



# Guidelines for Managing Responsible Transitions

# The MFA Forum



This document is the result of discussions between participants of the MFA Forum including companies, trade unions, NGOs and the International Labour Organisation (ILO). The comments and suggestions offered by the International Labour Office are subject to the usual understanding that the Constitution of the International Labour Organization confers no special competence upon the International Labour Office to give an authentic interpretation of the provisions of international labour instruments, and that any decision as to the conformity of national legislation and practice with a particular instrument should lie in the first instance with the Government of the country concerned subject, in the case of a ratified Convention, to the views of the supervisory bodies of the ILO.



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## 1 Introduction

World trade in Textile and Clothing was governed by the Multi Fibre Arrangement (MFA) from 1974 to the end of 2004. Since the quota system was phased out retailers and brands have been consolidating and restructuring their supply chains to take advantage of the opportunities offered by a non-quota constrained world. Countries such as Mexico, Indonesia, and Thailand<sup>i</sup> which had benefited from the MFA have seen their exports fall, as buyers have shifted to China, India and Vietnam.<sup>ii</sup>

Brand exits from factories and countries, as well as their suppliers' decisions to either close factories or shift production elsewhere, and the manner in which they carry out these closures, has therefore become a major issue for the welfare of workers and communities.

Whilst this has affected both developed and developing country suppliers, workers in developing countries where low-wage production predominates and where strong systems of employment insurance are not operational, have been particularly badly hit. The 'China Safeguard' measures that were in place till 2008 mean that the final transition is still playing out, so job losses have not been as severe as some of the worst predictions. But there have been significant closures particularly in Lesotho, The Philippines, Turkey, Nigeria, Kenya, El Salvador and Mexico.<sup>iii</sup>

Often closures have happened abruptly without adequate notice, and without workers being paid compensation or even earned back-pay and national insurance payments. By the end of 2005 in Sri Lanka for example, 15 factories had closed with over 3000 workers losing their jobs. Only three factories had paid any form of compensation to the workers, and almost all had left workers with employment protection payment defaults. In addition to such outright closures there has also been significant retrenchment in many small and medium factories, due to consolidation within the industry at a country level.<sup>iv</sup>

The textile and apparel industries have a high concentration of basic skill and low wage workers, often combined with a high combination of female workers. It is also often one of the earliest industries to develop in many countries. These factors introduce additional challenges to any potential labour market adjustment, as workers are limited by their skills, and by cultural attitudes to female workers, and there are often few other avenues of formal employment available.

The apparel industry is much more highly fragmented at manufacturing, brand and retail levels than the natural resource extraction and heavy industries which have formed the basis of much of the experience of 'responsible restructuring' to date. Whilst apparel plants are significant employers in many regions there is no single employer with responsibility for the welfare of the retrenched workforce as a whole. Due to the lack of attention given to the potential negative impacts of the quota phase-out on developing countries and workers, the response to this economic change has been piecemeal with governments, businesses, trade unions, and NGOs tending to respond to closures on a factory-by-factory basis.

The MFA Forum was established in early 2004 as an open network of brands and retailers, trade unions, NGOs and multi-lateral institutions. Its aim is to promote social responsibility and competitiveness in national garment industries that are vulnerable



in the new post-quota trading environment. The MFA Forum has an agreed Collaborative Framework to guide the actions of individual actors and collaborative initiatives. This includes a number of principles relevant to factory exits and closures.

The MFA Forum participants are committed to the principles of the Collaborative Framework and that every effort should be made to maintain decent work places through respect for national law and international standards. Foremost among these are the Fundamental Principles and Rights at Work included in the 1998 ILO Declaration, which specifies four areas: freedom of association, the right to organise and the right to collective bargaining; the elimination of forced or compulsory labour; the abolition of child labour; and the elimination of discrimination in the workplace (referred to as “fundamental rights at work” in this document. See the annex for a further list of key resources).

Where retrenchments or closures are inevitable the key actors should work together to mitigate the negative social consequences, and in particular:

- Where possible, buyers should maintain their current country supply base and contain consolidation in-country. If exiting a country, they should do so in a manner that respects the fundamental rights at work, international labour standards and national law and enables and encourages suppliers to do the same.
- Workers should be paid their legal entitlements including social security, pensions and severance and should have access to job banks and retraining programmes.
- In the event of factory closures the key actors should prioritize the promotion of opportunities for the employment for displaced workers in the remaining and/or new textiles and garment factories.
- Displaced workers should have access to government-provided social safety nets.

This document provides guidance to the different actors on how these underlying principles can be put into practice.

