

Clearing the Hurdles

to Better Wages and
Working Conditions

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of Association**

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MFA⁺³

LABOUR RIGHTS IN A
CHANGING GARMENT INDUSTRY

Clearing the Hurdles to Better Wages and Working Conditions

In April 2008, just prior to the Beijing Olympic Games, the international Play Fair Alliance released a report on continuing worker rights violations in the global sportswear industry. The Alliance includes the European Clean Clothes Campaign and two Global Unions – the International Textile, Garment and Leather Workers' Federation (ITGLWF) and the International Confederation of Trade Unions (ICTU).

Clearing the Hurdles: Steps to Improving Wages and Working Conditions in the Global Sportswear Industry, which was written by the Maquila Solidarity Network (MSN) for the Alliance:

- identifies four systemic problems in the industry that are blocking progress on other issues;
- puts forward a series of demands to the major sportswear brands and other key actors in the industry (industry associations and multi-stakeholder initiatives); and
- sets targets for when those demands should be met.

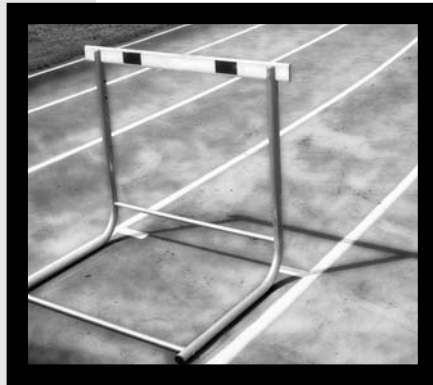
Although the report focuses on the sportswear industry, the demands are equally applicable to the garment sector. The following pages include some, but not all, of the demands.

MSN is currently developing its program plan for the next three years. We have been discussing whether and to what degree these demands should define the focus of our work for the coming period.

As part of that process, we want to consult with our strategic allies about whether these demands are applicable to your reality and/or whether there are other demands that are equally or more important. We also want to explore what demands we should be making to national industry players and governments, and how these relate to the demands being made at the international level. This seminar will be one opportunity to have this discussion with you.

Copies of the Spanish version of the Play Fair report, as well as an Executive Summary of the report, are available at: <http://es.maquilasolidarity.org/es/node/548>

Hurdle 1: Lack of Freedom of Association



Goal:
To create a positive climate for worker organizing

Brands should:

- Sign “Right to Organize Guarantees” with suppliers.
- Require suppliers to Allow Unions Access to Workers.
- Give preference to factories with signed collective agreements, and publicly report on the percentage of supplier factories worldwide that have signed collective agreements so that progress on freedom of association can be tracked from year to year.
- Facilitate training on freedom of association for management personnel and workers to be carried out by credible trade union organizations or labour rights NGOs.

A **Right to Organize Guarantee** is a signed agreement between a brand and a supplier in which the employer promises to respect the right of all employees to form or join a union of their free choice and to bargain collectively. The employer must also provide copies of the signed agreement to all workers, and the brand must audit whether the agreement has been adopted and communicated to workers.

In the agreement, the employer also promises not to discriminate against or victimize any employee for exercising this right. Such an agreement can also require the employer to grant access to any trade union to the workplace to disseminate information on freedom of association and the benefits of trade union membership.

Union Access to Workers can also be formalized through a signed agreement between a union and an employer providing the union reasonable access to the workplace during mutually agreed upon times and circumstances in order to speak to workers about the benefits of unions and collective bargaining.

Preference to Factories with Signed Collective Agreements would include preference in placement of orders, long-term, stable supply contracts, and a premium in unit price. These would act as positive incentives to factory owners to keep unionized factories open and to negotiate in good faith for improved wages and benefits.

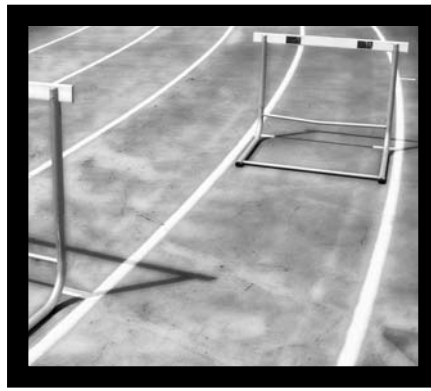
While the demand for preference to factories with signed collective agreements will likely be one of the more difficult to win, stable business relationships between brands and suppliers and decent prices are essential for the survival of unionized factories.

In the Mexican context, a *Right to Organize Guarantee* might be a useful tool against protection contracts. (Ninety percent of all collective agreements in Mexico are protection contracts that are signed without workers' knowledge or consent.)

They could, at least in theory, also give independent unions equal access to the workplace as official unions.

