Clean Clothes Campaign

SEVERANCE GUARANTEE FUND AGREEMENT

GUIDANCE FOR GOVERNMENTS

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Unemployment protection, separation benefits and social protection

According to the International Labor Organisation, “social protection, or social security, is a human right and is defined as the set of policies and programmes designed to reduce and prevent poverty, vulnerability and social exclusion throughout the life cycle.”

Pay Your Workers:
an urgent agreement

The agreement, endorsed by 285+ organisations & unions worldwide, addresses garment workers' loss of income in case of factory closures and mass dismissals.

A safety net during crises

Economic & ecological crises threaten jobs, while severance is often left unpaid as the pandemic has shown.

$4 BILLION

What workers lost in legally owed severance in the last 15 years (WRC)

$1,000

Loss per worker on average in 31 cases of severance theft during the pandemic (WRC)

Brand responsibility

Due diligence laws increasingly oblige companies to address human rights issues in their supply chain.

18.6%

only of unemployed workers have access to unemployment benefits globally (UN)

+18%

garment industry growth during the pandemic, 2020-2021 (Euromonitor)

Freedom of association

Without strong unions, workers have little capacity to enforce payment of severance.

61%

of garment workers said freedom of association "got worse" since the pandemic. 48% reported an increase in discrimination and intimidation of union members (BHRRC)

77%

of countries limit workers' right to establish or join a trade union (ITUC).

Pay Your Workers:
A bridging solution

A binding agreement between brands, employers & unions to pay severance & build national social protection schemes

Oversight

- **Steering committee** (brand, employer & union signatories, national committee reps & NGOs)
- **Claims committee**
- **National committees** (govt., employers, unions & civil society)

Who pays

- brands (0.5 FOB*)
- employers/suppliers (% of salary cost)

Admin fees, legal, public outreach...

Global Severance Guarantee Fund

investigates and pays out worker claims, provides seed money for social protection schemes through national committees

Grievance mechanism

investigates and remedies violations of freedom of association and other core labor rights violations

Worker

files claim

receives severance and backwages

files complaint on worker right violation

*PYW incentivises establishing social protection schemes, as brands' payments decrease once this is achieved. Fees for brands will also decrease when suppliers of a brand sign.

CONTENTS

EXECUTIVE SUMMARY

Guidance on the Severance Guarantee Fund Agreement

- This guidance document explains why and how governments should support and promote the Severance Guarantee Fund (SGF) Agreement.
- The SGF Agreement, endorsed by over 285 organisations worldwide, tackles **two key longstanding issues in garment supply chains:** severance theft and the violation of freedom of association. If signed, this **legally binding and enforceable agreement** between brands, employers, and unions establishes a global Severance Guarantee Fund (SGF) as well as a grievance mechanism to investigate violations of freedom of association and other core labour rights.
- The Pay Your Workers-Respect Labour Rights or **Severance Guarantee Fund (SGF) Agreement** proposes an **immediate and workable answer** to four global trends:

  (1) the ongoing and growing climate breakdown and ecological crisis with all of its impacts, specifically also in the garment industry, thus needing an acute **climate justice adaptation measure** and institutional changes to the garment supply chains to support a **just transition;**

  (2) the lack of fully **functioning social protection schemes** (including the payment of severance) in production countries leading to extreme poverty in times of factory closures during, for example, a pandemic;

  (3) the legal obligation for companies to **comply with due diligence requirements** to prevent and address adverse human rights impacts in their supply chain;

  (4) the **shrinking space for union organising and collective bargaining, especially in crises when the repression intensifies.**
- The climate and ecological crisis will not be a series of shocks, disasters, and catastrophes but rather an unfolding series of events that compound risks and impacts, leading to cascading effects alongside some shocks. The Severance Guarantee Fund Agreement is needed to **structurally** protect workers as this unfolds, not only as a crisis response.

- In many low- and middle-income countries, workers are primarily protected by separation payments, including severance pay, in cases of job loss. However, not all workers receive this payment, as it depends on contractual agreements, employers' financial situation, and workers' ability to enforce payment. While building up national social protection schemes in production countries remains the goal, as long as these are not yet fully implemented, a **bridging solution** to fill the **global regulatory gap** is necessary to prevent workers and their children from sliding into extreme poverty when a factory closes.
- The SGF Agreement helps garment companies meet **due diligence regulations** by offering a comprehensive framework to address severance theft and investigate violations of basic labour rights in global supply chains. The latest draft of the EU **Corporate Sustainability Due Diligence Directive** includes an obligation for companies to **remediate** harms to human rights (including labour rights) that they have not been able to prevent. The directive also includes the right to freedom of association as one of the rights companies must include in their due diligence.
- The **space for union organising and collective bargaining** is continuously shrinking. **Union busting** thrives in times of economic upheaval. Factory owners are more inclined to practice union repression when pressure on them increases, for example, when brands withdraw orders, demand discounts or unrealistic lead times, or stop paying. Garment workers have often been able to improve their pay and working conditions through organised struggle. To prevent this in their factories, many factory owners resort to extreme measures such as suspending or dismissing workers who try to organise or even closing unionised units. That is why the SGF Agreement establishes a **grievance mechanism on freedom of association** (and other core labour rights), allowing workers to protect their right to organise and hold brands and factories accountable for their commitments.
- 36 unions from garment production countries developed the proposal for the SGF Agreement during the COVID-19 pandemic. A representative bargaining committee of union leaders is now ready to **negotiate the details of the proposal** with the brands willing to come forward and launch together this global solution for an urgent sector-wide issue.
- The SGF agreement foresees establishing a global Severance Guarantee Fund to provide separation benefits for closures and mass dismissals when the employer cannot be compelled to pay. Therefore, it is a limited tool designed to offer **remedy only in the most serious cases.**
- Brands and retailers will contribute through a **fee** based on volume sourced from each country. Brands will be asked to pay a premium of 0.5% of annual FOB. This fee can be reduced if a brand sources from countries establishing credible and effective social protection programmes covering unemployment and/or severance benefits or its suppliers sign on and contribute to the Fund.
- The SGF Agreement supports the **overall goal of ILO-compliant unemployment protection schemes** (instead of relying on separation benefits), hence the provision that the Severance Guarantee Fund will reserve part of the income to set these up, and aims to do so through social dialogue.

