



**FW Brands'
progress on
Freedom of
Association (FoA)**

Gloria Bolzonello – PMEL and Research Officer
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FW Brands' progress on FoA

Fair Wear's stand on FoA and Collective Bargaining

Freedom of association and the right to collective bargaining refers to *'The right of all workers to form and join trade unions and bargain collectively shall be recognised. (ILO Conventions 87 and 98)'*.

This is one of the 8 Code of Labour Practices (CoLP) on which Fair Wear based their work and collaboration with brands. These standards are derived from ILO Conventions and UN's Declaration on Human Rights. In addition, freedom of association is an enabling right which helps workers to claim other rights enshrined under the ILO standards.



In garment supply chains, this means that workers can form and join trade unions of their choosing, and equally, employers can form or join employers' organisations. This right enables workers and employers to be formally and collectively represented in negotiations to arrive at agreements to improve working conditions.

Workers' representatives shall not be the subject of discrimination and shall have access to all workplaces necessary to carry out their representation functions. (ILO Convention 135 and Recommendation 143)

Collective bargaining is the process of all negotiations between an employer (or employers' organisation) and one or more trade unions, with the aim of developing a collective bargaining agreement (CBA). CBAs are written, legally binding, enforceable contracts that outline the terms and conditions of work for a specific period of time. In the context of the garment industry, they usually include matters like working hours, wage levels and health and safety.

Because they are legally binding, they hold more weight than a verbal or informal written agreement between workers and management. In some countries, the right of freedom of association is more difficult to exercise than others. For example, because trade unions are not encouraged or very weak,

and there are even countries where trade union members are at risk to be arrested or “disappear” as result of their trade union activities.

Brands have a vital role to play in supporting their suppliers (both the management and workers represented therein) exercising these fundamental rights by creating an enabling environment for freedom of association. Notably, brands can support workers’ and managers’ technical capacity to participate in social dialogue and access to information via remediation and training. And, by offering stability of contracts, orders and payments – and through non-retaliation agreements, support for stronger local law, and participation in direct agreements with trade unions – brands can go a long way to providing the institutional support needed for social dialogue. These actions are outlined in the [Fair Wears’ freedom of association and social dialogue guide for brands](#).

According to [Fair Wear’s Freedom of association and collective bargaining policy](#), a brand fully complies with the standards in Fair Wear’s Code of Labour Practices when freedom of association and the right to collective bargaining can be exercised by all workers in a brand’s supply chain.




Challenges

Fair Wear acknowledges that there may be challenges for brands and their suppliers in supporting freedom of association and collective bargaining in their supply chains. There may be a lack of knowledge or understanding of these rights among different members of staff within a brand; the ‘fear’ of unions based on stories or previous experiences; challenges navigating the complexities of structures in different countries and the various politics or competition between unions; concern towards increased costs related to collective bargaining; or simply not knowing where to start. Fair Wear is committed to working with our members and stakeholders at large to overcome or debunk these challenges.




Fair Wear developed a [Guide for Brands on freedom of association and social dialogue](#) to offer member brands a better understanding of key concepts behind freedom of association, collective bargaining and social dialogue. The guide lays out key actions Fair Wear expects its members to take in order to align with their Fair Wear commitments thereby aligning with standards as laid out in ILO.

6 Actions for brands to promote freedom of association

Actions for change at the systemic level

-  1. Commit to a sourcing strategy that privileges countries and suppliers where workers are free to choose to form or join a trade union and/or bargain collectively.
-  2. Participate in direct agreements with trade unions that ensure worker participation in identifying, addressing, and remediating issues related to the conditions of their work.
-  3. Use your brand's voice and influence to encourage governments to promote and protect—and certainly halt violations of—international standards on freedom of association and collective bargaining (ILO Conventions 87 and 98).

