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#PayYourWorkers campaign

COVID-19 wage assurance and severance guarantee fund

Brand and retailers around the world responded to the COVID-19 pandemic by cancelling orders, delaying placement of new orders, or forcing discounts on goods already produced. This way they offloaded the main risks and costs of the crisis upon the people who are least able to pay this price, after having been paid poverty wages for years: the workers.

That is why labour rights organisations and unions in the Clean Clothes Campaign network are urging apparel companies to publicly assure that all workers in their supply chain will be paid during this crisis and receive the severance they are owed if they lose their jobs. Brands and (r)etailers can show their commitment to taking their responsibility towards the workers who enabled their past profits by publicly committing to wage assurance and the severance guarantee fund and publishing the following text on their website.

Wage assurance:

[Company X] hereby publicly assures that all apparel, textile, and footwear workers in our supply chain, who were paid to produce or handle goods at the onset of the COVID-19 crisis, regardless of employment status, will be paid their legally mandated or regular wages and benefits, whichever is higher. This includes wage arrears (back pay) and, where applicable, negotiated severance pay.

We will contribute funds of a sufficient amount to ensure that, when combined with other support provided to workers by employers, local governments, and international institutions, workers have income, equal or greater than, the amount they received prior to the crisis. In doing so, we provide immediate much-needed relief for workers, and we act upon our responsibility to prevent and mitigate adverse human rights impacts in our supply chains, and to provide for or cooperate in the remediation of harm.

Going forward, we will support stronger social protections for workers by committing to paying a price premium on future orders into a guarantee fund reserved for severance and outstanding wages in cases where employers in our supply chain have gone insolvent, or otherwise have terminated workers, through signing an enforceable agreement with garment worker unions, in line with ILO Recommendation 202, Convention 95 and Convention 76.

Publishing the statement is a first step, aimed to obtain public assurances for workers and hold brands accountable to their responsibilities to workers in their supply chains.

Frequently Asked Questions

Should employers (factories) not just pay the wages and benefits, including severance?

Yes, they should. In most garment-producing countries, factory owners are legally obligated to pay severance. In some countries, regulations require employers to maintain a certain level of income for their employees during the COVID-19 pandemic. However, with widespread order cancellations at the outset of the pandemic and payment delays, many employers do not have the funds to pay their workers as a result of brand behaviour. In the buyers'

market that the global garment industry represents, brands often function as de facto employers, dictating prices and production circumstances. Many factories (except for several very rich factory groups) have operated for years on minimal margins and have not built up buffers to now fall back on, while they have fronted the costs for the brands' orders before they were cancelled.

Brands, (r)etailers have been the primary profit-makers in these supply chains. Many well-known garment companies are owned by billionaires, including Inditex, Bestseller, C&A, and Uniqlo, who could cover their workers' wages out of pocket. Brands have a responsibility under the UN Guiding Principles on Business and Human Rights and the OECD Due Diligence Guidance to prevent and mitigate adverse human rights impacts in their supply chains, and to remedy harm they have contributed to or caused.

Does the wage assurance cover workers who are in (partial) lockdown, furloughed, or whose hours have been reduced, as well as those that have continued or returned to work?

A 'cut-off' point will need to be established by country, indicating for what period of the crisis wages need to be ensured by brands and retailers. This will depend on when government-imposed lockdowns have ended entirely. Within that period the wage assurance will cover all workers: those who continued to work and those that were sent home either full-time or part-time because of lockdowns, lack of orders, or social distancing measures.