- The SGF Agreement will include **a mechanism to identify, investigate, and remedy non-compliance** and worker grievances in cases of failure of payment, anti-union retaliation or harassment, gender-based violence and harassment, and occupational health and safety violations.
- Identifying and redressing **severance theft** on **a case-by-case basis** can be resource-intensive, time-consuming, and often reactive rather than proactive. Participating in the SGF Agreement is **more cost-effective** as the Agreement allows brands to address multiple severance theft cases collectively, leveraging economies of scale.
- According to the **Common Framework for Responsible Purchasing Practices,** brands are expected to have a strategy for making a responsible exit also when there is no state-backed social security system and when the supplier is not compliant (i.e. when the factory is unable to pay severance). However, the COVID-19 pandemic has demonstrated that brands do not have such a **strategy**.
- Union leaders have **repeatedly called on brands** to come to the table to negotiate the details of the SGF Agreement. Despite this, silence, deflection and misleading proposals for commercial insurance have been the answer from brands.
- **Governments** should support the SGF Agreement because it offers a robust instrument to fulfil the first Sustainable Development Goal, addressing poverty — aiming to end extreme poverty worldwide by 2030. Governments are expected to foster **policy coherence** and seek alignment between programmes to **promote responsible business conduct** and to ensure that companies in the textile and garment sector operating in their territory adhere to the **OECD Guidelines**.
- **What can governments do to promote the SGF Agreement?** Ensure this proposal is integrated into existing or future support programmes for social security. Engage in a conversation with (trade) partners at the EU level and abroad about the lack of effective implementation of social security measures and the considerable risk this presents in the context of climate and ecological breakdown and other crises.

1. Introduction

- This guidance document explains why and how governments should support and promote the Severance Guarantee Fund (SGF) Agreement.
- The SGF Agreement, endorsed by over 285 organisations worldwide, **tackles two key longstanding issues in garment supply chains:** severance theft and the violation of freedom of association.[1] If signed, this **legally binding and enforceable agreement** between brands, employers, and unions establishes a global Severance Guarantee Fund (SGF) as well as a grievance mechanism to investigate violations of freedom of association and other core labour rights.[2]
- **Severance payment**[3] is a crucial part of social security and refers to the compensation paid to workers who have been laid off due to business closures or restructuring — which happened a lot during the COVID crisis[4] and is expected to happen even more with the ongoing climate crisis.[5] Severance theft, **a form of wage theft,** is widespread in the garment industry. Trade unions and labour rights groups have documented dozens of cases in countries where textiles, garments, shoes and leather are produced.[6]
- **Freedom of association** has long been at risk in the garment industry. In some production countries, the COVID pandemic was used to target union leaders and members, either by dismissing them under the pretext of pandemic-related economic hardships or by using the crisis as an excuse to crack down on union activities. This has weakened the bargaining power of unions and undermined workers' rights, given that the right to freedom of association and collective bargaining as an enabling right is crucial to protect all other labour rights.
- The **significant impact of severance payments** on the future and the ability of workers to create an independent livelihood is visible in this short film comparing two female garment workers after losing their jobs: **payyourworkers.org/stolen-futures**. In August 2019, 2,000 workers from the Kahoindah factory in Indonesia finally received the US $4.5 million they were owed, the equivalent of seven months of work, a life-changing amount. The film shows how this allows female garment worker Siti to start her own business and become economically independent.

1 — A summary of the proposed SGF agreement can be found on the website here: **https://static1.squarespace.com/static/60098e9bbc6c325307708e5b/t/6419fa3389550f29efa87c01/1679424051234/Summary+of+Draft+Agreement+with+Annex+1.pdf**
2 — The proposal for the SGF Agreement follows the successful example of the seafarers and their effective International Bargaining Forum which is an industry-wide framework governing labor practices on vessels that is specific and binding, covers multiple countries and is global in scope, includes industry funding for independent enforcement and work welfare, and has a governance structure rooted in collective bargaining. Jason Judd, Sarosh Kuruvilla and J. Lowell Jackson (2022) Security for Apparel Workers: Alternative Models, NCP Working Paper No. 3, April 2022, p.22.
3 — ILO Convention 158 calls this specific form of separation benefit a "redundancy payment", but this terminology is not adopted by many countries, **https://eplex.ilo.org/redundancy-and-severance-pay/**. For the purposes of the Severance Guarantee Fund Agreement, severance pay is defined here as compensation that an employer provides to an employee who has been laid off or whose job has been eliminated. It compensates an employee for loss of seniority and job-related benefits. It also recognizes an employee's years of service or tenure. Typically, severance pay amounts to a stipulated number of weeks or months of pay depending on the number of years the employee was with the company (adapted from a definition given in: Michel Bedard, John Carter & Ippei Tsuruga, International practices of income protection for unemployed persons: Implications for Indonesia, International Labor Organization 2020, available at: **https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_752252.pdf** p.48).
4 — Worker Rights Consortium. (2021). The Unequal Impacts of Covid-19 on Global Garment Supply Chains - Worker Rights Consortium. [online] Available at: **https://www.workersrights.org/research-report/the-unequal-impacts-of-covid-19-on-global-garment-supply-chains/**
5 — Jason Judd, Angus Bauer, Sarosh Kuruvilla and Stephanie Williams (2023) HIGHER GROUND? Report 1: Fashion's Climate Breakdown and its Effect for Workers, ILR Global Labor Institute & Schroders, 13 September 2023.
6 — Worker Rights Consortium. (2021). Fired, Then Robbed: Fashion brands' complicity in wage theft during Covid-19 - Worker Rights Consortium. [online] Available at: **https://www.workersrights.org/research-report/fired-then-robbed-fashion-brands-complicity-in-wage-theft-during-covid-19/**

- When the COVID pandemic hit, there was no proposal to deal with the severance theft after factory closures and mass dismissals. Unions spent the first months of the pandemic assessing the crisis and drafting the proposal for a Severance Guarantee Fund combined with a grievance mechanism to counter union harassment. **The next crises are already here.** This time, the proposal is ready and, if implemented, can save workers and their families from going hungry after a layoff.

Case: Body Fashion Factory in Thailand producing for Victoria's Secret and others

When the COVID-19 pandemic hit, the Body Fashion sewing factory in Thailand shut down for three months. During this time, workers were not paid partial wages required by Thai law, and many struggled to survive through the spring. On 31 July 2020, the factory was supposed to reopen, but when workers arrived in the morning, they found that nearly 90% of them had been fired without any notice. Over the next few months, the entire workforce of more than 900 workers lost their jobs as the factory shut down permanently. **In total, Body Fashion owes workers $5.9 million in unpaid wages, severance, notice pay, bonuses, and legally mandated interest.** Malaysian businessman Robert Ng (Ng Man Choong), owner of Body Fashion, is directly responsible for the factory's debt to workers and has shown no intention of paying.

The unpaid wages have had a devastating effect on workers. Over 90% of the workers were women, many of whom worked at Body Fashion for ten or even 20 years. Some have lost their homes, or have been unable to pay for their children's schooling. Others have resorted to borrowing from informal lenders at steep interest rates.

The factory supplied swimwear, underwear and sportswear to brands including the century-old Austrian company Huber Holding, Lane Bryant (owned by the US-based private equity firm Sycamore Partners), the Swiss lingerie brand Triumph International, and the US brand Victoria's Secret.

2. Why is this Agreement needed now?

- The Pay Your Workers-Respect Labour Rights or **Severance Guarantee Fund (SGF) Agreement**[7] proposes an **immediate and workable** answer to four global trends:

    (1) the ongoing and growing climate breakdown and ecological crisis with all of its impacts, specifically also in the garment industry, thus needing an acute **climate justice adaptation measure** and institutional changes to the garment supply chains to support a **just transition;**

    (2) the lack of fully **functioning social protection schemes** (including the payment of severance) in production countries leading to extreme poverty in times of factory closures during, for example, a pandemic;

    (3) the legal obligation for companies to **comply with due diligence requirements** to prevent and address adverse human rights impacts in their supply chain;

    (4) the **shrinking space for union organising and collective bargaining, especially in crises when the repression intensifies.**

7 — The campaign for this agreement is called the Pay Your Workers - Respect Labor Rights Campaign. More information: **https://www.payyourworkers.org/**

Trend 1: Consequences of climate breakdown and other crises

- The ongoing and growing climate breakdown and ecological crisis with all of its impacts, specifically also in the garment industry, means that there is a need for an acute climate justice adaptation measure and institutional changes to the garment supply chains to support a **just transition.** The recently published "Higher Ground" report by Judd, Bauer, Kuruvilla and Williams from Cornell University, together with the global investment manager Schroders, spells out the effects of climate change on major garment production hubs. One of their main recommendations is to "[d]evelop social protection mechanisms and climate adaptation finance that redistributes costs and risks away from apparel workers" (executive summary, p.2).[8]
- Crises exacerbate the already challenging working conditions and widespread violations of workers' rights in the garment industry, as became clear again during the **earthquake in Turkey** in February 2023. As many workers lost their homes, textile and garment factories could have turned into post-disaster solidarity spaces with the financial support of global brands. However, research revealed that this option was not prioritised by either global actors or local suppliers.[9] Global brands did not significantly postpone the workload of employers by changing the deadlines in the post-earthquake period. Most factory employers called their workers back within two to four weeks after the earthquake. Some workers, who could not return as quickly due to the damage to their homes and loss of loved ones, were laid off.[10] They did not always receive severance pay. For many workers, the earthquake thus led to financial problems. Some workers also did not receive continued payment of their wages during the first weeks after the earthquake. Only 24.6 % of workers stated that they received their full wages while on leave. The majority (34.62%) did not receive any wages at all.[11]
- Crises thus have a huge impact on the workplace (e.g., heat, factory closures, trends in the global economy, consumer attitudes) and workers' personal lives (e.g., housing, commuting to work). The current impact of climate change on workers includes excessive heat and flooding. **Heat stress** due to climate change can have severe impacts on workers, ranging from headaches, rashes, nausea, dehydration, heat exhaustion, and fainting to heat stroke (Higher Ground report 1, p.6).
- Climate change policies can be divided into two broad categories: mitigation and adaptation. Mitigation policies aim to reduce greenhouse gas emissions, while adaptation policies seek to enable adaptation to the effects of climate change. A huge challenge is that, currently, mitigation tends to be worker-blind. For example, relocations to so-called "green" factories in order to meet emission targets tend to neglect the impact of such moves on workers. **Brand-led adaptation measures can also be worker-blind.** There is a real risk that companies may "cut and run" as they leave production sites vulnerable to climate change to relocate to cooler and drier environments, which may lead to factory closures.
- The climate and ecological crisis will not be a series of shocks, disasters, and catastrophes but rather an unfolding series of events that compound risks and impacts, leading to cascading effects alongside some shocks. The Severance Guarantee Fund Agreement is needed to structurally protect workers as this unfolds, not only as a crisis response.

8 — Jason Judd, Angus Bauer, Sarosh Kuruvilla and Stephanie Williams (2023) HIGHER GROUND? Report 1: Fashion's Climate Breakdown and its Effect for Workers, ILR Global Labor Institute & Schroders, 13 September 2023.
9 — Derya Göçer, The Impact of the Earthquake on Textile and Garment Workers, January 2024, available at: **https://cleanclothes.org/file-repository/the_impact_of_the_earthquake_on_textile_and_garment_workers_ss.pdf/view**, p.15
10 — Ibid, p.22
11 — Ibid, p.16

Trend 2: Lack of effective social protection schemes

- Severance payment is crucial for garment workers because of the lack of effective social protection schemes (including the payment of severance) in production countries, which leads to **extreme poverty and debt** in times of factory closures and mass dismissals.[12]
- Workers in the garment industry are vulnerable to exploitation in the global economy. The position of workers in the garment supply chain vis à vis employers and global brands continues to be weak due to the lack of social security facilities, wages far below living wage levels, and disrespect for labour rights within the supply chain. Labour rights in producing countries are (in general) neither fully respected nor diligently monitored, and the implementation of legal frameworks is weak. Main garment production hubs in Asia, Central America, Europe and Africa have either **not ratified the relevant ILO conventions or are not actively enforcing them.[13] Most workers, therefore, do not have access to social security schemes and are unable to save any money out of their income. Instead, they usually build up debts.** Efforts to build social protection mechanisms in production countries are too slow to show results. Researchers confirmed that "[t]he COVID pandemic has acted as a 'stress test' for these systems and has revealed the inadequacy or absence of national social protection systems in the major apparel exporting countries."[14]

Unemployment protection, separation benefits and social protection

According to the International Labor Organisation, "social protection, or social security, is a human right and is defined as the set of policies and programmes designed to reduce and prevent poverty, vulnerability and social exclusion throughout the life cycle." The ILO further describes that social protection includes nine main areas: child and family benefits, maternity protection, unemployment support, employment injury benefits, sickness benefits, health protection (medical care, including maternity care and long-term care), old-age benefits, invalidity/disability benefits, and survivors' benefits. Social protection systems address all these policy areas by a mix of contributory schemes (social insurance) and non-contributory tax financed benefits (including social assistance).

Globally, unemployment protection schemes remain the least widely implemented branch of social security, found mainly in high-income countries. Most low- and middle-income countries still tend to rely solely on separation payment (including severance pay) to protect workers in cases of job loss. Not all workers receive this payment, though, as it is dependent on contractual relationships, employers' financial liquidity and workers' capacity to enforce payment. Because of the frequent non-payment of severance, the ILO has recognised the questionable effectiveness of this instrument.

12 — The importance of social protection is also recognized in: UN Framework Convention on Climate Change (2016) "Just Transition of the Workforce, and the Creation of Decent Work and Quality Jobs", available at: (**https://unfccc.int/sites/default/files/resource/Just%20transition.pdf** : "Social protection can help vulnerable groups absorb economic pressures and environmental shocks (such as harvest failures, soaring food prices, increased exposure to disease or loss of assets caused by floods and storms)" (p.15).
13 — ILO Recommendation 202 on Social Protection Floors (2012) states that social security is a human right and that ILO members should "maintain their social protection floors comprising basic social security guarantees" including "basic income security […] for persons in active age who are unable to earn sufficient income, in particular in cases of sickness, unemployment, [and] maternity and disability" (ILO, 2012).
14 — Jason Judd, Sarosh Kuruvilla and J. Lowell Jackson (2022) Security for Apparel Workers: Alternative Models, NCP Working Paper No. 3, April 2022, p.3.

- While building up national social protection schemes in production countries remains the goal,[15] as long as these are not yet fully implemented, a **bridging solution** is necessary to prevent workers and their children from sliding into extreme poverty when a factory closes. The SGF Agreement does exactly that while at the same time providing an incentive for creating those government-run social security systems, as the premium brands and employers pay will decrease once the social protection schemes are in place. Brands will be asked to pay a premium of 0.5 percent of their annual FOB.[16]
- In many production countries, according to the law, the employer is legally obliged to pay severance. However, without a state-organised social security system, the **employer** has to save enough money to pay out severance whenever relevant. Full implementation of this obligation, however, is rare, and there are several loopholes in the legislation, frequently excluding migrant workers and those without a direct contract.[17] This reliance on individual employers for severance payments becomes especially vulnerable in the case of mass dismissal or bankruptcy. The SGF Agreement also allows employers of garment factories to sign up for the fund and thus fulfil their obligation to pay severance.
- The status quo means that brands benefit from the low-price model in the garment industry. This means that governments in production countries hesitate to build social security systems, as they fear that brands might leave the country when this leads to higher prices. The SGF Agreement, however, creates a real **incentive for all stakeholders** to build well-funded and democratically administered social protection schemes. Brands have a clear incentive to source from countries that establish credible and effective social protection programmes covering unemployment and/or severance benefits, as this will reduce their fee. Similarly, the brand's fee will be reduced if its suppliers sign on and contribute to the Fund.
- The Severance Guarantee Fund will also provide financial support to improve social protection systems at the national level, and under the SGF Agreement, there will be **dedicated accounts** for this purpose, which can be accessed by **national committees** that will include government, employers, unions, and civil society representatives.[18]
- The SGF Agreement won't be the first sector-wide enforceable agreement. The Accord on Fire and Building Safety was the first **global legally binding and enforceable agreement between brands and trade unions.** Its success has been acclaimed by many, and since 2013, Accord engineers have carried out over 30,000 inspections. The Accord made the garment industry safer, contributing to the growth and competitiveness of the Ready-Made Garment (RMG) sector. Bangladesh's garment industry saw a 79 percent increase in annual revenue between 2013 and 2020, with the country becoming the second largest exporter of garments globally.
- The SGF Agreement could establish a **"Social Security Accord"**, similar to the Accord on Fire and Building Safety. By bridging the **global regulatory gap,** this new instrument could effectively contribute to building the necessary production capacity in countries over the long run.

15 — "The best practice arrangement or 'gold standard' to help workers deal with sudden loss of employment is comprehensive national unemployment benefits model accompanied by severance requirements that cover all workers regardless of sector. Severance payments and public unemployment insurance programs, funded by employer (and often employee) contributions and taxation, are integrated with broader social protections such as access to health care, sickness benefits, old-age pensions, disability benefits and so forth, as found in the ILO's social security Conventions. These national systems are general—that is, not sector specific—and require political will to enact the enabling legislation, build stable sources of funding and ensure that benefits are paid." Jason Judd, Sarosh Kuruvilla and J. Lowell Jackson (2022) Security for Apparel Workers: Alternative Models, NCP Working Paper No. 3, April 2022, p.3.

16 — Free on Board (FOB) is a shipment term that defines the point in the supply chain when a buyer or seller becomes liable for the goods being transported, and is used for calculation.

17 — Jason Judd, Sarosh Kuruvilla and J. Lowell Jackson (2022) Security for Apparel Workers: Alternative Models, NCP Working Paper No. 3, April 2022, p.7. Even before the covid pandemic, severance payments were frequently omitted: "In Bangladesh, the ILO's Better Work program found that in 2019 fully 28 percent of member factories did not pay severance for termination or did not pay the correct amounts (Better Work, 2019a). Better Work Vietnam assessments found the same: 28 percent of member factories there were not compliant with severance requirements in 2019 (Better Work, 2019b)." (ibid).

18 — As Judd, Kuruvilla and Lowell Jackson point out, "[c]losing these gaps in law and between de jure and de facto functioning of severance and social protection systems are necessarily priorities for the national committees envisaged in the ILO-convened Call to Action and Severance Guarantee Fund proposals." (2022) Security for Apparel Workers: Alternative Models, NCP Working Paper No. 3, April 2022, p.9.

- In most production countries, a state-backed scheme to pay out **unemployment benefits** is currently not financially feasible. Most countries where brands have their headquarters possess a functioning social security system where people receive unemployment benefits. Similar to the **guarantee fund systems** available in many headquarters countries, the SGF Agreement proposes a model allowing for severance pay through a guarantee fund, which brands financially support. Countries regularly work with a guarantee fund, as suggested by the SGF Agreement and as explicitly prescribed by the International Labour Organisation (ILO C173).[19] In such systems, a guarantee fund is available if a bankrupt company's assets are insufficient to fulfil workers' claims. In countries that combine a guarantee fund with an insurance system, these are usually **public social insurance schemes** and/or public-private partnerships where the institute or agency set up to house the guarantee fund may contract with private insurance companies. Still, the **ultimate responsibility (and risk) rests with the government.**

Trend 3: Due diligence requirements for companies

- Since the emergence of due diligence legislation, companies have the **legal obligation** to comply with due diligence requirements to prevent and address adverse human rights impacts in their supply chain.
- The SGF Agreement helps garment companies meet **due diligence regulations** by offering a comprehensive framework to address severance theft and investigate violations of basic labour rights in global supply chains.
- By signing the SGF Agreement, companies commit to ensuring all workers in their supply chain receive their severance payment.
- The SGF Agreement is enforceable and in line with international labour standards, such as **ILO Recommendation 202, Convention 95, and Convention 76.** Adopting the agreement as part of a company's due diligence strategy ensures it is aligned with global labour standards, reducing the risk of non-compliance.
- As regulations related to supply chain due diligence become more common, particularly in Europe, signing the SGF Agreement can help companies fulfil their obligations under these laws, mitigating legal risks such as fines, penalties, and exclusion from public contracts. Human rights and environmental due diligence are now required by law in several European countries, such as France, Germany, and Norway. Already, brands can be held liable for non-compliance with the German Supply Chain Act, the Vigilance Law in France, and the Norwegian Transparency Act.
- Due diligence is about to become mandatory for many more businesses in Europe. On 14 December 2023, the European Parliament and Council reached a provisional agreement on the long-awaited **EU Corporate Sustainability Due Diligence Directive**, which will introduce a duty on companies to undertake human rights and environmental due diligence in their global value chains. The directive will also include rules on penalties and civil liability for violating those obligations.[20] On 15 March 2024, the necessary qualified majority was obtained. The directive is still subject to the final approval of the European Parliament.