Actions for change in your brand and suppliers

-  4. Develop contractual agreements with suppliers in which 1) your brand commits to orders in the long-term (several years or more) to provide the financial stability/predictability needed for workplace dialogue and freedom of association to thrive; 2) suppliers contractually agree to offer all workers stable contracts; and 3) supplier and brand jointly distribute non-interference and non-retaliation letters to the workforce, underscoring workers' right to organise.
-  5. Urgently address violations of freedom of association and collective bargaining (from complaints, audit findings, or other sources), including a strategy for addressing the root cause of violations.
-  6. Support workplace training for workers and management to build an understanding of their rights and skills to engage in workplace dialogue and collective bargaining. Recognising that women garment workers are under-represented in union structures, extra emphasis should be placed on encouraging and supporting women in this process.

FW Brands' progress on Freedom of Association (FoA)



ACTION 1

Commit to a sourcing strategy that privileges countries and suppliers where workers are free to choose to form or join a trade union and/or bargain collectively.

Where a brand chooses to source may be the most important way a brand can implement its true commitment to workers' rights. Future orders should be concentrated in countries where freedom of association is respected by law and promoted in practice. Brands should do appropriate due diligence on this topic by firstly **scoping and assessing the risks**.

With the [Brand Performance Check \(BPC\) methodology](#), Fair Wear evaluates and publicly reports on the Human Rights Due Diligence efforts of Fair Wear's member companies.

Indicator 2.3 focuses on scoping and assessing risks as part of brands' sourcing strategy.

Advanced efforts demonstrate that the member company has put in place a systematic process to assess human rights risks on different levels, including different departments, leading to clear decision-making. Following Fair Wear's freedom of association policy, reviews will be based on whether members commit to a sourcing strategy that privileges countries where workers can freely form or join a trade union and/or bargain collectively. This will be a crucial part of the advanced scoring. Input from workers, suppliers, and other stakeholders should form part of the scoping exercise.

GOOD PRACTICES:

A Fair Wear's member brand has specifically integrated criteria on FoA into their sourcing strategy and only work with factories 'with FoA'. They do a new factory sustainability assessment prior to committing to suppliers. The Sustainability Audit Report (SAR) is used on an annual basis for all suppliers. The SAR tool checks more than 108 criteria and covers topics such as compliance with local laws and tracking wage levels and overtime. A risk assessment score is attributed to each criterion and reflects the severity and likelihood of the requirement. Based on the findings from the internal audit, a CAP is developed, and after the factory agrees to work on the findings, the supplier is approved for the test phase. Production quality is checked with the test order.

For FoA & SD the tool checks the following: Worker Participation committee (or workers' committee), Meeting Minutes WPC, Anti-Harassment Committee, Collective Bargaining Association and Grievance Mechanism.

Another brand could show that the lack of FoA has influenced several sourcing decisions. For example, the decision to withdraw from Myanmar and China because Fair Wear highlighted the risks related to FoA. Also, the brand could show an understanding of the FoA risks in Export Processing Zones (EPZ).

Statistics:

In alignment with Step 2 of the HRDD Cycle (Scoping and Risk Assessment), it is vital to understand the status of freedom of association and collective bargaining wherever you source at both country level and at all existing suppliers.

In 2023, **67%** of brands scoped risks related to the **freedom of association** category, with **97,8%** of harms assessed at the factory level related to FoA, out of the total harms. Among the brands' assessments, Myanmar, China, Vietnam and India were identified with the highest likelihood of having harms related to freedom of association.

23% of brands checked with the BPC have clear commitments to a sourcing strategy that privileges countries and suppliers where workers are free to choose to form or join a trade union and/or bargain collectively.

More specifically, **8%** of brands added a specific paragraph in the brand's sourcing strategy about the risks related to freedom of association when the company decides to source from countries where the advancement of freedom of association and collective bargaining is limited, resulting in multiple cases with decision of reducing and planning not to extend its FOB in these countries or phasing out from them.

Myanmar represents another country where risks related to freedom of association are very high due to the military coup. 20% of FW member brands source from Myanmar and **62%** of these brands are involved in a strategy to responsibly exit the country. It is important to ensure brands have clear criteria for a responsible exit from a factory based on certain violations of freedom of association. [Fair Wear's Brand guidance on business in Myanmar – responsible disengagement](#) offers steps brand should take if choosing to stop sourcing from a facility. Repeated violations to freedom of association or failure by factory management to improve, cooperate – or even discuss the topic – are valid reasons to end your business relationship with a supplier.