These Guidelines neither reflect total consensus on responsibilities for each stakeholder, nor are they an exhaustive list of individual stakeholder groups’ expectations. In individual cases, stakeholders may pursue courses of action not described in this document. These Guidelines do, however, provide a context and framework under which stakeholders can seek opportunities to work collaboratively to mitigate negative impacts to workers facing retrenchment.

## 2 General principles from best practice

### 2.1 Responsible consolidation is a multi-phase, multi-stakeholder process

Clothing buyers, manufacturers, importing and exporting governments, trades unions, NGOs and international institutions have different roles and responsibilities in securing



the ongoing welfare of the workers employed in each phase of consolidation of the supply chain.

1. When a manufacturer or clothing buyer enters a new country
2. While the manufacturer and clothing buyer are sourcing and manufacturing within that country.
3. When a factory retrenches staff or closes its operations.
4. When a buyer or manufacturer exits from sourcing and production within a country.

Good practice in the event of factory exits and closures must go hand-in-hand with good practice in the entire cycle of sourcing and manufacturing. The Collaborative Framework emphasizes steps that should be taken to develop stable, responsible and productive relationships that minimize the potential for closures, including, amongst others:

- Buyers sourcing from countries and manufacturers that respect fundamental rights at work (see annex cite of specific Conventions) and provide decent work (as regards in particular the payment of wages, hours of work, occupational safety and health, human resources development and other employment rights, in the light of relevant international labour standards);
- Buyers, where feasible, maintaining current country supply base and containing consolidation in-country;
- Buyers aligning purchasing practices with labour standards compliance;
- Buyers offering technical assistance to suppliers to increase productivity, technology, design, marketing, and worker and management skills training;
- Manufacturers investing in improvements to technology, skills and management to remain responsibly competitive;
- Governments improving infrastructure and reducing inefficiency in national garment industries; and
- Governments enacting and enforcing labour laws in line with international standards including in particular fundamental rights at work and international labour Conventions which they have ratified.
- Governments providing adequate social insurance including unemployment benefits and support for worker retraining.

## 2.2 Partnership working is crucial

Multi-stakeholder approaches are absolutely essential in finding effective and sustainable solutions to economic change. For example an evaluation of the European Commission's restructuring programmes concluded that,

*“Policies should put partnership-based approaches at the forefront of any measures to address the challenges of restructuring, and these*



*approaches must be adequately resourced.”<sup>v</sup>*

The International Finance Corporation’s Good Practice Note on Managing Retrenchment also stresses the importance of stakeholder engagement and partnership working to mitigate the impacts of closures;

*“Consultation on both the development and the implementation of a retrenchment plan is critical. ... Workers can often provide important insights and propose alternative ways for carrying out the process to minimize impact on the workforce and the broader community.”<sup>vi</sup>*

Labour market adjustment programs are seen as being almost exclusively the government’s responsibility in most developing countries. However, more than half the countries of the world lack the basics of an unemployment insurance system.<sup>vii</sup>

In most industrialised countries worker resettlement and area regeneration has been moving toward partnerships which combine the resources and capacities of public, private and voluntary sectors along with worker representation. This brings workforce resettlement programmes closer both to workers’ and employers’ needs and integrates them with national and regional policies for economic development.

## **2.3 Be aware of early indicators of potential factory closures**

Early intervention to address problems at a troubled factory or in a troubled zone may help avert retrenchment or, if retrenchment is inevitable, better prepare workers and the local economy to mitigate its effects. Buyers, manufacturers, governments, trade unions, and NGOs should watch for indications that a factory may be facing difficulties, including:

- An economic downturn in the local region or industry;
- A general production shift in the industry or region;
- Buyers exiting a factory and/or difficulty obtaining new orders;
- Inability to invest in new technology or skills training and/or adapt to industry shifts;
- Poor factory management; and
- Unresolved and/or repeated compliance issues.

Upon observing early warning signs of potential retrenchment at a factory or local industry level, buyers, manufacturers, governments, trade unions, and NGOs should work in partnership to avert potential retrenchment.

## **2.4 International standards are the starting point when closures are contemplated**

The International Labour Organisation (ILO) Standards (Conventions and Recommendations) are an important source of guidance. They represent international consensus on good labour practice and in many countries have been incorporated into



national legislation. In addition, the four areas specified in the Declaration on Fundamental Principles and Rights at Work (freedom of association, the right to organise and the right to collective bargaining; the elimination of forced or compulsory labour; the abolition of child labour; and the elimination of discrimination in the workplace) are applicable in all circumstances, including termination, whether or not particular Conventions are ratified. When relevant Conventions have been ratified by the country concerned, legal obligations to implement those standards apply and these commitments should be honoured by all parties, including enterprises. Where Conventions have not been ratified and applied in law, businesses should nevertheless view them as voluntary benchmarks for good labour practice.