19 — Article 9 of C173 stipulates that "[t]he payment of workers' claims against their employer arising out of their employment shall be guaranteed through a guarantee institution when payment cannot be made by the employer because of insolvency."
C173 - Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173), **https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312318**
20 — **https://www.consilium.europa.eu/en/press/press-releases/2023/12/14/corporate-sustainability-due-diligence-council-and-parliament-strike-deal-to-protect-environment-and-human-rights/**

- **The latest draft of the EU Directive includes an obligation for companies to remediate harms to human rights (including labour rights) that they have not been able to prevent, in line with international guidance. The obligation would be to restore the situation to how it was, or equivalent, either through financial compensation or material restitution.** Therefore, a Social Security Accord could be an important measure to remediate harm done to workers in the garment industry. The directive furthermore mentions the right to freedom of association as one of the rights that companies are obliged to include in their due diligence. And companies should be responsible for using their influence to contribute to an **"adequate standard of living"** in value chains.[21] Severance payments are a necessary part of the equation to contribute to an adequate standard of living. It is, therefore, increasingly important for companies to conduct thorough due diligence to identify, prevent, and remediate severance theft in their supply chains to mitigate potential legal and reputational consequences.
- The SGF Agreement is a collaborative effort between brands, manufacturers, unions and labour rights organisations, fostering open dialogue and engagement with relevant stakeholders. This aligns with the expectations of due diligence regulations, which often emphasise **working with stakeholders** to identify, address, and remedy potential risks and impacts. Moreover, by signing the Agreement, companies signal their commitment to paying severance in their supply chains and improving transparency regarding their efforts. This can be integrated into their reporting on human rights due diligence, showcasing their compliance with regulations and commitment to responsible business practices.
- Finally, according to the **UN Guiding Principles on Business and Human Rights**, companies are expected to establish a **grievance mechanism** to allow individuals and communities adversely affected by a business enterprise to seek redress. Such mechanisms serve to identify adverse human rights impacts and, subsequently, remediate them. By signing up for the SGF Agreement, brands automatically become part of such a mechanism to identify violations of freedom of association and severance theft.

Trend 4: Shrinking space for unions

- The space for union organising and collective bargaining is continuously shrinking, especially in crises when the repression intensifies. Garment workers have often been able to improve their pay and working conditions through organised struggle. To prevent this in their factories, many factory owners resort to extreme measures such as suspending or dismissing workers who try to organise or even closing unionised units. This robs workers of the best means to stand up for their own rights and defend themselves.
- **Union busting** thrives in times of economic upheaval. Factory owners are more inclined to practice union repression when pressure on them increases, for example, when brands withdraw orders, demand discounts or unrealistic lead times, or stop paying. Also, factory closures meant to get rid of a union will more easily go unnoticed if many other factories are in financial trouble. Protecting workers' rights to organise and bargain collectively is crucial to ensure they can stand together in times of hardship. It is essential for workers to organise and bargain collectively to bring about changes to the industry that are meaningful to them (worker-centred).
- This is why the SGF Agreement creates a **grievance mechanism** on the **freedom of association** (and other core labour rights) where workers can safeguard their right to organise, and that will hold brands and factories accountable to their promises.

21 — Amendments adopted by the European Parliament on 1 June 2023 on the proposal for a directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 (COM(2022)0071 – C9-0050/2022 – 2022/0051(COD)), available at: **https://www.europarl.europa.eu/doceo/document/TA-9-2023-0209_EN.html** (under 25b)

Country examples

	Decrease in export earnings in high-heat stress scenario in 2030	Decrease in export earnings in high-heat stress scenario in 2050	Access to government-backed unemployment benefits?	Legal obligation to pay severance?
Bangladesh	-21.85%	-68.40%	No	Yes (30 - 45 days per year of service)
Cambodia	-18.85%	-66.31%	No	Yes (15 days full wages per year of service)
Pakistan	-30.92%	-80.50%	No	Yes (1 mo. full wages per year of service)
Vietnam	-21.09%	-65.62%	Yes	Yes (15 days wages plus one mo./yr of service)

3. How would the Agreement and the Global Severance Guarantee Fund work?

- 36 unions from garment production countries developed the proposal for the SGF Agreement during the COVID-19 pandemic. A representative bargaining committee of union leaders is now ready to **negotiate the details of the proposal** with the brands willing to come forward and launch together this global solution for an urgent sector-wide issue.
- According to the proposal, workers employed in the supply chain of a signatory brand or employer will be eligible to file a claim if they are denied severance when their factory closes or fired in a mass dismissal.
- The SGF Agreement 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.
- Brands and retailers will contribute through a **fee** based on volume sourced from each country, and employer fees will be a percentage of their wage bill in each country. Brands will be asked to pay a premium of 0.5% of annual FOB. As discussed above, the fee can be reduced if a brand sources from countries establishing credible and effective social protection programmes covering unemployment and/or severance benefits or 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 close to zero (there will always be administrative costs).
- The SGF Agreement will include **a mechanism to identify, investigate and remedy non-compliance** and 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 mechanism built on the standard set in 2013 by the International Accord on Fire and Building Safety. This includes a **dispute resolution mechanism,** where union signatories can take company signatories to court if they fail to uphold the agreement. In addition, an **escalation protocol** determines that brands will ultimately have to cease sourcing from employers who fail to uphold the agreement.

The **right to organise** and freedom of association was recognised in 1948 in the ILO Convention No. 87, ratified by 158 countries, while **collective bargaining** has been recognised since 1949 in the ILO Convention No. 98 which was ratified by 168 countries. These are two of the eight fundamental, core international labour standards. The **right to freedom of peaceful assembly and association** is also protected by article 20 of the Universal Declaration of Human Rights.

- Oversight of the agreement will be subject to negotiation. The International Accord again provides a proven model from which to draw. This includes **independent oversight** through a combination of full transparency and a **Steering Committee** of the signatories, together with representatives of the national committees referred to above and global NGO representatives as witness signatories in a non-voting capacity. The ILO can be invited to act as an independent chair, and an ILO-empowered expert committee can assess national social protection projects for financing and determine progress.
- The SGF Agreement explicitly also allows and encourages **suppliers** to sign on. As the **employers** of the workers who lose their jobs, they bear the legal responsibility to pay severance. The Agreement specifically acknowledges this responsibility, and when a brand's suppliers sign on to the Agreement, the brand's premium will decrease.
- Once the first brands sign on, the Agreement will include a **commencement clause** for implementation, defining when the Agreement will come into force. This can be defined by the number of brands signed on or the total purchasing volume.
- The current proposal for the Severance Guarantee Fund is to pay **at least three months of wages.**
- The first brand willing to come to the negotiation table can co-determine the exact details of the Agreement.

4. What is the relationship between the proposed global Severance Guarantee Fund and national social protection schemes for unemployment benefits?

- The vast majority of garment workers do not have access to unemployment protection schemes, either because they live in countries that do not have one or because they are excluded from coverage because they are migrants, temporary workers, or informally employed. These workers are, therefore, entirely dependent on separation benefits.
- The SGF Agreement supports the overall **goal of ILO-compliant unemployment protection schemes** (instead of relying on separation benefits), hence the provision that the Severance Guarantee Fund will reserve part of the income to set these up. It aims to do so through **social dialogue** (see proposal for setting up national committees to oversee the use of these contributions).