Member bands disengaging from Myanmar are redirecting their attention in expanding their sourcing in Tunisia, Marocco or Eastern Europe, where Freedom of Association are protected or partially protected by law.

ACTION 2



Participate in direct agreements with trade unions that ensure worker participation in identifying, addressing, and remediating issues related to the conditions of their work.

This Action relates to **Step 3** of the HRDD Cycle, 'Stopping harm, prioritising and implementing programmes'. New forms of social dialogue are perhaps the most promising way to stop ongoing harm to workers in global garment supply chains. Tools to help brands to undertake Action 2 are related to direct agreements that facilitate active dialogue between brands, suppliers, and trade unions on systemic issues. Some examples of direct agreements are the International Accord on fire and building safety in Bangladesh, Multi-Company Collective Bargaining Agreements (MC-CBAs) and ACT (Action Collaboration Transformation).

Fair Wear strongly recommends member brands to become a signatory of the International Accord if the brand is sourcing in Bangladesh and Pakistan. The member company should base its prioritisation and actions on the recommendations of Accord Bangladesh. The Accord on Fire and Building Safety in Bangladesh and Pakistan offer an unprecedented model for social dialogue in the garment industry. Brands, trade unions (local and international), workers advocacy groups, and local industry/employers negotiated this unique, legally binding agreement. In addition, the RSC (RMG Sustainability Council) includes key features on freedom of association, such as an ongoing promotion of the Right to Freedom of Association (FoA) to advance safety, training and complaints protocol to cover (FoA) rights, protection against retaliation for reporting safety-related matters. Fair Wear is working closely with CNV Internationaal to increase the number of brands participating in MC-CBAs in Vietnam and Indonesia.

In the [Brand Performance Check \(BPC\) methodology](#), the following indicators are relevant for Action 2:

- 3.1 Member company integrates outcomes of human rights risk identification (layer 2) into risk prioritisation and creates subsequent action plans.
- 3.3 Member company's improvement and prevention programmes include steps to encourage freedom of association and effective social dialogue.

Advance efforts demonstrate that member brands prioritise freedom of association and effective social dialogue in their action plans and have implemented these steps.

GOOD PRACTICES:

36% of our member brands source from Bangladesh and 46% of these brands are signatories of the International Accord, and in 2023 all these brands renewed their commitments in Bangladesh by negotiating the Bangladesh Agreement on Health and Safety in the Textile and Garment Industry (Bangladesh Safety Program) as an Addendum to the International Accord.

Statistics:

In alignment with Step 3 of the HRDD Cycle (Stopping harm, prioritising and implementing programmes), it is important to include steps to encourage freedom of association and effective social dialogue in the company's improvement and prevention programmes.

In 2023, 5% of member brands scored advanced in indicator 3.3. It is still challenging for members to include concrete steps on FoA. 2023 was a transitional year for members to shift from a compliance approach to a risk-based approach, and since the Checks are conducted on the previous year's performance, we expect to see substantial improvements in the Checks that will be conducted in 2024.

36% of our member brands source from Bangladesh and 46% of these brands are signatories of the International Accord. Being signatories is not a mandatory requirement for FW member brands, but it is strongly advised and necessary to score advanced in different BPC indicators.

ACTION 3



Use your brand's voice and influence to encourage governments to promote and protect—and certainly halt violations of—international standards on freedom of association and collective bargaining (ILO Conventions 87 and 98).

This Action relates to **Step 3** of the HRDD Cycle, 'Stopping harm, prioritising and implementing programmes.' Joining efforts to change and improve laws in production countries to enhance freedom of association is an effective way to address some of the root causes of harm to workers.

Brands possess a significant amount of influence, both financially and through their public actions. In globalised garment supply chains, suppliers often listen when brands speak up—particularly when they speak in unison. Brands also have a unique position to engage their own governments and intergovernmental organisations and their consumers.

In the [Brand Performance Check \(BPC\) methodology](#), the following indicator is relevant for Action 3:

- 5.2 Participation in lobby and advocacy efforts

GOOD PRACTICES:

In December 2022, a Fair Wear's member brand joined the round table on freedom of association and social dialogue organized by STITCH (Fair Wear, ILO Better Work, CNV Internationaal, FNV Mondiaal and Ministry of Foreign Affairs of Netherlands) in Bangladesh.