In addition, the relevant provisions of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) contain valuable guidance regarding other aspects of decent work. The following elements are identified by the MNE Declaration:

- Increase employment opportunities and standards
- Consult competent authorities and national employers' and workers' organisations
- Wages, benefits and conditions of work should be not less favourable than those offered by comparable employers in the country concerned, within the framework of government policies
- Wages benefits and conditions should be at least adequate to satisfy the basic needs of the workers and their families, and any basic amenities such as housing, medical care or food should be of a good standard
- Highest safety and health standards should be ensured, and any hazards should be made known to the workers.

The MNE Declaration also refers to security of employment, as does the OECD Guidelines for Multinational Enterprise. The most recent standards directly relevant to restructuring are in the 1982 Termination of Employment Convention (No.158); the Termination of Employment Recommendation (No. 166) elaborates further; and the Protection of Workers' Claims (Employer's Insolvency) Convention (No. 173) contains further specific provisions. The ILO instruments lay out a constructive approach to restructuring or closure.

Taking this into account, among other things, the following guidance may be given:

- **Consultation.** The employer should consult with workers' representatives and give serious consideration to any alternative measures proposed by the workers. If none of the workers' proposals appear feasible, the employer and workers should attempt to work out some other alternative together. However, depending on relevant national legislation, the ultimate decision on what course of action should be taken remains with the employer.
- **Communication.** The employer should provide workers' representatives with all of the information they need to understand the current financial or other conditions motivating the firm to downsize, and to be able to protect their interests while bearing in mind the issues facing the firm. The information should be provided well



enough in advance so that the workers' representatives have time to formulate a proposed strategy. The competent authorities should be notified so that they may mediate or take mitigating action.

- **Notice.** Workers should be given adequate notice to prepare their job search and be given time off from work during the period of notice for this purpose. If notice is not possible, the employer should pay compensation (usually equal to the wages the worker would have received during the period of notice).
- **Severance benefits.** Every effort should be made to secure alternative employment for displaced workers. However, where severance benefits are paid, they should take into account how long the worker has been with the firm and the previous wage of the worker. Firms should pay severance benefits in addition to any social security benefits the worker may be entitled to, particularly given that the level of social security benefit provided may be quite low. Payment in lieu of notice should not be deducted from the amount owed to the worker as a severance allowance.
- **Unemployment insurance.** For employers, unemployment insurance alleviates the cost of terminations; for workers it provides guaranteed income for a longer period of time and is often more generous than severance payments for people facing longer periods of unemployment.
- **Non-discrimination.** Decisions on who should be made redundant should not be made on the basis of race, colour, gender, religion, age, political opinion, national extraction, social origin, or union membership or activity, disability, HIV status, sexual orientation, marital status, family responsibilities, pregnancy, participation in any legal proceedings against the employer, or any other basis prescribed in relevant legislation or collective agreements: decisions should be made on the basis of business analysis only.
- **Challenge.** Workers should be allowed to challenge mass redundancies when there is evidence to support the view that no such necessity exists (e.g. the hiring of a substantial number of new workers shortly after the redundancies were carried out), or to contest the manner in which the dismissals were carried out. An impartial body should be empowered to examine the decision to downsize: however, the government may determine the limits of the body's authority.

ILO Convention No. 173 aims to protect workers' claims when the employer, through insolvency such as bankruptcy is unable to discharge necessary obligations. It envisages two modes of protection. One is that "In the event of an employer's insolvency, workers' claims arising out of their employment shall be protected by a privilege so that they are paid out of the assets of the insolvent employer before non-privileged creditors can be paid their share." Workers' claims include, at minimum, unpaid wages, vacation pay and severance. The alternative way of providing the same protection may be a guarantee institution established by national law or practice.

The MNE Declaration (paragraphs. 24 to 28) calls for active manpower planning and observance of negotiated obligations as to employment stability and social security. Multinationals should take a leading role. They should give reasonable notice of changes of operations to government and workers' representatives in order to examine mitigating measures. Arbitrary dismissals should be avoided. There should be



cooperation between governments and employers to provide income protection for terminated workers.