- Payment of **separation benefits** is the employer's legal obligation, and compliance depends (among other things) on the employer's solvent status. Hence, the ILO recommends that the state establish a privilege for worker claims in case of insolvency and set up a guarantee fund (Convention 173). Guarantee funds exist in most European countries but cover only very few garment workers.
- **Failure to pay separation benefits** is a violation of the labour and human right to social protection and a known human rights risk. Brands have established voluntary responsible exit policies that foresee the need for workers to receive their legally mandated separation benefits. However, these policies are routinely violated.
- The SGF agreement foresees setting up a global Severance Guarantee Fund to pay out separation benefits for closures and mass dismissals in cases where the employer cannot pay. It is a limited instrument that **only provides remedy in the most serious cases.** It also foresees addressing gaps in national law regarding coverage (temporary, migrant, informally employed) and meeting ILO standards and recommendations when settling claims.
- **Contributory social insurance schemes** are an instrument for realising unemployment protection schemes and the responsibility of the state. Separation benefits are the obligation of the employer. The employer normally pays for Guarantee Funds, but are overseen by the state and can be insurance-based. The SGF agreement foresees setting up the global guarantee fund in an ILO-compliant way and incentivises setting up ILO-compliant national guarantee funds and national unemployment protection schemes.

5. Why the Severance Guarantee Fund Agreement is not only good for workers but also for businesses and economies in production countries

- Identifying and redressing severance theft on a case-by-case basis can be resource-intensive, time-consuming, and often reactive rather than proactive.[22] Participating in the SGF Agreement is more **cost-effective** as the Agreement allows brands to address multiple severance theft cases collectively, leveraging economies of scale. This reduces the costs and resources associated with managing individual cases, such as legal fees, administrative expenses, and time spent on negotiations. It provides a clear and consistent set of guidelines for all parties involved, making anticipating and resolving issues easier. This results in a **predictable and streamlined process,** saving time and resources for brands and stakeholders. Furthermore, due to union repression, solving severance theft on a case-by-case basis puts workers in the midst of a crackdown at a severe disadvantage. Factory closures tend to occur, especially in those factories where workers are organising and demanding compliance with workers' rights. Therefore, a mechanism to protect freedom of association is crucial to accompany any solution for severance theft.
- The SGF Agreement promotes collaboration among brands, suppliers, and other stakeholders, fostering a sense of shared responsibility. This can lead to more effective solutions and **cost-sharing,** reducing the burden on individual brands and making identifying, preventing, and redressing wage and severance theft more cost-effective. This is particularly so because

22 — So far, the Pay Your Workers campaign has secured over $10 million in unpaid wages and severance stolen from workers who were fired during the pandemic. https://www.payyourworkers.org/victories

Severance payments after case-by-case of worker protests and negotiation:

In December 2021, after more than a year of efforts, approximately 200 former employees of the Industrias Florenzi factory in El Salvador won their fight for severance benefits and unpaid wages after their factory closed in July 2020.
After months of worker protests and campaigning by activists internationally, in May 2022 it was announced that Victoria's Secret provided $8.3 million owed in severance to Thai workers who sewed their lingerie. To our knowledge, this was the largest case of severance theft ever at an individual garment factory – and thus this is the biggest severance case victory to date.
In March 2023, after 18 months of struggle, including international campaign actions, press conferences, and protests, workers at the Croatian factory Orljava won their fight for severance. The 237 former Orljava workers will receive a total of €491,074.40, more than €2000 per worker, from the Croatian government, which owned the factory.
In March 2023, JNB Global, a Target supplier, has provided all legally owed severance and back pay to seven workers who were unlawfully fired in February 2021, and restored severance and seniority rights for its entire workforce of 400 employees.

multiple brands are usually sourced from one employer. Also, the Agreement **helps brands mitigate risks** associated with non-compliance, legal disputes, and reputational damage. The Agreement saves brands time and money by reducing the likelihood of these costly outcomes.

- The analysis in the Higher Ground report clearly spells out that without climate adaptation measures, **the growth path for brands and the economies of production countries is stunted** by a loss of jobs, income and productivity. Investments in adequate climate adaptation measures that support social protection for workers will benefit brands, investors, and governments in the long run.[23] According to the researchers, the effects on investments are serious: "Taken together, projected earnings foregone under the non-adaptive 'high heat and flooding' scenario between 2025 and 2030 are USD 65.89 billion in 2030. That represents a 22 percent fall-off in export earnings against the 'climate-adaptive' scenario. [...] The projected 2050 figures are much higher."[24] For this reason, the report was co-authored by global investment manager Schroders. This company that manages assets in clothing brands supported, among other things, their geo-mapping to find out the risks of climate change projections on the locations of garment factories in production hubs. Their stake in this research project is real and based on sound financial calculations.
- When the negotiations were ongoing for the then-Bangladesh Accord, there were concerns about whether the instrument would benefit the Bangladeshi economy. More than ten years after the Accord started, the conclusions by researchers are clear: **The Accord made the garment industry safer, contributing to the growth and competitiveness** of the Ready-Made Garment (RMG) sector. Bangladesh's garment industry saw a 79 percent increase in annual revenue between 2013 and 2020, with the

23 — See Table 2 with financial projections, p.7 Executive Summary in: Jason Judd, Angus Bauer, Sarosh Kuruvilla and Stephanie Williams (2023) HIGHER GROUND? Report 1: Fashion's Climate Breakdown and its Effect for Workers, ILR Global Labor Institute & Schroders, 13 September 2023.
24 — Jason Judd, Angus Bauer, Sarosh Kuruvilla and Stephanie Williams (2023) HIGHER GROUND? Report 1: Fashion's Climate Breakdown and its Effect for Workers, ILR Global Labor Institute & Schroders, 13 September 2023, p.8.

country becoming the second largest exporter of garments globally. Better labour regulations and safety conditions, brought about by the Accord, played a major role in this success, attracting international brands. Factory managers in the Bangladeshi RMG industry reported that Accord inspections helped build a competitive advantage over factories in other countries not covered by the Accord. Furthermore, there has been a dramatic decrease in fatal accidents and fires since the establishment of the Bangladesh Accord, resulting in lower costs and increased employee satisfaction.[25]

6. Brands' response to the proposed SGF Agreement

- Many brands commit to ensuring living wages throughout their supply chains. Unfortunately, similar claims regarding social security and severance pay are lacking. Clearly, though, both are equally crucial for the socio-economic security of workers and their dependents.
- Early reactions from brands that the required fee for the SGF Agreement would be too high, as well as a reassessment of the impact of the COVID pandemic, have led to a lowering of the initial calculations. Ultimately, fewer factories had gone out of business than initially predicted. Therefore, the Agreement now features a decrease in the proposed FOB from 1.5% to 0.5%. Despite the price change, brands are still not forthcoming. In light of their living wage commitments, it is problematic that brands already criticise this low contribution to a fair cost-sharing system to pay workers adequately for their contribution to the value chain. According to some calculations in the Wage Forward Campaign for living wages, brands would need to pay up to about 24% FOB to secure living wages.[26] Despite their rhetorical commitments, brands currently fail to pay to accommodate payment of either a living wage or support the start of a global Severance Guarantee Fund.
- Many brands emphasised their participation in the ILO Call to Action to justify their rejection of the SGF Agreement. The ILO Call to Action started hopeful early 2020 to counter the negative consequences of the pandemic, but soon turned out to have no real impact on the ground as the initiative failed to raise sufficient funds - the Call didn't require brands to contribute financially.[27] Even the ILO has stopped reporting on the initiative. The ILO Call to Action has hardly achieved any of its objectives.[28]
- Finally, according to experts, a brand proposal to explore commercial private insurance was not realistic. No insurance company would give out such insurance as the risks, and

