

Clean Clothes Campaign



Clean Clothes Campaign: Position on the new Fairtrade Textile Standard

March 2016

The CCC's overall evaluation of the Fairtrade Textile Standard:

Fairtrade International announced to publish its new Fairtrade Textile Standard on 22 March 2016. Clean Clothes Campaign (CCC) raised concerns and gave detailed input during the Standard's development and remains critical today. In order to improve working conditions, a sector-wide approach is needed and corporate behavior has to change, not only some selected supply chains.

The CCCs main concerns include:

1. Product label approach is not the right tool for this industry

The Fairtrade Textile Standard, as a product label-approach, is limited to individual selected supply chains of the company and does not cover its entire business activities. Working for more than 25 years in this area, Clean Clothes Campaign believes that the existing problems in the industry can only be solved if companies change comprehensively their corporate behavior and if there is a sector-wide approach to tackle underlying root causes that lead to labour and human rights violations. The standard does not sufficiently address the challenges in the garment industry and even risks slowing down progress made in the last few years. A product label approach is problematic because it allows brands to pick and choose and to create one "fairtrade" product in one supply chain while carrying on with business as usual in all other supply chains.

2. The Standard diverts responsibility away from brands

The new Fairtrade Textile Standard is quite comprehensive, but it does not hold brands responsible for respecting decent labour conditions, and it does not guarantee that all workers involved in making a brand's products are paid a living wage. The Standard includes complex and costly requirements for factories, but does not require brands to commit to real change in terms of their purchasing and operating practices.

3. A Standard relying on inspections and certification is dangerous

Crucial for any standard are its delivery and assessment mechanisms. Fairtrade International bases its assessment almost entirely on social auditing, even though this has been repeatedly proven not to adequately assess workplace practices, let alone to trigger systemic change. CCC sees little elements that suggest that the standard would bring more concrete results than other existing social standards. Fairtrade International wants to implement the Standard with support programs. In order to really have influence and tackle the far-reaching challenges, a big and long-term effort is needed. It remains unclear how such programs would be financed in the long run.

4. Marking garments as "fairtrade" without paying a living wage is unacceptable and misleads consumers

The Fairtrade Textile Standard allows an implementation period of six years for a living wage. The standard foresees that the factory management has to sign an implementation plan with workers representatives, but the factory has no guarantee that the buyers stay as prices go up. If the burden of implementing a living wage lies entirely on the supplier, CCC fears that no factory management will commit to such a plan. Brands need to play a central role in reaching a living wage. Marking garments as 'fairtrade' before a living wage has actually been paid to the workers is unacceptable for CCC. It is misleading for consumers and allows for disproportionate marketing benefits for brands.

Detailed analysis from the CCC

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1. The purpose, scope and assurances of the Fairtrade Textile Standard are misleading

The Fairtrade Textile Standard says:

“The purpose of the Fairtrade Textile Standard is to set the requirements that determine participation in the Fairtrade system that applies to workers along the entire textile supply chain, guaranteeing them a decent living and empowering them to combat poverty, strengthen their position and to take more control of their lives. The requirements ensure that employers pay living wages, guarantee the right to join trade unions, and make certain that health, safety and environmental principles are adhered to.”

“This standard applies to operators employing hired workers in the textile supply chain processing Fairtrade certified cotton and other sustainable fibres. This includes, but is not restricted to ginneries, spinning, weaving, knitting, cut-make-trim stages of textile production.”

“This standard also applies to brand owners purchasing finished textiles. The brand owner must have a contract with the relevant National Fairtrade Organization or Fairtrade International.”

Fairtrade International suggests that the new Fairtrade Textile Standard stands for a guarantee of good labour conditions in certified supply chains. It defines “core requirements” and “development requirements”, and states that the company is “in compliance with the Fairtrade Textile Standard if it fulfils all core requirements and reaches the minimum score of the development requirements as defined by the certification body.”

The Fairtrade system covers two different contract-arrangements: one is to check and certify that operators (factories) employing hired workers follow all the requirements, the other is to license brands that buy and market products with the Fairtrade-label. These buyers are exempted from physical audits. In the context of the garment industry, this means that the cost and management burden to comply lies largely on the factory that produces the garments as well as on its upstream suppliers that process the raw materials. However, many challenges the industry witnesses today are rooted in the decisions made at the headquarters of brands (e.g. short lead times, price pressure, last minute changes, lack of long term commitments, etc.). If these systemic problems are not tackled, chances are high that producers will not have the scope to implement changes and adhere to the requirements of the Standard. If strictly implemented, it is therefore unlikely that the Fairtrade Textile Standard can have a meaningful impact on the sector, as, in practice, hardly any factories could get certified.