The OECD Guidelines for Multinational Enterprises are also a good source of guidance. The Guidelines are recommendations for good corporate behaviour primarily addressed to enterprises based in the 30 OECD countries, as well as Argentina, Brazil and Chile, which have adhered to the guidelines. The Guidelines apply to all activities of multinationals from those countries, and when problems arise in countries outside of the OECD, complaints can be made through the contact points in the home country of the multinational involved.

Of particular relevance are section III relating to disclosure and section IV relating to employment and industrial relations.

Section III requires enterprises to ensure that timely, regular, reliable and relevant information is disclosed regarding the activities, structure, financial situation and performance of enterprises, both for the enterprise as a whole and, where appropriate, along business lines or geographic areas.

Section IV states that enterprises should, in considering changes to in their operations which would have major effects upon the livelihood of their employees, in particular in the case of the closure of an entity involving collective lay-offs or dismissals, provide reasonable notice of such changes to representatives of their employees and, where appropriate, to the relevant authorities, and co-operate with the employee representatives and appropriate governmental authorities so as to mitigate to the maximum extent practicable adverse effects. In light of the specific circumstances of each case, it would be appropriate if management were able to give such notice prior to the final decision being taken. Other means may also be employed to provide meaningful co-operation to mitigate the effects of such decisions.

## 2.5 Job losses should be a last resort, but not a last step

Experience of closures and restructuring in other sectors highlight strategies undertaken by employers, public bodies and civil society organisations, which have proved to be effective in reducing the social impacts of restructuring through actively promoting worker resettlement:

- **Seek alternatives to job losses.** The best response to worker redundancy can be to re-assign the worker somewhere else in the factory, or to sister factories if the particular plant is closing. This means that employers and buyers must be willing to consider diversifying and reorganizing their operations to minimize job losses.
- **Early interventions are usually more effective.** Many countries already have advance notice laws in place. Unfortunately, these laws are not always followed. In some cases factories owned by foreign companies just close up shop over the weekend. In other cases employers provide advance notice of a plant closing or worker lay-off, but deny access by government officials and worker's representatives to the workers in order to begin assisting them.
- **Provide employment services and make labour market information available to workers** in a timely and user-friendly manner (for example on job openings and



skill requirements). Services such as skill assessment, job search assistance and job matching have proved to be the most effective labour market interventions.

- **Ensure labour market adjustment programs are work-ready.** Flexible, accessible and appropriate training can be an important part of worker resettlement strategies. The most effective programmes are those that are closely linked to specific re-employment opportunities. For example, skill-specific training tends to be more effective than general training; on-the-job training tends to be more effective than classroom training. Testing and validation of existing skills can also assist workers in finding employment.
- **Provide workers with financial support through the transition to reemployment.** Workers can only afford to participate in training and job search assistance if they have some means of income to support themselves and their families. Employers should ensure that payments and paperwork for national insurance schemes are up to date so that workers' benefits are not imperilled and pay any mandatory or contractual severance pay promptly. When notified of impending severance, workers should be given time off to look for new employment without a loss in pay.
- **Integrate economic development strategies with labour market adjustment policies and programs.** There is an increasing appreciation that active labour market programs alone, although useful, may not be sufficient to enable workers to find new jobs. Sound macro-economic and regional development policies provide the enabling environment for workers to find new jobs or shift into entrepreneurship. In-depth research and analysis of the situation provides the basis for forecasting and regional planning.
- **Provide SME support.** In situations where all efforts by manufacturers and buyers have failed to secure alternative employment, it can be appropriate to help retrenched workers establish small businesses or co-operatives. To this end, companies may consider putting money into a fund to support new businesses or working with local governmental and non-governmental organisations to help provide start-up capital and technical assistance.

## 3 MFA Forum Guidelines on Managing Transition

### 3.1 Overarching principles

Where feasible, buyers should consolidate their supply chain within a country and orders should be placed with suppliers that respect international standards and national laws.

The priority should be to secure alternative employment for displaced workers with new or expanded suppliers.

- **Approach to restructuring and contractor disengagement should be planned, with clear rules, policies and commitments, based on:**

**Compliance with national laws, international labour standards and the**



terms of collective bargaining agreements.

**Consultation** between stakeholders.

**Consideration** of the likely impacts of closure on workers and the local community in each particular case (e.g. taking into account local social and economic context, employer's involvement in healthcare, housing etc..).

- **Stakeholders should work in partnership**, and in proportion to their stake in the causes and outcomes of restructuring, to mitigate the effects of job losses over the short, medium and long-terms;
- **Redundancies should be the last resort, but not the last step.** Opportunities to make the factory competitive through partnerships to upgrade technology, management or skills should first be explored;
- If retrenchments become necessary, the priority should be to redeploy the affected workers to other suppliers, for instance those that have expanded their production as a result of consolidation.