In November 2023, Fair Wear, alongside Amfori, Ethical Trading Initiative (ETI), Fair Labor Association (FLA), and Mondiaal FNV, has voiced its concerns regarding the recently announced minimum wage for the Ready-Made Garment (RMG) sector in Bangladesh. They sent a [letter](#) addressed to the Honourable Prime Minister, highlighting crucial issues and calls for a reconsideration of the decision. Some FW member brands joined in supporting the calls for a minimum wage that is a living wage.

In May 2023, around 30 EU-based companies joined Fair Wear in lobby and advocacy efforts on EU-level to emphasise the importance of an EU Supply Chain Act and to support Fair Wear's lobbying activities for the Corporate Sustainability Due Diligence Directive (CSDDD). They have published a [joint opinion piece in The Parliament Magazine in support of the JURI proposal for the EU Corporate Sustainability Due Diligence Directive \(EU CSDDD\)](#), urging Members of European Parliament (MEPs) to vote in favour of the latest proposal for the EU CSDDD. In developing action plans to tackle the prioritised risks, we collaborate with our suppliers, worker representatives and other local stakeholders whose first-hand experiences and expertise are indispensable sources of information.

ACTION 4

Develop contractual agreements with suppliers in which:



- 1) your brand commits to orders in the long-term (several years or more) to provide the financial stability/predictability needed for workplace dialogue and freedom of association to thrive;
- 2) suppliers contractually agree to provide all workers stable contracts;
- 3) supplier and brand jointly distribute non-interference and non-retaliation letters to the workforce, underscoring workers' right to organise.

Most brands are not employers but can still communicate their commitment to freedom of association and the right to collective bargaining by linking longer-term production contracts (between you and

the supplier) to management's commitments to increase stable contracts for workers and to ensure non-retaliation to all workers. The incentive of longer and stable contracts may give suppliers a level of security to in turn offer stable working conditions to workers. Quid pro quo - stable contracts for stable contracts: Stable employment is essentially a precondition for workers being able to exercise their right to freedom of association. Workers who do not have contracts or stable employment (e.g. informal or unregistered work) are unlikely to invest in organising a union when their job is uncertain and joining a union only further jeopardises their employment.

This Action relates to step 1, step 2 and step 3 of the HRDD cycle.

Step 1 (Establish a Responsible Business Conduct Policy) relates to Fair Wear's encouragement to brands to include in its RBC policy a commitment to support stable workplaces, including all contractual agreements mentioned under Action 4.

Step 2 (Scoping and risk assessment) relates to concrete and practical way to ascertain your supplier's commitment to FoA and to discuss your brand's desire to periodically distribute non-retaliation letters or other forms of communications to workers. Scoping should also be used to identify suppliers that should make good long-term partners in human rights.

Step 3 (Stopping harm, prioritising and implementing programmes) relates to communicating non-retaliation to workers who join a trade union (or issue a grievance, etc) that is also a highly effective way to prevent harm and implement priorities.

In the [Brand Performance Check \(BPC\) methodology](#), the following indicators are relevant for Action 4:

- 2.2 Member company's sourcing strategy is focused on building long-term relationships.
- 2.13 Written contracts with suppliers to support the implementation of Fair Wear's CoLP and HRDD.
- 3.3 Improvement and prevention programmes include steps to encourage FoA and effective SD.

GOOD PRACTICES:

3 brands have embedded long-range contracts or long-range commitments into their sourcing policy, which is implemented across the supplier base.

A member brands have 64% of the member's total FOB volume comes from suppliers with whom it has a business relationship for at least five years, and it commits to long-term contracts with all of its suppliers that usually range for three years.

Another FW brand's production agreement includes a five year commitment to continued production. Another FW member has drafted contracts for its main suppliers which range for five years with a three-year renewal period and a six-month notice period. Approximately 73% of its main suppliers have signed the contract, and the brand is still discussing the contract's specifications with its other main suppliers.