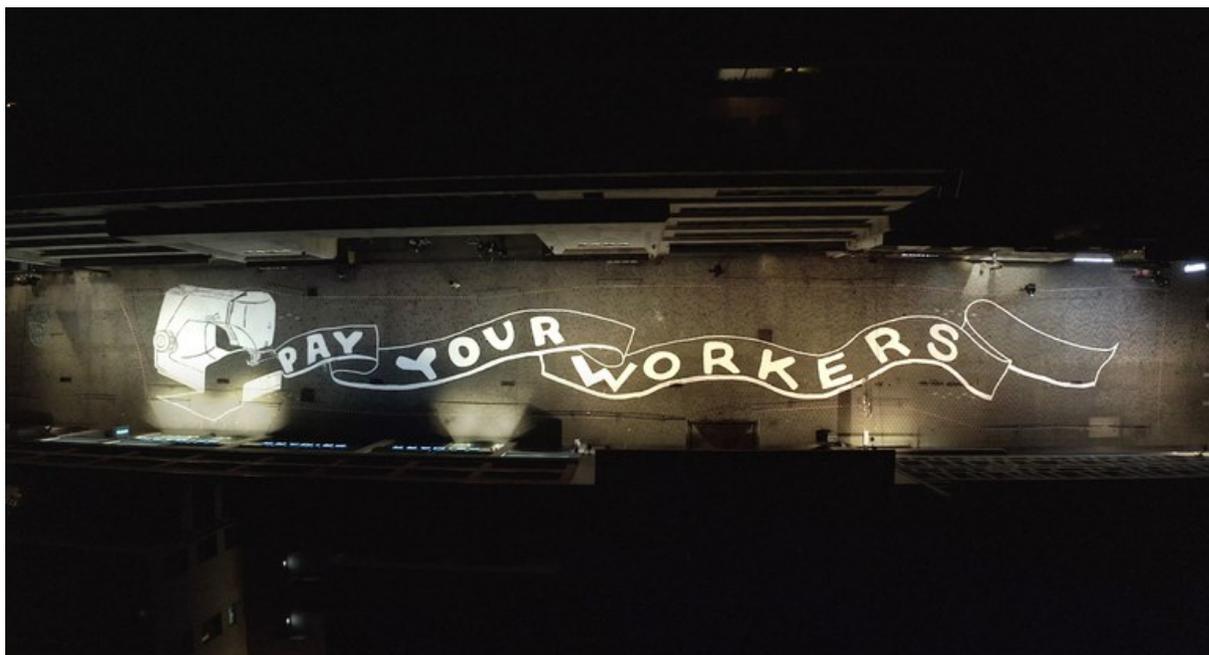
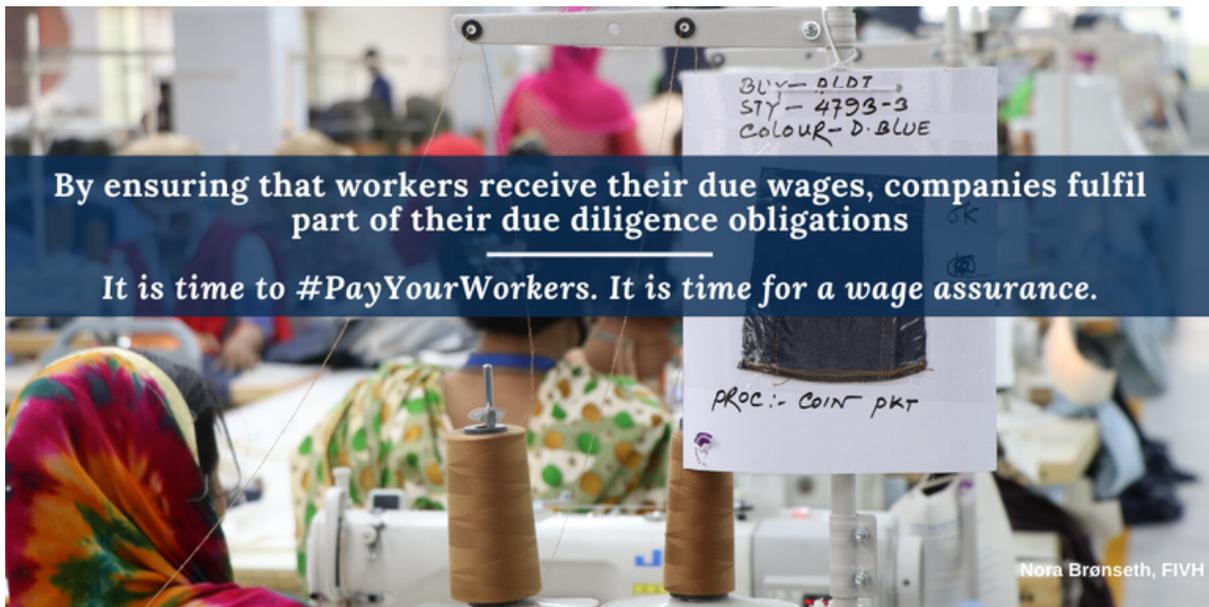
What about workers whose hours have been reduced?