## 3.2 Individual Responsibilities

Individual responsibilities for clothing buyers and manufacturers, governments of exporting and importing countries, trades unions, NGOs and international institutions are outlined on the following pages.

While general individual responsibilities are outlined here, the manner in which they are acted on may vary based on the specific relationship of each party to the factory, for example when a buyer sources through a buying agent rather than directly from a factory.

Actions need to be prioritised according to the severity of the situation and should be proportional to the stake that a brand has in a manufacturing facility, or that a manufacturer has within a local community. Therefore the guidelines are divided into essential, expected and desirable actions:

<b>E</b>	<b>Essential</b>	<b>Core individual responsibilities</b> that should be undertaken in every case.	
<b>EX</b>	<b>Expected</b>	<b>Good practice that should be taken wherever possible</b> , particularly where stakeholders have had a high stake in the causes or outcomes of restructuring.	For example in cases where: <ul style="list-style-type: none"> <li>✓ The buyer is responsible for 30 % or more of total volume in factory.</li> <li>✓ The factory is unlikely to be able to replace orders with those from another buyer.</li> <li>✓ The factory is a major employer in the area.</li> </ul>
<b>D</b>	<b>Desirable</b>	<b>Best practices that should be considered, particularly where</b>	For example in cases where:



		considered, particularly where restructuring is likely to have significant social impacts.	<ul style="list-style-type: none"> <li>✓ The impacts on local communities are likely to be high in range and severity, given the local economic situation.</li> <li>✓ Vulnerable groups including women, older and migrant workers are affected.</li> <li>✓ Workers or local community are dependent on infrastructure and services provided by the factory.</li> </ul>
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## **CLOTHING BUYERS**

### **1 Entering a country**

- a. Review existing trade, industrial and social policies for the textiles and garment sector. E
- b. Undertake comprehensive audits of all prospective production sites. E
- c. Source only from suppliers who provide decent work, thus meeting buyer codes, national laws and international standards, or who are willing to work, on a time-bound basis, with buyers, trade unions and NGOs to meet these standards. E
- d. Include in the country risk assessment an evaluation of the existing legislation on retrenchment. E
- e. Check whether the owners of any prospective production sites have retrenched workers in the past and assess whether this was carried out in line with national law and ILO Convention 158. EX
- f. Begin to develop a relationship with other buyers, manufacturers, government, trade unions and NGOs. EX
- g. Seek to establish a national multi-stakeholder forum for the industry including the above stakeholders. D

### **2 Ongoing responsibility**

- a. Know in which factories production is being carried out. E
- b. Monitor supplier adherence to regular and timely payment of wages and legally required benefits (e.g. social security/pension payments) to appropriate party. E
- c. Oversee, on an on-going basis, that sufficient resources are available to meet all employee liabilities in the event of downsizing or closure. E
- d. Monitor supplier use of contract labour and promote the development of a permanent workforce. E
- e. Seek to maintain production with suppliers who provide decent work, meet buyer codes, national laws and international standards, or who are willing to work with buyers, trade unions and NGOs to meet these standards. In particular, seek to maintain production in factories with functioning independent trade unions. E
- f. In the case of non-compliance with fundamental rights, adopt a multi-stakeholder



- coalition approach aimed at resolving the problem. EX
- g. In the case of workers retrenched for trade union activities or other discriminatory practices, seek the reinstatement of the workers concerned. Buyers should only cease to work with the factory if, after collaborative efforts to remedy the situation are exhausted, the supplier is unwilling or unable to take corrective action. E
  - h. Monitor both the number and reasons for lay offs/suspensions of work at the supplier factory. EX
  - i. Lobby government to ensure that a manufacturer meets all their commitments under international labour standards and national law. D
  - j. Share experience on good practice in managing the termination of employment and industrial restructuring. D

### **3. Factory Exit**

- a. Where restructuring is necessary, adopt a planned approach and work with the supplier concerned and with other buyers to mitigate the effects of a decision to withdraw from a factory. EX
- b. Where disengagement from a factory is necessary, make every effort to retain production in-country. E
- c. Conduct a risk assessment of the impact of a decision to withdraw orders from the factory in question. E
- d. Where a decision to reduce orders is likely to result in substantial retrenchment and/or closure, evaluate this business decision against its social impact. E
- e. In the case of an intended factory exit due to persistent non-compliance, seek to involve local and international stakeholders at the earliest opportunity. E
- f. Where production is being consolidated in-country, transfer orders to suppliers which are socially compliant. E
- g. Give the contractor sufficient notice of the ending of the business relationship to allow for a retrenchment consultation procedure with the workforce, and monitor the consultation process. E
- h. Provide detailed information supporting the business decision to management and to the union, where one exists. E
- i. Make every effort to secure alternative employment for the redundant workers, for instance at suppliers where production has been expanded. EX
- j. Where workers are retrenched as a result of a decision to reduce orders, monitor supplier adherence to national laws in order to ensure that workers are compensated in line with national law. E
- k. Monitor the payment of severance benefits and take all necessary remediation measures where problems arise (for instance in the event of closure, and where the supplier fails to meet its obligations, transferring outstanding payments for orders directly to a severance fund for the workers involved and/or withholding payments for production from other facilities belonging to the supplier). D
- l. Advocate to the government for the payment of full benefits to displaced employees. E



- m. Include assessment of compliance costs in comparisons of factory or country competitiveness when deciding where to prioritize sourcing. EX.
- n. Where migrant workers are involved, work with the supplier and the governments concerned to ensure that the workers concerned enjoy equality of treatment with national workers and are redeployed within the country where possible, or if that is not possible, repatriated with all costs covered. EX

## **4 Country Exit**

Where feasible, maintain current country supply base and contain consolidation in-country. If exiting a country, this should be done in a manner that respects international labour standards and national labour law, and enables and encourages suppliers to do the same, for example giving adequate notice for ending supplier relationships, and working with suppliers to monitor adherence with national laws regarding retrenchment of workers or closing down of a facility so that workers are compensated in line with national law. Specifically:

- a. Conduct a transparent risk assessment of the impact of a decision to withdraw from the country in question. E
- b. Subject to the outcome of the impact assessment notify the government of any decisions to cease sourcing in the country. E
- c. Undertake the steps outlined in the previous section for each of its suppliers. EX
- d. Work in coalition with other buyers, the suppliers and where relevant their parent companies and the national government, trade unions and NGOs to develop a mechanism to provide opportunities for employment for displaced workers in the remaining and/or new textiles and garment factories, or in other industries where job opportunities are more advantageous to workers. EX

## **CLOTHING MANUFACTURERS**

### **1 Entering a country**

- a. Include in the country risk assessment an evaluation of the existing national legislation on retrenchment. E
- b. Review existing trade, industrial and social policies for the textiles and garment sector. E
- c. Begin to develop a relationship with other manufacturers, government, trade unions and NGOs. EX

### **2 Ongoing responsibility**

- a. Never threaten to move operations out of one country in order to influence government legislation and enforcement and labour negotiations. E
- b. Pay, at least, legally required wages and benefits to the appropriate party, whether workers or governments, and ensure they are up to date. E

### **3. Country exit, factory closure or retrenchment**



*All retrenchments should be avoided, where possible. If inevitable, they should be done in a manner consistent with international labour standards (including ILO Convention 158) and national labour law. Specifically:*

- a. Give advanced notice of redundancies and the rationale or criteria for redundancies to individual employees, to employee representatives where they exist, and to the relevant governmental authorities. Where possible this information should be provided prior to the decision being taken to allow for meaningful consultations. E
- b. Do not demand that workers sign any declaration of good health, waivers or releases of other rights as a condition of receiving severance pay or other legal benefits from the company, and do not threaten to withhold benefits if workers do not sign. E
- c. Where no alternative employment can be secured for the displaced workers, ensure workers are paid their entitlements in retrenchment according to the law. E
- d. Ensure pregnant workers and workers with significant medical conditions receive adequate compensation commensurate with their situation. EX
- e. Resolve any outstanding disputes with workers involving monetary entitlements. E

*In significant retrenchment situations:*

- f. Develop and clearly communicate a retrenchment plan, in consultation with employee representatives where they exist, which should at a minimum include employees' legal rights and payments owed, and ideally further mechanisms to address the adverse impacts on workers and their community. The plan should be clearly communicated and posted for easy reference, with avenues for workers to ask questions and seek clarifications. E
- g. Consider all possible ways to avert retrenchment/closure, with the full involvement of, and negotiation with, worker representatives where they exist. EX
- h. To ensure the closure is being carried out in accordance with its vision, top management should establish channels for workers to confidentially express any concerns or problems they may be experiencing, especially around legally-owed payments. EX
- i. Ensure that all workers have access to prompt and professional assessment of their health at the end of their employment through appropriate national medical facilities to determine whether there are work related health problems, injuries or disabilities. EX
- j. Where the employer owns other factories in the country give retrenched workers the opportunity to transfer to these facilities, if feasible, at a comparable wage to their prior employment. EX
- k. If there is no trade union within the factory, workers should be invited to consider availing themselves of external assistance from established unions. To this end, MFA Forum can facilitate access to existing lists of trade unions maintained by the Department of Labour in respective countries. D
- l. Where alternative employment can not be secured, provide active assistance for



- workers in searching for new employment and training - for example promote workers' access to job banks and retraining programmes if they are retrenched. EX
- m. Ensure that these programmes are accessible and meet the need of all groups in the workforce, e.g. women, migrant workers. EX
  - n. Keep workers on the payroll, even after they have become redundant, for a transitional period of training and job search assistance. EX
  - o. When overseas migrant workers are retrenched, ensure that these workers enjoy equality of treatment with other workers and that every effort is made to secure alternative employment within the country. If this is not possible, then ensure the workers are repatriated with all costs covered, including recruitment fees. D
  - p. Make free financial counselling available to workers to prepare them for loss of income and livelihood, and assist them in planning how to use their severance payment. D
  - q. Provide adequate economic support for the establishment of a small business to workers who request such assistance. D
  - r. Extend eligibility for skills training and entrepreneurship development opportunities to family members. D

## GOVERNMENTS OF EXPORTING COUNTRIES

### 1 Buyers or manufacturers entering a country

- a. Ensure that prospective buyers and foreign direct investors are fully aware of national legislation in relation to any future retrenchment or closure of a facility. E

### 2. *Ongoing responsibility*

- a. Enforce all labour legislation. E
- b. Monitor social security payments and develop a mechanism for investigating and following up on defaults. E
- c. Monitor layoffs and social security payments and feed such information into relevant trade, industry and economic policy bodies. E
- d. Ensure that workers know their rights, and facilitate procedures for prompt settlement of their claims. E
- e. Periodically track which factories are supplying which brands and retailers. EX
- f. Maintain a database of the sector - including brands and retailers and FDI in the sector. D

### 3. *Factory closure or retrenchment*

- a. Enforce effective legislation relating to closures, retrenchments, etc.
- b. Monitor the closure of factories ensuring they act within the law in all respects, especially in terms of workers' severance pay. E



- c. Ensure that investors exiting the textiles and garment sector meet legal requirements to workers, particularly social security/pension payments and severance pay. E
- d. Legislate to ensure that workers are paid before other creditors in case of insolvency. E
- e. Provide social safety nets for workers laid off. EX
- f. Prioritise the promotion of opportunities for employment including training and job banks for displaced workers in the remaining and/or new textiles and garment factories. EX
- g. Where necessary impose sanctions including embargos on any shipments of machinery or goods from the factory/country and/or withdrawal of export licenses to ensure that workers receive legal severance pay and other legal entitlements. E

#### **4. Country exit**

- a. Engage with brands which have served notice to exit the country to review the impact of their withdrawal on the industry, economy, workers and their communities and where appropriate put a plan in place to address likely impacts. E
- b. Monitor the closure of factories ensuring they act within the law in all respects, especially in terms of workers' severance pay. E
- c. Ensure that employers exiting the textiles and garment sector meet legal requirements to workers, particularly social security/pension payments and severance pay. E
- d. Legislate to ensure that workers are paid before other creditors in case of insolvency. E
- e. Where necessary impose sanctions including embargos on any shipments of machinery or goods from the factory/country to ensure that workers receive legal severance pay and other legal entitlements. E
- f. Provide social safety nets for workers laid off. EX
- g. Provide retraining programmes and job banks for laid off workers. EX
- h. Prioritise the promotion of opportunities for employment for displaced workers in the remaining and/or new textiles and garment factories or other sectors. EX

## **TRADE UNIONS**

### **1. Entering a country**

- a. If contacted by a brand entering the country, provide information about worker rights in the sector. E
- b. Seek to develop a relationship with the compliance/sourcing officers of the buying company in question, including a two-way exchange of information. E
- c. Seek to engage in a national multi-stakeholder forum for the industry. EX
- d. Maintain a data base of all inward investors operating in the country concerned. EX



## **2. Ongoing responsibility**

- a. Seek to organise and represent workers in every workplace. E
- b. Seek to include provisions relating to possible retrenchments in all collective bargaining agreements. E
- c. Engage in social dialogue with the companies concerned. E
- d. Ensure that workers know their rights, and assist them in pursuing their claims. E
- e. Raise issues with the buyers and manufacturers and governments where appropriate. E