Statistics:

All our member brands' sourcing strategy are focused on maintaining long-term relationships. Fair Wear recognises and values brands' long-term relationships with their suppliers, considering relationships that exist for more than 5 years. **24%** of members occasionally commits to long-range contracts, and **3 brands** have embedded long-range contracts or long-range commitments into their sourcing policy, which is implemented across the supplier base. **39%** of member brands have written contracts with suppliers that support or partially support the implementation of human rights due diligence, integrating expectations of suppliers in line with the HRDD policy and outline a clear commitment to transparency. **2 brands** have contracts that clearly specify fair payment terms. **44%** of member brands have a policy on FoA or have integrated commitments into existing policies.



ACTION 5

Urgently address violations of freedom of association and collective bargaining (from complaints, audit findings, or other sources), including a strategy for addressing the root cause of violations.

Brands will almost undoubtedly encounter violations of the rights to freedom of association and collective bargaining in your supply chain – either through complaints, audits, or other due diligence efforts. Fair Wear expects member companies to examine and remediate any problems to which they are contributing. The immediate remediation of violations is key, but violations of freedom of association are likely to recur if the supplier does not support freedom of association and the right to bargain collectively. Furthermore, these violations are notoriously difficult to find in traditional audits. Similarly, workers might not raise this issue as a complaint (internally or through Fair Wear complaints hotline) if they either do not know about these rights or fear retaliation. This is why it is extremely important to proactively promote the understanding and value of these rights (in HRDD language), to 'prevent' violations of freedom of association.

Action 5 relates to step 3 and step 4 of the HRDD cycle:

Step 3 (Stopping harm, prioritising and implementing programmes) relates to the importance to both conduct assessments of workers' freedom of association and also proactively support workers' understanding and their capacity to claim these rights.

Step 4 (Tracking and validating progress) relates to the importance to track and report on anything you do to support social dialogue. Remember: remediation is not a one-off step. It is a process.

In the [Brand Performance Check \(BPC\) methodology](#), the following indicators are relevant for Action 5:

- 2.8 Continuous monitoring includes an assessment of FoA.
- 3.3 Improvement and prevention programmes include steps to encourage FoA and effective SD.
- 3.6 Degree of progress towards implementation of improvement programme per relevant factory.

GOOD PRACTICES:

In 2023, a complaint was resolved by Fair Wear thanks to the help of its member brand. The complaint concerns a conflict between the management of the factory and some members of the trade union about the number of workers to benefit from tenure in 2023. The request of trade union is to increase the number of workers who will benefit from tenure in 2023 from 40 to 70 workers. The factory management and Company Consultative Committee (CCC) worked together to change the contractual policy and give workers tenure over 4 years of seniority instead of signing short term contracts for years. This is the result of a social dialogue pilot training that the brand has financed and led to the factory manager's decision along with factory TU representatives and Company Consultative Committee (CCC) to set up a new policy regarding tenure.

Statistics:

56% of member brands has carried out a risk mapping that connects country risks to the situation at the supplier level. **34%** of these brands have an overview of freedom of association and collective bargaining rights from each sourcing country, maps where improvements are possible, and tracks where significant obstacles to these rights exist.

65% of member brands show progress towards implemented actions and be able to demonstrate that they have verified that actions have been implemented, but at this stage we cannot track yet the follow up related to FoA.

In 2023 the grievance handlers team of FW received 5 complaints related to FoA violation: one complaint was resolved (as mentioned in the good practices above), one complaint was closed, one complaint was inadmissible and two complaints are under review.

ACTION 6



Support and finance workplace training for workers and management to build an understanding of their rights and skills to engage in workplace dialogue and collective bargaining. Recognising that women garment workers are under-represented in union structures, extra emphasis should be placed on encouraging and supporting women in this process.

Training and capacity building across the supply chain are important investments that pay off in terms of better responses when problems are found. Building skills for social dialogue also prevents many labour code violations from happening in the first place. Training should not be thought of as a one-time event that will automatically lead to change. Following any training or capacity building programme, brands should work with their supplier to create a plan to ensure ongoing follow up and supplementary training.