The Fairtrade Textile Standard says further:

„This standard is applicable in countries and regions where freedom of association is possible.“

Freedom of association (FoA) is an enabling right, and therefore a prerequisite to improving labour conditions on the ground. It is good that the Standard included not only countries but also zones, as export and free trade zones in particular often have stricter laws regarding FoA. It is a must that there is no restriction by law, however, real practical hurdles exist despite laws in favour of FoA; they materialize because of economic pressure, investor-focused governments or threats, concrete or implied, from brands that they will take their business elsewhere if production is disrupted. A big effort is needed by Fairtrade International to support genuine FoA.

2. Not the right tool at this time and for this industry: The product label approach falls short of facing the challenges of today's garment industry

2.1. The Fairtrade Textile Standard allows brands to pick and choose areas of focus rather than pushing for a holistic industry-model to bring about real, lasting change

The current business model in the textile and garment industry is built on complex global supply chains. Profits are maximised by outsourcing labour-intensive processes to places where it is economically most advantageous. In practice this means to vastly underpay the men and women who are growing cotton, processing fibres, weaving fabrics, washing, dyeing and stitching garments. Initiatives that seek to truly bring about sustainable change in garment production have to address the root causes of bad working conditions and thus work across all supply chains of the businesses. Root causes include issues such as the business model that brands apply, the set-up of the supply chains, price calculations and cost distribution along the supply chains, and the processes and management decisions at the headquarter. A product label is problematic because it allows brands to pick and choose and to create one "fairtrade" product in one supply chain while carrying on with business as usual in all other supply chains. It is clear that many brands today try to boost profit by disproportionately marketing their various "sustainability initiatives" and charity projects with little mention of the rest of their production. We have no reason to believe that this would be any different when it comes to a fairtrade label and, to date, we have not seen enough effort on the part of Fairtrade International to counteract this approach from licensees.

2.2. The Fairtrade Textile Standard lacks comprehensive and enforceable supply chain responsibility for participating brands

The current roster of MSIs, business initiatives and certification systems provide tools and possibilities for any brand to engage in learning, database development, verification, system- and workplace audits and workplace level certification. In order to bring an added value, any new standard must take a much more rigorous and wider approach than just checking for workers' rights infringements at the supplier level and has to go beyond the business-as-usual model that outsources costs and responsibilities to suppliers. An effective standard should put the focus on the contractual relationship between suppliers and buyers to initiate change by adapting purchasing practices in order to facilitate high social standards at the workplace level, to hold suppliers to account if they violate international standards or national laws and to work with them on improvements. Such mechanisms must apply to the complete supply chain, covering all workplaces, and must be, above all, enforceable. Creating a Fairtrade Textile Standard by repackaging existing standards and MSIs under the Fairtrade brand is not enough to actually create a standard worthy of a 'fairtrade' label. If the existing standards and checking systems could bring about change at a significant enough scale it would be fairly easy to label the outcome (whether at the company, workplace or product level). It is however clear that this is not the case. The Fairtrade Textile Standard mentions provisions for contracts between suppliers and buyers in section 5, however they are no minimal benchmarks set (e.g. in terms of volume or length of trade relationship) or mechanism of sanction or liability should these minimal benchmarks not be met.

2.3. The Fairtrade Textile Standard lacks a robust delivery mechanism that addresses the root causes of bad working conditions

Any standard is only as effective as its delivery mechanisms. A robust delivery mechanism should include time-specific and binding milestones for improvement (e.g. binding targets with suppliers, purchasing practices commitments from buyers, worker engagement and union partnerships, easily and safely accessible complaints mechanisms, negotiated and content specific FoA protocol components, clear access agreements for unions and developing unions, concrete and time-bound strategies to pay all workers a living wage), credible and transparent accountability and controlling processes with the core involvement of workers and trade unions and public accounting for progress made. We see only a few elements of this in the Fairtrade Textile Standard. The responsibility of compliance is largely delegated to the factory level. While in theory it is clear that issues such as FoA have to be implemented locally, in practice we know that many governments and factory managements are hostile against trade unions, and that the policy space is severely limited for trade unions. Governments and employers know all too well that the industry rewards those production places that offer the economically most advantageous conditions and they also know that the fight for better working conditions ultimately results in the short term in higher labour costs. It is therefore necessary for global brands to commit to working to improve the labour situation and accept higher production costs. All in all we do not think that the Fairtrade Textile Standard has a robust enough delivery mechanism, because we do not see how Fairtrade International would push for and facilitate processes that address the FoA-issue as a core principle across the whole business of the participating brand. Given that the textile standard bases its work largely on supply chains selected by brands, it even falls behind the current work of some existing MSI work that holds member brands accountable for their entire business activities.

2.4. The Fairtrade Textile Standard has a limited scope to address the complexity of textile supply chain

The Fairtrade Textile Standard requires that all subcontractors are registered (1.3.2.) and that no outsourcing happens without prior information of the Fairtrade body. CCC believes that in order to ensure compliance at subcontractor level it is not enough to just inform the certification body. A thorough process for prior approval should be established. This would imply an on-site visit and assessment prior to the subcontracting activity. In the absence of clearer rules for subcontracting and its monitoring, a mere guarantee of compliance with the standard labour requirements becomes even less credible and there's a very real chance that production under subcontractors continues to happen in unprotected, semi-formal or informal settings. CCC doubts that classic auditing measures would detect such breaches of the Fairtrade Textile Standard. In addition, it is problematic that all costs for qualifying and controlling the subcontractors have to be borne by the factory that holds the certificate (1.4.2.). If Fairtrade International simply delegates the responsibility down the supply chain, it is almost certain that the Fairtrade Textile Standard in subcontracted factories will not be respected. Without addressing root causes of subcontracting, that have to do with purchasing practices (lack of long-term planning, short lead times and low prices paid), it is very unlikely that the Fairtrade Textile Standard will bring about real change for workers down the supply chain.

3. Audit-failure: the approach of the Fairtrade Textile Standard does not sufficiently include lessons learned from the last few decades

3.1. Auditing can offer false promises and the wrong incentives

Relying too extensively on auditing has been repeatedly proven to not sustain change and not to prevent major tragedies (such as Rana Plaza, Tazreen, Ali Enterprises etc.) In addition, following the logic of certification, the detection of a human or labour rights violation has to lead to a de-certification, which means at factory level that the race to the bottom increases, workers are isolated and buyers are not held accountable for problems detected in their supply chains. In order for brands to fulfil their responsibility to respect human and labour rights, they have to mitigate and remediate on an on-going basis and throughout their supply chain the violations that occur at the production places of their goods. Auditing can be part of a larger road map of a brand, but it can never be the sole action. Certifying workplaces (or products sourced from particular workplaces) does not in itself change the way business is conducted and could, given the certification logic, even be a flawed incentive for buyers to cut and run rather than stay and engage with suppliers.

3.2. Auditing as an isolated measure does not adequately assess the respect of human rights

CCC does not believe that in a complex sector such as the textile industry it is possible to simply 'check' whether workplaces are "fair"; it is well documented that there are very few "fair" garment workplaces. Respecting and maintaining human rights is a dynamic and on-going process. Chance can play a role as to whether human rights violations are detected: a workplace may meet a particular standard today, but may under changing circumstances violate it tomorrow. If real change and sustained respect for human rights is desired, brands must engage with their entire business practice on an on-going basis. The Fairtrade Textile Standard certifying a selected supply chain based on a one-off annual or bi-annual auditing exercise is not the most promising way to trigger relevant and lasting change in the industry. It could even amount to a step backwards - by taking sustained pressure off brands and preventing them from truly engaging in sector-wide change.