In several countries governments have created special measures allowing employers to reduce hours and pay, as a means of avoiding bankruptcy. Given the lack of social security systems, this means in most cases that workers and their families have to live off less than the legal minimum wage. Brands that commit to wage assurance commit to make up the shortfall between what workers have been paid, and the income they received at the onset of the crisis.

How does this relate to the ILO Call to Action?

The wage assurance builds on the outcomes foreseen in the ILO Call to Action. Under that program, loans will be secured to enable employers to pay wages, and/or to enable governments to provide facilities that will enable employers to pay wages, or to pay income directly to workers. That is a good thing, but it is not the same as ensuring funds are used for the actual payment of wages, or ensuring that these are paid in full. The ILO Call to Action does not set any monetary targets, nor does it provide an enforcement mechanism or consequences for signatory brands if workers in their supply chain do not receive income support.

Many major brands have committed to this program, as have all of the major multistakeholder initiatives. The more successful the program is, the smaller the gap left outstanding, and the less brands will have to pay. Ten months after the launch of the ILO Call to Action, just a woefully small amount, estimated at 200 million USD, in income relief has been unlocked. A very small portion of that money has reached garment workers. In comparison, estimates are that garment workers lost at least 3 billion USD in the first three months of the pandemic. The ILO Call to Action only covers eight countries. Nearly a year into the pandemic, workers in those countries and all around the world are facing hunger and desperation and must be paid what they are owed.



How should brands and (r)etailers uphold the commitments they make after publishing the wage assurance statement?

The public statement is a first step, intended to provide workers with the assurance that brands and (r)etailers are taking responsibility. Further steps to fulfill that commitment in an accountable and transparent way can be included in the enforceable, legally binding agreement that is foreseen to be negotiated on the Severance Guarantee Fund. Brands and (r)etailers should not, however, delay doing what they must do today to get workers in their supply chains the income they so desperately need.

- Brands can start upholding their commitments in a number of ways, depending on the individual brands, their supply chain, and leverage in a particular country or factory, including by:
- Honouring all existing contracts with payment of the originally agreed amounts on the original schedule. Identifying which suppliers have wage gaps outstanding, through payroll review (preferably in collaboration with other brands); confirming the percentage of workers brought back post-lockdown, and comparing their wages and benefits to that at the onset of the crisis. For workers not (yet) brought back, reviewing the records of payments made, and the measures taken thus far to compensate them. Supporting the establishment of emergency relief funds and financial support packages specifically for the garment sector through own contributions (such as the Supply-chain Relief Contribution promoted by Asia Floor Wage Alliance) and leveraging funds from international financial institutions and governments – as foreseen in the ILO Call to Action for the eight priority countries selected). The smaller the shortfall between what workers are paid and what they are owed, the smaller the amount will be that brands and (r)etailers must contribute.
- Cooperating with employers to maintain workers' employment and wages, including the rehiring of previously dismissed workers and/or direct financial contributions to employers for immediate relief. Creating direct income support for workers who cannot be paid through an employer and are not eligible to sufficient support from national governments.
- Setting up funds to enable additional remedial payments to all workers that are not paid legally mandated remuneration (wages, severance, other terminal payments).
- In parallel, brands and (r)etailers must confirm they are willing to enter into negotiations with trade unions for a legally binding and enforceable agreement between brands, employers, and unions, regarding the foreseen severance guarantee fund and with a complaint mechanism concerning violations of workers' rights, and that they are willing to pay a small price premium on FoB.

PAY YOUR WORKERS



GARMENT WORKERS AROUND THE WORLD ARE OWED BETWEEN 3.19 AND 5.79 BILLION USD BY OUR CONSERVATIVE ESTIMATES

UN(DER)PAID IN THE PANDEMIC

(<https://cleanclothes.org/file-repository/underpaid-in-the-pandemic.pdf>)

How can we be sure all workers are paid what they are owed?

There need to be fair, inclusive, objective, and transparent processes for verifying eligibility for and disbursement of wage payments, supported by brands. The process should cover all workers whether employed, furloughed, dismissed, or terminated, and workers should be paid through wage slips that reinforce employment relationships. For factories that are reopening, payroll review combined with transparency will be critical. Brands are strongly encouraged to do this collectively; for example, through:

- Identification of common suppliers and determination of lead brands to undertake joint investigations (for example through payroll review) to determine the amount of wages and benefits left outstanding;
- Setting up a means of sharing information between brands, and of taking collective action to improve liquidity, ensure finances are available, and to monitor whether these are used for actual wage payments; and
- Determining a means for cost-sharing that can be applied across suppliers when workers are still not being paid.

What does "wages and benefits" mean?

Wages include legally mandated remuneration, including overtime and bonuses. Benefits include sickness, parental leave, severance, and termination benefits.

Shouldn't brands and retailers focus on ensuring workers receive a living wage?

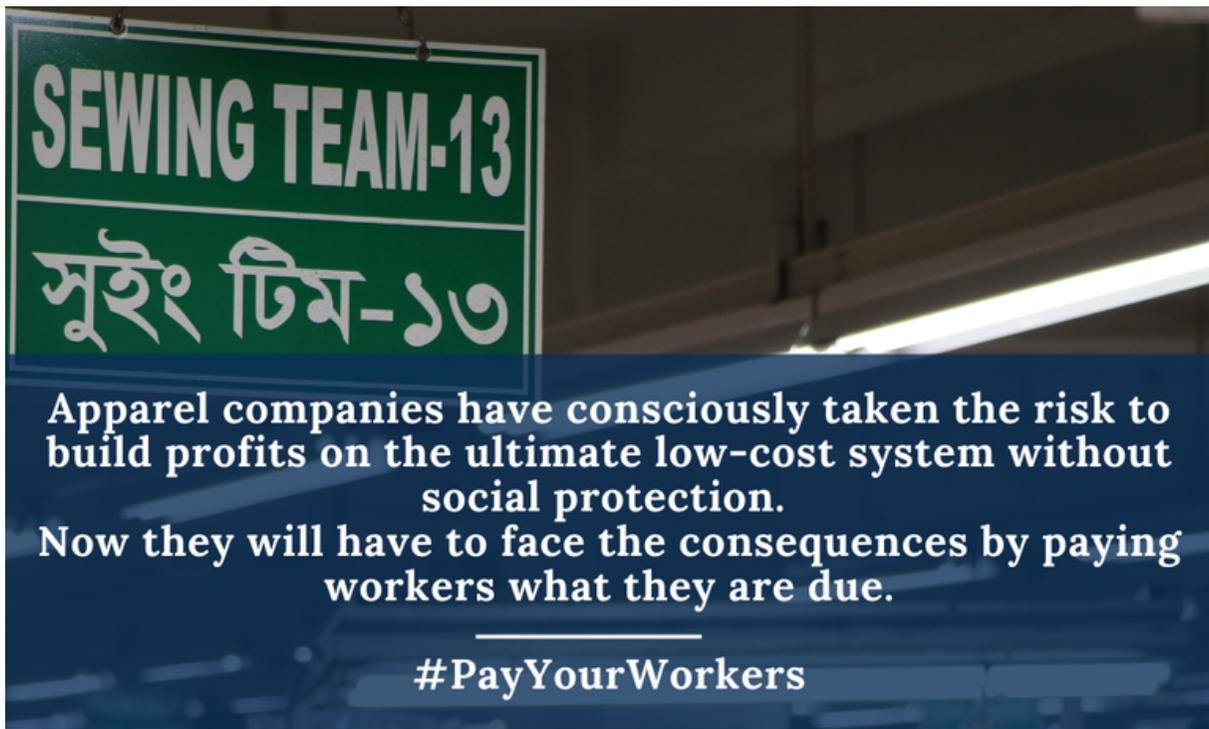
Yes, they should. But given the very desperate circumstances of garment workers who are not even receiving the poverty wages they were promised, the first priority is to get workers their current regular wages and benefits, even though these cover only about one third of what is needed to meet the basic needs of themselves and their families. Currently many workers are getting reduced wages or nothing at all. Providing the legally owed wages and benefits to workers in their supply chains is the minimum first step brands should take immediately to ensure workers can survive.