Action 6 relates to step 2 and step 3 of the HRDD cycle:

Step 2 (Conducting a scoping exercise, risk assessment and informing workers and suppliers.) Step 2.3 is about 'Onboarding workers and managers', and specifically stressing the importance of gender-representative social dialogue with democratically elected worker reps. Onboarding training should ensure that both workers and managers are aware of the rights of FoA and the importance of SD.

Step 3 (Stopping harm, prioritising and implementing programmes) relates to the fact that risk assessments at most garment factories will likely show a risk of FoA violations or a lack of social dialogue. In such cases, integrating trainings into implementation plans is likely advisable.

In the [Brand Performance Check \(BPC\) methodology](#), the following indicators are relevant for Action 6:

- 3.3 Improvement and prevention programmes include steps to encourage FoA and effective SD.

- 3.15 Training appropriate to the improvement or prevention.
- 3.16 Follow up after a training programme.

GOOD PRACTICES:

In 2022, a Fair Wear's member brand differentiated its production locations into different categories: those where there are no elected worker representatives, those that elected worker representatives but workers do not know them, and those where elected worker representatives are ineffective. During conversations with suppliers, the brand encourages them to take concrete improvement steps. As a result of the conversations with this brand, one of the Chinese suppliers has held elections. The brand stays informed to check if the elected worker representatives are involved in meaningful discussions. The member company plans to organise skills training for worker representatives in one of its North Macedonian locations to help them carry out their role.

In 2022, 3 member brands embarked **on a social dialogue pilot project** with three production locations in Tunisia, which aims to provide a forum for workers and management to discuss topics such as living wage. Part of this project was training on social dialogue and communication skills. During the training, workers expressed that the Company Consultative Committees (worker representative committees) were ineffective. Therefore, the training was extended to also cover different problem-solving methods. The factory reported a positive impact on communication between management and workers.

In 2022, another Fair Wear's member brand included comprehensive steps to encourage Freedom of Association (FoA) and effective social dialogue (SD) in its improvement and prevention actions. FoA is actively monitored and promoted at its principal supplier in India. In 2022, training sessions were conducted by a local consultant from the brand, focusing on these aspects. Furthermore, Worker Committee Meetings are consistently followed up, ensuring that actions derived from the improvement and prevention programme are communicated and addressed. While workers' input through the Worker Committee is requested, they have yet to contribute structural input for improvement or preventive actions.

In 2022, another Fair Wear's member brand included comprehensive steps to encourage FoA and effective social dialogue in its improvement and prevention actions. As preventative steps, the member systematically assesses the functioning of worker committees and the understanding of social dialogue and FoA amongst the workers in its supply chain and requires its factories to provide internal training

to the various worker committees on their roles and responsibilities as worker representatives and to its workers on their social dialogue/ FoA rights when required. The brand does not assess the training but follows up by discussing with the factory any issues that came up during the training (if applicable) and by cross-checking the understanding of worker committee members regarding their roles and responsibilities. As improvement steps, the brand follows up on audit findings related to FoA and for example requires its factories to update its grievance policy to include a [non-retaliation process](#), and to recruit a qualified welfare officer. The member has applied a gender lens and ensured its steps to promote FoA and effective social dialogue address the specific risks for female workers.

Impact reflections:

These achievements can be directly linked to the clear focus and guidance that Fair Wear provided in the past two years to our member brands, including the development of the guide for brands and tools for brands on freedom of association and social dialogue. Additionally, the development of the Member Hub and updated [HRDD policy](#) make it a necessary step for brands to shift from a compliance approach to a risk-based approach, aligned with the OECD Guidelines. The new edition of the Brand Performance Check integrates a new risk-based improvement and prevention approach that accommodates different risks, priorities, and strategies in a brand's supply chain and helps prioritize topics such as freedom of association and collective bargaining.

Another contribution to changing brands' behaviours is linked to the [STITCH partnership](#), that sees two international trade unions partners (CNV Internationaal and Mondiaal FNV) closely collaborating with Fair Wear Foundation. Since 2021, one of STITCH's main focus areas is social dialogue and freedom of association. Many webinars on social dialogue and FoA to brands and suppliers were conducted, supported by collaboration with local trade unions and labour rights organisations on collective bargaining to influence higher wages and decent work.