3.3. The Fairtrade Textile Standard includes workers in audit process but risks opening the doors for parallel organising activity that would hamper genuine trade union development

One improvement we see in the Fairtrade Textile Standard when comparing with other existing codes of conduct is that the Standard states under 1.3.3 that trade unions/workers representatives or compliance committee members participate in both the kick-off and conclusion meeting of an audit and that audit results should be shared with workers through trade unions/elected workers representatives (1.3.4.). An interesting avenue is the intent to establish "compliance committees" that consist of at least three quarters of members of trade unions/democratically elected workers representatives (1.2.) and that should have an on-going and formalized role (1.2.1). However, we have several concerns: it remains entirely unclear to what extent the recommendations given by the compliance committee have to be implemented by the factory management, it remains unclear to whom and in what form the factory management is accountable to the compliance committee. It is furthermore highly problematic to state that only "*in case a workplace is unionized (over half the workforce belongs to trade unions) the trade union may take on all or some of the responsibilities of the committee outlined*" (1.2.2), because given the practical hurdles and political pressure that trade unions face, the 50%-share of membership can sometimes be very difficult to reach. Compliance committees may not in any way be a means to circumvent active democratic trade union activities at the factory.

3.4. A fairtrade label must go beyond auditing

A fairtrade label must be able to demonstrate a significantly higher standard and practice than those used by most brands engaging with mainstream ethical trade initiatives like ETI or FWF. If this is not the case, there is no additional value for the workers or the progress of the sector as a whole. On the contrary: a fairtrade label on garments that have been produced in the same or poorer conditions than mainstream products will not only threaten the credibility of Fairtrade International and the whole Fairtrade movement, but could also lead to a disruption in the relations between the labour movement, including trade unions and labour rights NGOs, and Fairtrade International. Public confusion and criticism around revelations of poor working conditions in the production of a “fairtrade” product is a danger for Fairtrade International - it follows that any such “label” must be beyond reproach. This means a much more robust and thorough mechanism for oversight and behavioural shifts than suggested by the reliance on auditing contained in the Fairtrade Textile Standard. Not living up to the expectations of consumers might even have a broader negative impact on others because public opinion does not see the difference between fairtrade and CCC and multi-stakeholder initiatives etc.

4. Marking a garment as “fairtrade” without paying a living wage is unacceptable

4.1. A living wage benchmark needs to be robust and transparent

The Fairtrade Textile Standard says: *“If remuneration (wages and benefits) is below living wage benchmarks approved by Fairtrade International, your company must agree with trade unions/workers representatives to a time-bound plan of maximum six years from certification to increase real wages to close the gap to living wages”* (3.5.2). A living wage benchmark is not a self-contained scientific number. Deliberating and agreeing upon a living wage benchmark is a political process and requires extensive debate between stakeholders. In the first draft of the proposed Standard Fairtrade International included a reference to the living wage benchmark published by the Asia Floor Wage Alliance. In the now published Fairtrade Textile Standard, the reference to the Asia Floor Wage has disappeared and Fairtrade International refers instead to its “Fairtrade approved living wage benchmarks”. Since these benchmarks have not yet been published, CCC remains unclear whether they actually reflect the real need to cover the cost of living for the worker and his/her family. A living wage has to be the basic net wage, before bonuses and benefits, because bonuses and benefits are typically not granted to all workers, or they are tied to problematic pre-conditions such as e.g. attendance bonuses that often serve as disciplinary measure.

4.2. Lack of long-term commitments from brands puts an obstacle in the way of implementing living wages

Clear commitments from brands and well-defined and time-bound expectations from Fairtrade International about wage increases up to the living wage level are necessary in order to reach that level, so too is meaningful engagement to support and strengthen FoA and collective bargaining across all supply chains. CCC agrees that a living wage needs an implementation phase, however an implementation period of six years seems too long, especially in supply chains where big and financially powerful multi-national corporations are involved. Compared to earlier standard versions, the inclusion of a time-bound expectation and plan for implementation based on an agreement with trade unions is a step forward. However, there is a significant problem to this approach: Fairtrade International defines long-term commitment of brands as “two years or more” (5.6.3.), which sets the bar very low in terms of length of commitment expected from brands. There are no long-term commitments that brands have to make to their suppliers, so suppliers do not have the guarantee that a given brand would continue to source goods from them if the costs went up due to higher wages. If the burden of

implementing a living wage lies entirely on the supplier, CCC fears that no factory management will or could actually commit to a six-year plan of this sort. Brands need to play a central role in reaching a living wage. This could be done through binding agreements for long-term sourcing until living wages are reached and beyond, where brands commit to buy production volumes at a higher price in order to allow significant wage hikes at their suppliers.