## **3 Country exit, factory closure or retrenchment**

- a. In cases of redundancies or closure, demand the reasons for the decision as well as all background information. E
- b. Unions at both local and national level should engage at an early stage in negotiations with management regarding any proposed redundancies. E
- c. Trades unions should engage in negotiations with the employer to address the adverse impacts on workers and their community. It should address issues such as the schedule of redundancies, retrenchment methods and procedures, selection criteria, severance payments, offers of alternative employment or assistance in job placement and retraining efforts. E
- d. Where efforts to secure employment in other factories in the industry fail, work with other stakeholders to explore and promote the provision of other forms of livelihood either in the garment industry or in other sectors. E
- e. Lobby government to ensure that a manufacturer meets all their commitments under international labour standards and national law. E
- f. Provide financial counselling and advice to workers to prepare them for loss of income and livelihood, and assist them in planning how to use their severance payment. EX
- g. At the local, national and international levels, highlight failure by any of the parties to adhere to these guidelines. E
- h. Where closure is related to the violation of freedom of association or collective bargaining, report the case to the brands, the national government, the parent company of the manufacturer in question (where applicable), the relevant global union and NGOs, use ILO and OECD mechanisms and seek to invoke complaints mechanisms under any relevant multi-stakeholder agreement. E

## **NGOs**

### **1. Entering a country**

- a. If contacted by a brand entering the country, provide information about worker rights in the sector. E
- b. Seek to engage in a national multi-stakeholder forum for the industry. EX



## 2. *Ongoing responsibility*

- a. Help to make workers aware of their rights and to assist them in pursuing their claims. E
- b. Raise issues with the buyers and manufacturers and governments where appropriate. E

## 3 *Country exit, factory closure or retrenchment*

- a. Upon observing early warning signs of a possible factory closure, work in partnership with other stakeholders to avert closure or retrenchments. E
- b. Where efforts to secure employment in other factories in the industry fail, work with other stakeholders to explore and promote the provision of other forms of livelihood either in the garment industry or in other sectors. EX
- c. Lobby government to ensure that a manufacturer meets all their commitments under international labour standards and national law. E
- d. Provide financial counselling and advice to workers to prepare them for loss of income and livelihood, and assist them in planning how to use their severance payment. EX
- e. At the local, national and international levels, highlight failure by any of the parties to adhere to these guidelines. E

## IMPORTING COUNTRIES

- a. Consider the introduction of legislative obligations on importers especially regarding retrenchments. D
- b. Consider banning imports from countries or companies (either buyers or manufacturers) which do not respect worker rights. D
- c. Provide support for labour restructuring programmes developed within a multi-stakeholder framework. EX
- d. Consider the development of mechanisms within trade negotiations to enable the realization of international standards on termination of employment. D

## INTERNATIONAL INSTITUTIONS

- a. Increase awareness of the ILO Conventions and Recommendations relating to industrial restructuring. EX
- b. Promote together with government, employers and workers representatives good practice on managing transition within a sector. EX
- c. Provide support for labour restructuring programmes developed within a multi-stakeholder framework. EX
- d. Share experience on good practice in managing the termination of employment and industrial restructuring. EX



## Annex: Key Resources

### ILO Conventions and Recommendations

<http://www.ilo.org/ilolex/english/subjectE.htm>

### ILO Declaration on the Fundamental Principles and Rights at Work

<http://www.ilo.org/dyn/declaris/DeclarationWeb.IndexPage>

### ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy

<http://www.ilo.org/public/english/employment/multi/index.htm>

### OECD Guidelines on Multinational Enterprises

[http://www.oecd.org/department/0,3355,en\\_2649\\_34889\\_1\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/department/0,3355,en_2649_34889_1_1_1_1_1,00.html)

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<sup>ii</sup> <http://194.223.26.31/wdsCustomsTRADE/eng/TableViewer/wdsdim/dimensionp.asp>

<sup>iii</sup> *Maquila Network Update*, October 2006, Volume 11, No 3. Toronto, Maquila Solidarity Network.

<sup>iv</sup> Oxfam Australia (2005) *The Impact of Phasing out of the Multi Fibre Arrangement on Sri Lankan Apparel Industry*, A Draft Discussion Paper Presented on 14th December 2005.

<sup>v</sup> European Social Fund (2006) *Equal AND ESF Article 6: A Test Bed For Innovative and Socially Responsible Restructuring*.



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<sup>vi</sup> IFC (2005) Good Practice Note No. 4: Managing Retrenchment. Washington DC, IFC.

<sup>vii</sup> Rosen, H (2004) Labour Market Adjustment to MFA Phase Out. Washington, DC., World Bank.