policies dealing with this issue in the City of Toronto, Nanaimo and Thunder Bay. The policies have only recently been introduced and are applied by requiring vendors to certify that the garments are produced within the requirement stated in the contract. The policies do not contain enforcement mechanisms beyond the legal principles that underlie the contract. So far there have not been any complaints under these policies.

The City of Toronto policy states that: "*Bidders to state if products offered have been made in factories in countries where children are used as slave labour or other exploitive circumstances which impede child development.*" They are looking at other policies but have not developed them as yet.

The City of Thunder Bay includes a condition for the supply of linens, textiles, uniforms, shoes, that states that "*the City of Thunder Bay does not wish to encourage the purchase of products manufactured in factories where children are used as slave labour or other exploitive circumstances which impedes child development.*" They ask the contractor to confirm in writing, compliance of this directive in their bid response.

The City of Nanaimo also has a similar term in its garment contracts which states that the "*City of Nanaimo does not wish to encourage the purchase of products manufactured in factories where children are used as slave labour or other exploitive circumstances that impede child development.*" The term holds the supplier to this commitment by asking the supplier to confirm in writing, compliance of this term in the bid response.

The City of Vancouver does not currently have a policy but has just recently approved a project with regards to a sustainable/ethical procurement policy which will look at various at ethical, environmental and social issues. The project is in an early phase and staff is to report back to the council in December with the cost and resource requirements for developing and implementing a comprehensive sustainable and ethical procurement policy.

In consideration of the above points the next question is what can HRM do now? Although the proposed policy has some issues with jurisdiction, enforcement and legality, this issue is one that matters to Halifax Regional Council. One of the worst forms of sweat labour is the exploitation of children. The ILO convention on the elimination of the worst forms of Child Labour also has been ratified by the Federal Government. Staff recommends that the HRM adopt a policy which deals with child labour that is in line with the current best practices within Canadian municipalities and within the current resources of the HRM. Staff will include the following clause in our major garment purchases for the HRM.

"The HRM does not wish to encourage the purchase of products manufactured in factories where children are used as slave labour or other exploitive circumstances which impede child development. Bidders are to confirm in writing, that the goods supplied are not made in factories where these conditions exist. Non-compliance with this requirement will be

considered in the evaluation of all bids received.”

This commitment will depend upon the supplier to determine that the goods supplied meets this requirement. Other competitive suppliers will also work to ensure that the low bidder meets this requirement as they do currently with other specifications.

### **BUDGET IMPLICATIONS**

The implications for cost associated with the implication of this wording are undetermined but are anticipated as marginal due to the types of clothing we currently purchase. The large number of uniforms are currently made in Canada or in the United States.

### **MULTI-YEAR FINANCIAL IMPLICATIONS**

This report complies with the Municipality’s Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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