4.3. Forms of remuneration other than regular increments

The Fairtrade Textile Standard adds that *“If wages are set at a regional or sector level in such a way that the gap with living wage is not closed by regular increments, the employer can satisfy this requirement by increasing other forms of remuneration as long as agreed by elected workers representatives.”* (3.5.2. Guidance)

Even if there are regional or sector-wide agreements to this effect, it can be witnessed that they often fall way short of closing the gap to a living wage in production countries. In many production countries, wages would need to be doubled or tripled to reach a living wage, and trade unions simply lack the policy space to negotiate such significant wage increases. It is therefore very significant which expectations Fairtrade International sets out to deal with these situations. The Fairtrade Textile Standard allows forms of remuneration other than regular increments to close the gap to a living wage, which can be interpreted as forms other than wage in hard currency. In-kind benefits are not and cannot be seen as a substitute or excuse for poverty wages. Workers have a right to a paid a living wage in hard currency that allows them to lead a decent life. They have a right to be in charge of the full wage owed to them and to spend their money where they see the most pressing need. The clause also only refers to an agreement with *“elected workers representatives”* – again, we worry that this may be applied in practice as a way of circumventing democratically elected trade unions.

4.4. Quota and piece rate work (3.5.10)

The Fairtrade Textile Standard says that *“piece rates must be agreed by trade unions/workers representatives and calculation documented by technical documentation of the company”*. Furthermore it says that wages should be based on an *“average hourly waged work based on a manageable work load.”* A living wage has to be the basic net wage, for all workers, and cannot be tied to any targets or productivity performance. Experience shows that piece rate targets are too high, lead to stress for workers, overtime, lack of rest periods and they can be abused as a punitive measure. Workers in many different countries have described how they have to finish their quota by doing unpaid or only partially paid overtime hours. This practice is not acceptable and should certainly not be linked to the payment of a living wage. In addition, piece rates are sometimes used to maximise employment flexibility, in the extreme a workers are left with a zero-hour contract and no safety net at all. If a company decides that on top of the basic living wage, there should be productivity bonuses, this should be discussed and agreed upon with trade unions/ workers. However, the basic living wage that workers are entitled to may not be called into question. The language in the Fairtrade Textile Standard is therefore insufficiently explicit with regards to needing to ensure that a living wage is paid for a standard week’s work. As it is the language could lead to the continued abusive and malfunctioning wage systems that are endemic in the garment industry.

4.5. Fairtrade Textile Standard assessment procedure

The assessment of the Fairtrade Textile Standard is basically based on social audits conducted by FLOCERT. Fairtrade wants to avoid double auditing and therefore plans to accept audits done by MSIs like the Fair Wear Foundation (FWF). Fairtrade however also indicates in plans to accept audits done by commercial auditors accredited by SAI. Their SA8000 standard is high but its enforcement is weak. Fairtrade will probably also accept BSCI audits, which are based on the BSCI-code of conduct and in some cases on the SA8000 certification standards. They rely on accredited quality control firms, commonly paid by the factory owner, who often lack expertise and are not trusted by workers and trade unions, rendering the results of their worker interviews questionable. After all and as outlined earlier, social auditing as an isolated measure often fails to adequately assess the real situation (e.g. Ali Enterprise was audited through SAI/SA8000, Tazreen and Rana Plaza were audited through BSCI). This is also true when it comes to checking wage data. Double booking is very common in the industry. Simple checks of books will not be enough. There are a myriad of well documented ways for workers to be deprived of their full wages, including the adding of unpaid leave days on the wage slip when the wage is below the minimum wage (even though the worker worked all days), the inclusion of overtime hours to reach the basic net wage, unwritten deductions and requirements for workers to pay part of the salary back in cash etc. The Fairtrade Textile Standard does not state how wage data will be accurately assessed and any abuses discovered and remediated. It also does not clarify if at all and what role the compliance committee has, and it does not give an explicit duty for the factory management to open their books and the rights of the compliance committee to have access to relevant data, including wage data. There is a big risk that the compliance committee cannot act in a meaningful manner if the existing unbalanced information distribution between the management and the workers is not tackled.