What is meant by a "Severance Guarantee Fund" ?

In addition to providing immediate income support for workers, the wage assurance also includes a commitment to negotiate an enforceable agreement to support stronger social protections for workers related to unemployment and severance benefits, in line with the relevant ILO conventions, through the establishment of a Severance Guarantee Fund (SGF).

Workers who did not receive severance and were employed in the supply chain of a signatory brand or employer can file a claim. The SGF will take up claims from workers whose employer can't be compelled to pay and cases where national legislation falls short of the international standard. It will also provide financial support to improve social protection systems at the national level, and set up dedicated accounts for this purpose which can be accessed by national committees including government, employers, unions, and civil society representatives. As social protection systems improve, the brand premiums will be reduced accordingly.

The Severance Guarantee Fund therefore will mitigate the devastating consequences of unemployment for workers in the future by financially supplementing or strengthening government social protection programmes for unemployment or severance benefits. Brands and retailers would contribute to both funding streams through a fee based on volume sourced from each country, and employer fees would be a percentage of their wage bill in each country. This should be part of a larger effort to establish more sustainable and resilient industries in the near future, consisting of supply chains with better planning and pricing models, which includes a costing model that covers fair payment schedules, and financial space for living wages, safe factories, and social benefits.



How much will it cost brands to pay for the Severance Guarantee Fund and the shortfall in wages and benefits?

Brands will be asked to pay a premium of 1.5% of annual FOB, with a special additional 1.5% fee assessed in the first year to account for the administrative set up and the devastating impacts of the pandemic and climate disruption. "The first year" is defined as the first year after the brand signs on to the Fund. Thus, even if a brand signs on after the initial year of the programme, the additional 1.5% fee will still be assessed in the first year of the brand's participation in the Fund.

The 1.5% fee can be reduced if a brand sources from countries that establish credible and effective social protection programs covering unemployment and/or severance benefits, or if its suppliers sign on and contribute to the Fund. If all of a brand's suppliers sign on, or if the brand is exclusively sourcing from countries that have fully functioning social protection programmes, its fee will go to zero.

The agreement will include a trigger mechanism for implementation, which will be defined either by the number of brands that have signed on or by total amount of purchasing volume. Cooperation from the IFC or other international finance institutions will be sought to front-load the brand premium contributions, enabling relief in the short term while also enabling brands to spread the payments out over a dedicated period.

All told, it will cost brands no more than ten cents per t-shirt to meet their wage assurance commitment, their annual dues to the Severance Guarantee Fund, and to provide for an enforceable grievance mechanism for violations of workers' rights.

How will the legally enforceable agreement support labour rights?

Company signatories must agree to respect workers' rights, including the right to organize and bargain collectively. The agreement will include the establishment of an independent complaints mechanism, empowered to investigate worker grievances in cases of failure of payment and in cases of anti-union retaliation or harassment, gender-based violence and harassment, and occupational health and safety violations. The agreement will be enforced through a similar mechanism as the Accord on Fire and Building Safety in Bangladesh: a dispute resolution mechanism, where the union signatories can ultimately take the brands to court if they fail to uphold the agreement and an escalation protocol where brands will ultimately have to cease sourcing from employers who fail to uphold the agreement.

Oversight of the agreement will be subject to negotiation; the Bangladesh Accord provides a proven model to draw from. This includes independent oversight, through a combination of full transparency and a Steering Committee made up of the signatories, together with representatives of the national committees referenced above, and global NGO representatives as witness signatories in a non-voting capacity. The ILO can be invited to act as independent chair, and an ILO-empowered expert committee can assess national social protection projects for financing and determine progress.



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