25 — Cf. IFC (2021). Safety First: Bangladesh Garment Industry Rebounds. [online] Available at: **https://www.ifc.org/wps/wcm/connect/news_ext_content/ifc_external_corporate_site/news+and+events/news/insights/bangladesh-garment-industry#:~:text=In%20the%20last%20seven%20years,of%20Bangladesh's%20total%20export%20earnings**. [Accessed 30 Mar. 2023], Berg, A., Harsh Chhaparia, Hedrich, S. and Magnus, K.-H. (2021). What's next for Bangladesh's garment industry, after a decade of growth? [online] McKinsey & Company. Available at: **https://www.mckinsey.com/industries/retail/our-insights/whats-next-for-bangladeshs-garment-industry-after-a-decade-of-growth** [Accessed 23 Mar. 2023], IFC (2021). Op. cit., Ahmed, M. (2020). Correlation Between Social Compliance and Export Competitiveness in the RMG Industry of Bangladesh. Journal of Economics and Sustainable Development, [online] 11(9), pp.17–30. Available at: **https://iiste.org/Journals/index.php/JEDS/article/view/52767** [Accessed 23 Mar. 2023], Healthy DEvelopments (2021). Costs and benefits of programmes to prevent occupational accidents and diseases in Bangladesh's ready-made garment (RMG) sector – Healthy DEvelopments. [online] Available at: **https://health.bmz.de/studies/costs-and-benefits-of-programmemes-to-prevent-occupational-accidents-and-diseases-in-bangladeshs-ready-made-garment-rmg-sector/** [Accessed 23 Mar. 2023].

26 — See **https://wageforward.org/faqs** for an explanation of this calculation.

27 — The ILO Call to Action did not oblige brands to financially support the initiative and to our knowledge only a few governments have done so. It is therefore not clear what exactly brands meant with their insistence that they "participated" in the ILO Call to Action.

28 — See for example, Bret Mathews, ILO's Call to Action is failing garment workers, Apparel Insider, 19 February 2021, **https://apparelinsider.com/ilos-call-to-action-is-failing-garment-workers/**

therefore, premiums would be prohibitively high. Instead, as explained earlier in this paper, countries regularly work with a guarantee fund, as explicitly prescribed in the International Labour Organisation (ILO) Convention 173. Such guarantee funds have the backing of the government because the risk would be too high for a single insurance company.

- During the OECD Forum 2024, in the session on Factory Closures and Worker Retrenchment: Lessons from Central America, an adidas spokesperson emphasised the need to be aware of the severe impacts of factory closures on workers and the need to find a solution by engaging different stakeholders.[29] This is not reflected, however, in the stance of the adidas headquarters, where a real dialogue about the SGF Agreement was not possible.
- Union leaders have repeatedly called on brands to negotiate the details of the SGF Agreement. Despite this, silence, deflection, and misleading proposals for commercial insurance have always been the brands' answers. It is time for the brands to act. Now that the climate crisis is already showing its first impacts on workers, let's be ready.

7. What is the responsibility of brands towards negative impacts in their supply chains?

- Research has demonstrated that **buyers' purchasing practices** have a major impact on labour conditions in factories. Certain practices are clearly more responsible than others regarding the specificity of written contracts, lead times, order placement, market power, prices and the demand for social standards.[30]
- Because most brands prioritise low prices above factory conditions, during the past decades, a number of instruments have been developed to specify what brands are expected to do in their relationship with suppliers. Three documents are specifically relevant in addition to the due diligence laws that were already mentioned above.
- Firstly, the **OECD (Organisation for Economic Co-operation and Development)** Guidelines put forward the expectation that enterprises "identify actual and potential adverse impacts on matters covered by the OECD Guidelines" (OECD Guidelines, II, A10). The OECD Guidelines further stipulate that enterprises that cause or contribute to the adverse impacts in their supply chains (i.e. engage in purchasing practices that cause or contribute to mass dismissal or factory closure and subsequent lack of severance payment to the workers or to the restrictions on freedom of association) **are expected to remedy the harm and prevent or mitigate future harm.** Also, if a brand does not cause or contribute to the harm but is **linked** to it, the Guidelines state that a brand still has the responsibility to prevent or mitigate future harm.[31] **The SGF Agreement allows brands to do exactly that.**
- Secondly, the **OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector,** adopted in 2017, provides the necessary details for the exact steps brands in the garment sector are expected to take. For example, "[t]he measures pursued should be proportionate to the severity of the harm" (p.72). The lack of severance

29 — Available at: https://www.youtube.com/watch?v=nQti8tF9UnM
30 — Vaughan-Whitehead, Daniel and Luis Pinedo Caro, (2017) INWORK Issue Brief No.10: Purchasing practices and working conditions in global supply chains: Global Survey results, ILO, Geneva.
https://www.ilo.org/publications/purchasing-practices-and-working-conditions-global-supply-chains-global
31 —"Enterprises should seek to prevent or mitigate an adverse impact where they have not contributed to that impact, when the impact is nevertheless directly linked to their operations, products or services by a business relationship. This is not intended to shift responsibility from the entity causing an adverse impact to the enterprise with which it has a business relationship." (OECD Guidelines, II, A12)

payment during the COVID pandemic had extremely severe impacts on workers around the world. Therefore, the merely rhetorical support by brands for the ILO Call to Action, without any further concrete measures, cannot be deemed "proportionate to the severity of the harm."

- If brands cannot provide adequate remedies on their own, they are expected to **collaborate at the sector level** to ensure that adverse impacts are prevented and mitigated.
- Further, the Guidance stipulates that [t]he enterprise should **engage with affected stakeholders** in the determination of the remedy" (p.102). Instead of engaging with the affected stakeholders, brands so far have rejected the requests for negotiation by the union bargaining committee and their proposal for the SGF Agreement that offers concrete measures to prevent or mitigate the lack of severance pay in the future and offers an operational grievance mechanism to investigate independently instances of violation of the freedom of association.
- Thirdly, according to the **Common Framework for Responsible Purchasing Practices,** in section 2.12 on **"responsible exit strategy"**, brands have specific responsibilities to avoid negative impacts on the factory and its workers. The framework explicitly mentions that brands should ensure that severance payments are made: "When a business relationship is terminated by the purchasing company, they follow a responsible exit strategy that takes into account and mitigates negative impacts on the supplier and its workers. This complies with national laws, international standards and Collective Bargaining Agreements, **including a commitment that severance payments are made** to workers in the case of dismissals. The purchasing company provides timely communication and reasons supporting the exit decision."[32]
- The Fair Wear Foundation has developed a more detailed guidance to answer questions about a responsible exit strategy and formulates the responsibilities of brands as follows: "does the exit lead to layoffs (or even closure) if nothing else would change? If so, Fair Wear members must ensure the supplier is compliant with severance laws and monitor whether the supplier is financially able to cover those costs. Fair Wear members are responsible for monitoring the compliance of this in collaboration with worker representatives and should use the results of their due diligence approach to mitigate the effects when supplier fails to be compliant with local severance laws."[33]
- Clearly, brands have to have a strategy for making a responsible exit also when there is no state-backed social security system in place and when the supplier is not compliant (i.e. when the factory cannot pay severance). The COVID pandemic has demonstrated, however, that **brands currently do not have such a strategy in place.**
- In this light, it is relevant to note that, according to the **OECD Due Diligence Guidance**, "if enterprises choose to operate in countries where the State does not fulfil its Duty to Protect, this does not absolve the enterprise of its responsibility to provide remedy."[34]
- The Guidance lists as one of the **key "sector risks"** for the garment industry "Violations of the right of workers to establish or join a trade union and to bargain collectively."[35] This means all brands are expected to have processes to monitor, prevent and mitigate such violations. The OECD Guidelines introduce **"operational-level grievance mechanisms"** to allow for remediation of human rights impacts in the enterprise and its supply chains.

32 — Available at: **https://api.fairwear.org/wp-content/uploads/2022/07/CFRPP-Full-Framework-Updated.-V1.-30.06.22.pdf** Version 1, June 2022. The MSI Working Group which has collaborated to write the framework has included representatives of ETI, Ethical Trade Norway, Fair Wear, the German Partnership for Sustainable Textiles (PST) and the Dutch Agreement for Sustainable Garments (AGT/NGA), and consulted with ACT (Action Collaboration Transformation), Better Work (BW), Better Buying Institute, the Sustainable Terms of Trade Initiative and amfori.

33 — Responsible Exit Strategy Guidelines, February 2018, available at: **https://api.fairwear.org/wp-content/uploads/2020/09/Fair-Wear-Responsible-Exit-Strategy-Guidelines-V1.0.pdf**, p.5

34 — OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector, p.94.

35 — Ibid, p.48.

The Guidelines state that such mechanisms should "meet the core criteria of legitimacy, accessibility, predictability, equitability, compatibility with the OECD Guidelines and transparency" (OECD Guidelines, IV, 46). **The proposed SGF Agreement offers exactly such a mechanism.**

8. Why should governments support the SGF Agreement now?

- Governments should support the SGF Agreement because the first Sustainable Development Goal addresses poverty, **aiming to end extreme poverty worldwide by 2030.** The goal focuses on providing **adequate social protection** to the poorest and most vulnerable groups, giving them equal economic rights and **making them more resilient to financial shocks.** This SGF Agreement offers exactly this with a robust and financially sound scheme.
- Since the COVID pandemic, there has been an acute understanding of the crucial importance of social security to **stabilise economies throughout global crises.**[36] It has become **an established agenda to foster social security**, such as Build Back Better.
- Governments should further support the SGF Agreement as it is in line with securing an adequate standard of living for workers. As such, it **creates policy coherence** around government commitments to eradicate **extreme poverty and promote living wages.** Living wage and social protection are both aspects of income security and an adequate standard of living. Severance theft is a form of wage theft. Living wages are important, and so is social security. A Severance Guarantee Fund would be a **first step towards a cost-sharing system** that values the contribution of workers.
- Governments are expected to foster policy coherence and seek alignment between programmes to **promote responsible business conduct** and to ensure that companies in the textile and garment sector operating in their territory adhere to the **OECD Guidelines.**
- Given that the European Union and the United States are the biggest importers of garments, these governments are central to improving garment supply chains and should play a positive role in the enforcement of workers' rights.[37]

36 — See for example, "This report, presented to the Human Rights Council in June 2021, recommends the establishment of a global fund for social protection as a means to close the financing gap faced by low-income countries to provide for social protection floors; to protect the resilience of those countries from future shocks; and to support the increased mobilization of domestic resources for social protection" in: **https://www.ohchr.org/en/calls-for-input/2020/call-reactions-proposal-global-fund-social-protection** and "Social protection – the basis for global stability in a Covid-19 world" in: **https://www.ituc-csi.org/global-social-protection-fund**
37 — **https://katalystinitiative.org/working-paper-3/**

9. What can governments do to promote the SGF Agreement?

- Ensure this proposal is integrated into existing or future support programmes for social security.
- Engage in a conversation with (trade) partners at the EU level and abroad about the lack of effective implementation of social security measures and the considerable risk this presents in the context of climate and ecological breakdown and other crises.
- Organise events to foster conversation about the barriers to full functioning of social protection, the situation since the pandemic regarding building better social security systems, and the risks that climate breakdown and ecological crises will pose to the garment industry in the production hubs.
- Support the SGF Agreement to create policy coherence.
- Financially support the infrastructure to set up the Severance Guarantee Fund.
- Call for a closure and evaluation of the ILO Call to Action.
- Discuss the SGF Agreement with tripartite parties.
- Join the Multilateral Partnership for Organizing, Worker Empowerment, and Rights (M-POWER) to support the international initiative to promote worker organising, unionisation and collective bargaining, engage in global issue campaigns supporting local action on worker priorities, country-level coordination to advance worker rights, and engage in urgent action to protect labour activists and organisations facing threats.
- Support a feasibility study to determine how the global Severance Guarantee Fund would best proceed to ensure swift and secure payment to workers.
- Support a feasibility study to explore the best mechanisms for how the global Severance Guarantee Fund contributes to building social protection schemes in production countries.
- Public support for the SGF Agreement.
- Engage with public procurement to support the SGF Agreement from that angle.

10. Frequently Asked Questions

Isn't the ILO Call to Action dealing with this issue?

An evaluation of the ILO Call to Action pointed to the lack of funding and obligation for parties to contribute money. It did not deliver on its ambition.[38]

Does this initiative foment the phenomenon of free riders causing some brands to pay while other brands get off the hook?

Similar concerns were raised regarding the Bangladesh Accord. Despite this, the Accord has proven to be an effective and efficient due diligence measure for garment brands.

What is the link between Bangladesh's ongoing Employment Injury Insurance (EII) pilot and this global Severance Guarantee Fund proposal?

Constructing a social security agency in Bangladesh for the EII will pave the way for the second social security instrument.

What role does FOA play in the Severance Guarantee Fund proposal?

The agreement will include a grievance mechanism to identify and investigate non-compliance and worker grievances in cases of failure of payment, anti-union action, harassment, or violations of other basic labour rights.

38 — Judd, Kuruvilla and Lowell Jackson, Security for Apparel Workers: Alternative Models, NCP Working Paper No. 3, April 2022, p.19.