4.6. Marking a garment “fairtrade” without paying a living wage is a no go

The Fairtrade Textile Standard foresees that a finished garment will be marked as “fairtrade” even if a living wage is not (yet) being paid. Fairtrade product labels are seen as a guarantee of compliance with a certain (high) standard. It would be highly misleading for consumers to allow a garment to be marked as “fairtrade” when minimum standards are not actually fully met (yet). It would potentially discourage companies from participating in process-oriented initiatives such as the Indonesia Freedom of Association Protocol or the membership in MSIs like the Fair Wear Foundation, because it would offer a comparatively low bar to work only in selected supply chains instead of across the entire business. Companies would prefer to simply claim the “label”. As a result it could also lead to an even bigger imbalance of profit sharing along the global supply chain; the fairtrade-label would be a marketing advantage for the participating company that could produce more profit as fairtrade products are seen as having a higher value and sell at a higher price, it would not, however, necessarily mean any wage increases for workers at the factory level. This is absolutely unacceptable and runs contrary to the fundamental aims and nature of the fairtrade movement. The product cannot be marked as “fairtrade” until the living wage (and other basic requirements for fair workplaces) is reached at the workplace level. Companies should not be allowed to profit for several years from using the fairtrade mark on their products while not paying a living wage to their factory workers.

5. More effort is needed to ensure freedom of association as the underpinning of improved labour conditions

5.1. No marking as “fairtrade” without unionisation (3.4)

The Fairtrade Textile Standard clearly states the importance of freedom of association as a core part of any progress towards fairtrade and that *“some form of democratically elected and independent trade union or workers organization has to be established.”*, however there are a number of unclear areas: The Fairtrade Textile Standard says that it applies to countries and regions where freedom of association is ensured (scope of Fairtrade Textile Standard), but it leaves significant room for interpretation. FoA is at risk in many countries and regions and whether it is endangered or ensured is mostly not solely dependent on written laws and regulations. There is clarification needed on what applies in situations in countries or FTZs with state-run trade unions and legal restrictions on independent worker led trade unions. The starting point for applying the FTS should be either factories with a functioning, democratic trade union and a good faith negotiation process, or genuine worker controlled cooperatives. Functioning democratic trade unions imply that union members have access to the factories, can call for meetings in the factory during working hours and can carry out training for the workers. Certifying a factory with either no functioning, democratic trade union and no good faith negotiation process, or no genuine worker controlled cooperative is a no-go. The Fairtrade Textile Standard emphasizes freedom of association, but remains unclear to what extent parallel structures (workers representation/ compliance committees) are possible as an alternative to unions. It also falls short on criteria for ensuring such parallel structures do not interfere with the development of trade unions.

CCC believes that the following actions are key components of any positive progress towards genuine freedom of association as both a basic human right and as an enabling right:

- Provide access and opportunities for unions to disseminate information to workers regarding freedom of association and unions.
- Require the signing of access agreements between factory management and local unions at supply factories.
- Where trade unions are present or newly established at supply factories, facilitate union negotiation with the employer on grievance procedures, as well as rules and procedures for hiring, firing, promotion, discipline, union facilities at the workplace, and dispute handling.
- Where trade unions are restricted by law but non-union forms of worker representation are permissible, ensure that such forms of workplace representation conform with the principles of worker representation as laid down in ILO Convention 135.
- Where freedom of association and collective bargaining are restricted by law, take identifiable measures promoting genuine freedom of association within the country concerned, including engaging the workers collectively to facilitate their self-organisation in ways that are consistent with the principles of freedom of association and respect for human rights.
- Where law restricts freedom of association and collective bargaining, express public support for positive legal reforms of labour laws to remove these legal restrictions.

5.2. Freedom of Association protocol (3.4.4.) risk to not be actionable

The Fairtrade Textile Standard states that there should be a signed FoA-protocol based on a proposed model protocol of Fairtrade International. However, to make such a protocol actionable, it has to be signed not just by the management and sent to Fairtrade International, but be negotiated and signed by local, national or international trade unions. It remains unclear how Fairtrade International wants to ensure that this FoA-protocol does not become a paper tiger.

5.3. Right to union guarantee (3.4.5.)

The Fairtrade Textile Standard says that as a minimum, the right to union guarantee should be translated into the local language and displayed publicly in the workplace. While this is welcomed, this action in isolation does not ensure active knowledge of such a right, let alone engagement with it and subsequent protection of it. Numerous examples show that when codes of conduct have been displayed somewhere on a wall in the factory, workers either did not understand it or did not even know where it was. A right to union guarantee has to be communicated more actively; e.g. by a joint oral statement of the management and the buyer in front of the workers, by printing it on the pay slip to each worker or specific training.