However, before promoting the signing of Union Access Agreements between unions and employers, care should be taken to ensure that such a strategy does not end up favouring official unions over independent unions.

Additional demands to brands sourcing from Mexico might include: Ensuring that workers have access to their collective agreements; and Supplier cooperation with the recent Supreme Court ruling that recuentos must be held by secret ballot.



Hurdle 2: Flexibilization of Work

Goal: End abuse of short-term labour contracting and reverse the trend toward flexibilized labour

Brands should work with suppliers to:

- Ensure all workers have formal open-ended employment contracts.
- Eliminate the use of repeat short-term employment contracts and/or third-party employment agencies for the company's core business.
- Ensure that any worker hired on a fixed duration contract be provided the same salary and benefits as permanent workers performing the same work.

Employers are increasingly using short-term employment contracts in order to deny workers their legal benefits, as well as seniority rights. Workers hired on consecutive short-term contracts may work for an employer for many years, but still not be considered permanent employees.

In many cases, workers are hired through third-party employment agencies, such as Manpower in some Latin American countries, but only work in one workplace for one real employer. In some cases, there are a number of employment contractors supplying labour to the real employer. There have also been a few cases in Mexico where foreign workers are recruited by employment agencies in their home countries to work in a factory in Mexico, and their recruitment fees are deducted from their wages.

In jurisdictions where temporary employees are prohibited from joining unions, employers often use consecutive short-term employment contracts and/or third-party contractors as a way of avoiding unionization.

In some cases in which workers prefer the current practice of being contracted on an annual basis and receiving severance pay at the end of each calendar year, as is common in Central America and the Dominican Republic, it may make more strategic sense to focus on ensuring that those workers do not lose seniority or any wages or benefits in the process.

Hurdle 3: Failure to Pay a Living Wage

Goal: Reverse the race to the bottom on wages

Brands should:

- Undertake independent review of whether prices allow for payment of wages that meet basic needs by local standards.
- Make a public commitment to the right of workers to a wage that meets their basic needs and provides some discretionary income, and incorporate that commitment into the company's code of conduct.
- Work with other buyers, unions and NGOs on efforts to remove barriers to achieving a living wage.
- Advocate with and/or support advocacy with national governments for an increase in the minimum wage, consistent with ILO Convention 131.

Very little information is currently available to workers or other interested parties about the prices that brands and retailers are paying to their suppliers. As a result, it is very difficult to determine whether current prices are sufficient to allow for payment of a living wage by local standards.

However, there is growing evidence that prices paid to suppliers are going down year by year at the same time as buyers are demanding improved production practices, as well compliance with social and environmental standards.

Meanwhile, very few brands or retailers have made commitments to the principle that workers are entitled to wages that meet their basic needs or to a process for achieving living wages in stages.



The ITGLWF is asking its affiliates in Latin America and other regions to gather information on wages – minimum wage, prevailing industry wage, wages that would meet basic needs – to assist them in developing an international living wage campaign.

Hurdle 4: Factory Closure and Industry Restructuring

Goal: Prevent or limit the damage of irresponsible (and often illegal) closures

Brands should:

- Adopt and implement the Responsible Transitions Guidelines of the MFA Forum.
- Publicly report on policies and practices to ensure the guidelines are met.

As the global garment industry restructures in the post-quota transition period, factory closures and layoffs are throwing thousand of workers out of work in Central America and Mexico, and around the world.

At the same time, the threat of factory closures is being used by employers as a scare tactic to discourage workers from filing complaints about legal violations, making demands for improved wages and working conditions, or organizing to improve conditions.

Currently, employers seldom have to justify why they are closing factory, even where the law requires them to do so, and brands never have justify why they are leaving countries or ceasing placing orders with particular factories.

As was demonstrated in the Hermosa case in El Salvador, most brands and retailers do not have policies in place to ensure that their suppliers are making regular legal contributions to social security or other governmental programs, and as a result, workers are left

without access to health care or pension benefits when their factory closes.

Nor do most brands have policies to ensure that workers are given priority in receiving severance payments in the event of a closure due to bankruptcy.

Nor do most brands, retailers or manufacturers make available to workers and other interested parties their policies concerning their responsibilities to workers during factory closures or factory exits.

The MFA Forum, a multi-stakeholder initiative involving companies, trade union and non-governmental organizations, governments and international institutions, has developed a set of *Guidelines for Managing Responsible Transitions* that define responsibilities and best practice for companies and governments prior to and during factory closures. However, these are currently just guidelines and there are no formal requirements for companies to comply with them or to report publicly on what that they are doing to put them into practice. The MFA Forum Guidelines for Responsible Transitions are available in Spanish at: