



Fact Sheet

Hidden subcontracting in the garment industry

Zooming in on the role of buying companies

September 2015

Clothing brands and retailers usually do not produce the items they sell but have their products made by a variety of manufacturers that are predominantly located in low-cost countries. As fashion trends are changing at an ever faster pace, the industry is operating at ever high speeds and demanding quick, flexible and cheap production from its suppliers in order to keep up. Inherently linked to this operating model is, amongst others, the risk of precarious workplaces that are incorporated into the supply chain through unauthorised subcontracting arrangements.

This fact sheet addresses the problem of hidden subcontracting in the textile and garment industry. It offers buying companies (clothing brands and retailers) a set of recommendations to minimise the risk of unauthorised subcontracting and to ensure that production is taking place under decent working conditions. This publication is part of a series of fact sheets that SOMO is developing for the WellMade programme.¹

What is the problem?

The global garment supply chain is characterised by poor working conditions. Poverty wages, child labour and forms of forced and bonded labour are rampant throughout

the production chain. Many workers toil under unhealthy and even outright dangerous conditions. Problems are likely to be worse further up the supply chain as there is even less independent oversight and more pressure on prices and delivery times. Think of second or third tier suppliers like spinning units or dyeing units and (informal) subcontracted units.

Sourcing from countries with poor labour rights track records and low levels of law enforcement means that there are risks of human rights and labour rights infringements (see other fact sheets in this series).² In addition, pressure on low prices and fast deliveries has a tendency to aggravate these risks and create a definite danger of recourse to informal labour and hidden contracting.

In order to meet tight deadlines and/or to be able to complete unanticipated orders, manufacturers subcontract certain production processes to other factories and workplaces, without informing the buyer. In this way, even complete orders may be shifted by the contractual supplier to unknown suppliers. The subcontracted factories and workplaces are not formally part of the buyer's supply chain and thus corporate social compliance audits do not take place there. Such workplaces may be unregistered, informal enterprises where no taxes are paid, and where govern- ◀

mental labour inspections do not take place at all. There is a great risk of workplaces with substandard conditions being incorporated into a brand or retailer's supply chain. The enormous pressure on low prices and fast delivery, coupled with volatile relationships in the garment industry, has led to increasing levels of unauthorised subcontracting in production countries such as Bangladesh, Brazil and Cambodia. Concerns about subcontracting are also

growing in countries such as Vietnam, Indonesia and Thailand, as manufacturers look for ways to offset rising wages in those countries.³

Below are three examples of serious labour rights and human rights violations. These violations took place at units that were incorporated in international brands' supply chains through (unauthorised) subcontracting arrangements.

Case 1: Modern-day slavery conditions in Zara's supply chain in Brazil

In August 2011, Brazilian federal government inspectors found 15 undocumented migrants working and living under deplorable conditions in two small workplaces in São Paulo. The workers had to work for long days – up to 16 hours – and were severely restricted in their freedom of movement. The inspectors later concluded that the conditions in the two workshops should be classified as 'analogous to slavery'. The workers were sewing clothes for Zara, a brand of Inditex, the world-renowned fast fashion pioneer from Spain. The two workshops were contracted by Zara Brazil's contractual supplier, Ahá.

Zara claimed that it was not aware of the subcontracting arrangements made by Ahá. Although the contractual supplier was a strategic and long-term supplier to Zara, Zara did not have the right information about their capacity to process its orders. At the time of the labour inspection, the supplier only employed five sewers. With only five production workers, it would have been impossible to complete the orders placed by Zara. According to the principle of human rights due diligence, this should have been a red flag for Zara, and the company should have investigated where its products were being manufactured.

For more information, read: SOMO and Repórter Brasil, **From moral responsibility to legal liability?** Modern day slavery conditions in the global garment supply chain and the need to strengthen regulatory frameworks: The case of Inditex-Zara in Brazil, May 2015.

Case 2: Western brands linked to burned-down factory in Bangladesh

A horrific fire broke out at the Tazreen Fashions factory in Dhaka, Bangladesh on 24 November 2012, killing at least 112 factory workers. The flames spread quickly. Although the fire alarm started, management staff ordered the workers on the various factory floors to keep working. When panic started to spread, workers on the upper floors found out that it had become impossible to escape through the main exit, located on ground level where the fire had started. The lights failed and the factory quickly filled with smoke and heat, making it almost impossible for the workers to find their way out. Survivors testified later that management staff had locked the gates on several floors of the building. Many of the workers jumped to their deaths trying to escape from the burning six storey building. Others, unable to escape the blaze, were burned alive.

After the fire, labels and documents were found among the ashes and rubble linking the Tazreen factory to various well-known brands, including Walmart, Sears, Karl Rieker, Teddy Smith and Delta Apparel. Walmart said in a statement that Tazreen was not authorised to produce merchandise for them. According to Walmart, one of their direct suppliers had subcontracted work to Tazreen "without authorisation and in direct violation of our policies". Like Walmart, Sears said that another of their suppliers had subcontracted Sears' production to Tazreen without their authorisation.

For more information, read: SOMO and CCC, **Fatal Fashion** – Analysis of recent factory fires in Pakistan and Bangladesh: a call to protect and respect garment workers' lives, March 2013.

Case 3: Forced labour in Vietnamese drug detention centres

A 2011 Human Rights Watch investigation revealed detainees in detention centres for drug addicts in Vietnam were forced to work for little or no pay in dangerous and degrading conditions. Refusing to work could lead to brutal punishment. According to Human Rights Watch, these government-run detention-cum-rehabilitation centres were little more than forced labour camps where drug users work six days a week processing cashews, sewing garments or manufacturing other items. Some workers received no pay while others were paid well below the Vietnamese minimum wage, their meagre wages reduced even further by centre-levied charges for food, accommodation and 'management fees'. In all cases, work was mandatory, and refusing to work led to swift and sometimes brutal punishment.