5.4. CBA-negotiations (3.4.11)

The Fairtrade Textile Standard says that *“negotiation must take place with recognized trade unions or with elected worker representatives in the absence of a trade union, but only where such elected workers representatives are provided for by law and are legally authorized to bargain.”* If elected workers have to be authorized by law to bargain, this poses a clear hurdle to starting up workers’ organisations. The Fairtrade Textile Standard should contain assurances that any worker representatives undertaking bargaining or negotiations will be protected from anti-union sanctions (including state imposed sanctions). The Standard continues and says that if there is a decision to not form a union, *“(…) in these situations the certification body will determine whether there was any intimidation or coercion involved in this decision.”* It is very problematic that Fairtrade International puts only themselves in the judge’s seat - a top-down judge at that. What will this assessment to investigate intimidation be based on? How such investigations happen should be made explicit and public (e.g. based on the investigation and reporting model of the FWF complaints mechanism).

5.5. Missing provision on the link of short term contracts and freedom of association

Short-term contracts and contract work (hiring through an agency) are in practice often a big hurdle for workers wanting to unionise. The Fairtrade Textile Standard says that *“all regular work must be undertaken by permanent workers. Time-limited contracts and contract labour are permitted during peak periods under special circumstances.”* (3.5.30). However, it remains unclear how this will be assessed, and in defining *“peak season and special circumstances”* it will always be very difficult to know where to draw the line, especially in an industry with such major seasonal variations. Further clarification is needed. The Fairtrade Textile Standard also says that the termination of employment during pregnancy is not allowed (3.5.26). However, in practice this often happens by simply not renewing short-term contracts. The Standard does not address this problem, even though the workforce make up of the garment industry is well known: predominantly women of childbearing-age. The question is a central one. Certifying a factory with a significantly high number of short-term contract workers and without legitimate trade union is therefore not compatible with a meaningful approach to workers’ empowerment. Certification of such production sites should be excluded – such a provision is missing.

5.6. Lack of clarity on investigation and remediation of anti-union behaviour

The Fairtrade Textile Standard lacks any procedure for how Fairtrade International will check whether anti-union behaviour has occurred on the ground. Classical social audits are not likely to discover this, and more in-depth investigation raises the question of who will take on the financial burden of such an investigation. Costs should not be externalised from the participating brand to its suppliers, there has to be a fair share of the burden.

6. Missing brands commitment: Purchasing practice need to be centrally included

6.1. Purchasing practices have no strong role in the Fairtrade Textile Standard

Purchasing practices to facilitate factory-relationships along the lines of a fairtrade system need to be added as a mandatory minimum commitment of the fairtrade licensee. This is missing so far and goes against a systemic change as already explained. Such commitments should include long-term business relationships, long-term financial commitments, transparency throughout the supply chain, the obligation for the buyer to ensure that suppliers can actually meet the standards quickly, and comprehensive responsibility (including financially speaking) for remediation where labour and human rights have not been respected. This assumes a shift in the buying practices of many companies. Clause 22/23 of the Bangladesh Accord¹ gives new and interesting benchmarks on financial incentives and on commercial relationships.

7. Other problematic aspects of the Fairtrade Textile Standard

7.1. Disciplinary measures (3.1.3/3.1.6.)

The Fairtrade Textile Standard says: *“All disciplinary measures must be properly motivated and recorded so that the employee is informed of the reasons for the decision and has the opportunity to file a grievance and seek representation.”* The Standard allows disciplinary measures without being clear on where the limits are. This is dangerous and implies that whenever the disciplinary measure is *“properly motivated and recorded”* to allow the worker to file a (theoretical) grievance then such discipline is acceptable. However, there are many disciplinary sanctions that are not in any circumstances acceptable, for example demanding financial fines from workers when they make a mistake, excessive penalties for lateness or absence or other related behaviours. The Fairtrade Textile Standard needs more clarity on this and how it will monitor for infringements. Under 3.5.8 the Standard says that *“salary deductions must not be used for disciplinary purposes”*, however it does not state so clearly under the clause 3.1.6 where disciplinary measures are discussed. CCC suggests that any such policy on disciplinary measures devised by the factory or any 'factory rule-book' must be discussed and agreed upon by Fairtrade International as holder of the fairtrade mark together with trade unions or workers representations from the factory in question. The Fairtrade Textile Standard is lacking here.

¹ <http://bangladeshaccord.org/>

7.2. Dormitories (3.5.35)

The Fairtrade Textile Standard says: *“If your company provides accommodation (dormitories, housing) for workers, it must be such as to ensure structural safety and reasonable levels of decency, privacy, security and hygiene, and includes regular upkeep and improvement to respond to the workers and their families` basic needs. If sanitary facilities are shared, a reasonable number of toilets and bathing facilities with clean water, per number of users, and according to regional practice, must be available. Accommodation must be located in separate buildings from production areas, storage and warehouses. Accommodation must be optional for workers and if rent is charged it must not exceed local average or exceed benchmarks set by local government if available.”* Many cases of restriction of movement and closed compounds are known, e.g. notably the dormitories of the spinning mills in India that host Sumangali girls and many factory dormitories in China. The standard does not include anything to prevent restriction of movement so far. This needs to be included.

7.3. Grievance procedure (1.4.4.)

The Fairtrade Textile Standard foresees a grievance mechanism, where workers can file a complaint with local grievance handlers, who will then discuss the received grievance with the compliance committee (CC). The CC decides how to solve the problem and sends a file on the complaint to Fairtrade International who will publish a list of complaints. It seems that the grievance mechanism is solely aimed at the level of the factory, but with no involvement of a third party or the buyers (brands). This falls behind other existing mechanisms, such as the FWF grievance approach, where FWF acts as a third-party to facilitate solutions that also, depending the nature of the complaint, may include corrective actions taken by the brands that source from the given factory. It should also be noted that the UN Guiding Principles on the right to remedy also contain criteria on grievance procedures, which should be adhered to in this Fairtrade Textile Standard.

7.4. Health and Safety risk assessments (3.6.4)

The Fairtrade Textile Standard refers to risk assessments and the need for experts to undertake these assessments. In practice, not just the assessment as such, but the question arises of who is in charge and who pays for compulsory renovations. Clarification is needed in order to prevent production happening in places that are known to be unsafe but where the factory management is not in a position to pay for the needed renovation.

7.5. Hazardous techniques (3.6.12; 3.6.23; 3.6.24)

“Workers engaged in handling any potentially hazardous chemicals or other hazardous work must be examined regularly, at least once a year, by a medical doctor. These examinations must be free and confidential to the respective worker. The frequency of examinations depends on the level of exposure to chemicals. Individual health records must be established for workers at risk due the nature of their job. These records must be kept confidential and management must not have access to them.” The Fairtrade Textile Standard includes medical check-ups, which is good, but it remains unclear who pays for long term medical treatment, compensation, pension and sick leave. Workers are often forced to stay in jobs even when they know they are sick, but they would not have the financial means to pay for medical treatment or to survive without the meagre wage they earn in the factory.

7.6. Minimum compliance level?

CCC is concerned with the minimum compliance level needed in order to obtain the fairtrade certification. Given the current state of the garment sector, it is evident that non-compliance in several areas (core-points in the Fairtrade Textile Standard) will occur at supplier level. Fairtrade International has to reveal in more detail how they will handle these types of situations and whether they will allow certain instances of non-compliance under the fairtrade certification. CCC does not support a diluted list of criteria – social responsibility has to apply holistically. We also underline that the same minimum standards have to apply to all licensees, no matter what their size and economic power is. Exceptions are not acceptable.

7.7. Traceability (internal) and transparency (external)

It should be explicit in the definition that traceability means the traceability of the entire supply chain, including sub-contractors and agencies. In addition, we believe that there is a need for external transparency with regards to the supply chain. Transparent reporting and accountability to external stakeholders such as unions, NGOs and consumers is a key factor for success and credibility. Without external transparency and public reporting on workplaces that are certified under the Fairtrade International scheme and a regular update on progress made at workplace level, Fairtrade International contributes to the current business model in the garment industry that is based largely on opaque business relationships.

7.8. Environmental responsibility

CCC sees a risk of overloading this particular standard. We doubt that both robust social criteria and robust ecological criteria can be measured through one standard, since for each field specific knowledge is required of the auditors and external monitors. If a single standard attempts to cover both areas, it must be guaranteed that the necessary expertise and the necessary resources to check the implementation is available and that compliance is required in all areas of each field. This can quickly become very costly, and we doubt that thorough checking of the entirety of all supply chains can be financed.