The goods produced in the detention centres were destined for local Vietnamese companies, some of which supply multinational companies. Human Rights Watch found out that detainees had sewn jacket liners destined for Columbia Sportswear, an American company. Columbia Sportswear told Human Rights Watch that they were not aware of the detention centre's involvement in the brand's production. A Columbia Sportswear spokesperson said that their supplier had subcontracted work to the detention centre without their knowledge.

For more information, read: Human Rights Watch, [The Rehab Archipelago](#) – Forced Labor and Other Abuses in Drug Detention Centers in Southern Vietnam, September 2011.

Legal and normative framework

In the area of labour practices, the primary normative basis is defined by the International Labour Organization (ILO). As a tripartite agency of the United Nations with government, workers' and employers' representatives, the ILO sets international labour standards by adopting conventions that the ratifying countries have to transpose into national legislation. After transposition, the conventions are binding for the implementing country. Eight of the ILO's conventions have been qualified as 'fundamental'. These conventions are binding upon every member country of the ILO, regardless of ratification. The fundamental conventions address the following subjects: non-discrimination; freedom of association and recognition of the right to collective bargaining; prohibition of all forms of forced labour; and prohibition of child labour.

Governments that ratified the ILO conventions have a duty to ensure that labour norms are transposed into regulation and that labour regulations are implemented and enforced. However, effective monitoring of labour conditions in the garment supply chain is lacking: governmental labour inspection systems have been reduced in many countries or have even been abolished entirely. For instance, at the time of the Rana Plaza disaster⁴, the Bangladesh labour inspection had only six inspectors tasked with inspection of more than 5,000 garment factories in the formal, exporting sector alone. This does not include the huge number of informal garment workplaces. Greater responsibility for companies sourcing from countries with low levels of law

enforcement is needed in order to monitor and address labour rights issues in their supply chain adequately. The notion that companies have a responsibility to respect human rights throughout their supply chain is enshrined in a number of international guidelines. These guidelines have been developed to address the so-called global 'governance gap' – the gap in regulation that emerged as companies increasingly began operating globally, while binding regulation is often only applicable at the national level. Most notably, in 2011 the United Nations Guiding Principles (UNGPs) on Business and Human Rights were adopted by the United Nations Human Rights Council.

The UN Guiding Principles clarify the roles that governments and companies are expected to play in terms of protecting and respecting human rights. An important principle under the corporate responsibility to respect human rights is to act with due diligence. Human rights due diligence can be understood as a business process through which enterprises actively identify, prevent, mitigate and account for how they address and manage their potential and actual adverse human rights impacts. The process should include assessing actual and potential impacts throughout the company's operations, integrating and acting upon the findings, tracking responses and communicating how impacts are addressed. (Potentially) affected rights holders, or their legitimate representatives, should be engaged in a meaningful manner.⁵ Conducting good due diligence means that companies must map their entire supply chain

and be aware of all the actors and sites involved in the garment manufacturing process.

Another important guiding document for companies is the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises. These Guidelines are recommendations from OECD governments to multinational enterprises operating in or from adhering countries covering all major areas of business ethics. The Guidelines are accompanied by a dispute resolution mechanism. Updated in 2011, they have incorporated the due diligence concept and stipulate that due diligence should be undertaken for all matters covered in the standards and should cover all business operations, including supply chains and other business relationships. This includes manufacturing units with which the multinational enterprise does not have contractual relations, such as entities in the upstream supply chain (such as dyeing and spinning units) and subcontracted units.⁶ Outsourcing production through subcontracting therefore does not exonerate a multinational enterprise of its responsibility.⁷

Role of companies

The high incidence of subcontracting, whether authorised or unauthorised, can be explained by a number of reasons.

Buyers' demands that drive subcontracting:

□ Very short lead times

The time factor is increasingly important in the fashion industry. Currently the most profitable clothing brands and retailers are those that are able to offer the newest trends in stores within the shortest timeframe. Production time lines are often short. If manufacturers cannot meet the deadline for transporting the ordered goods by boat, they may be forced to send the goods via air at much higher cost. Equally, the buyer may be in the position to demand a discount as a penalty, which affects the already tight profit margin of the supplier. A July 2013 article in the Wall Street Journal about subcontracting practices in the Bangladesh garment industry cites several industry sources. Not meeting shipping deadlines can lead to a 5% discount as a penalty, according to the article. With manufacturers' profit margins for basic items standing at just around 3% to 4%, this means that manufacturers make losses if they do not meet the customers' deadline.⁸ In order to meet shipment deadlines, manufacturers may resort to ad hoc subcontracting to other suppliers to help finish orders.

□ Last-minute changes

After samples have been approved, buyers may change designs, production volumes and production schedules without adjusting prices or timeframes, thereby putting a lot of pressure on the manufacturer. This may even happen after the production for a specific order has already started.

□ Lack of knowledge about the supplier's production schedule/capacity

Most brands and retailers have spread production over hundreds or even thousands of suppliers. As a consequence, garment factories work for a huge range of clients that may all have demanding and changing production deadlines.

□ Inadequate monitoring

Buyers rarely inspect their suppliers' factories. Therefore, suppliers can easily shift production arrangements without this being noticed. Some suppliers have even found it to be more profitable to place their orders with other manufacturers and have reduced production staff to merely focus on distributing orders (see for instance the example in Box 1). Even though buyers' codes of conduct usually include a clause that requires suppliers to inform the buyer about which suppliers and subcontractors they use, in practice the codes are not accompanied by robust monitoring mechanisms.

Factors driving subcontracting at the supplier level:

□ Lack of capacity

A factory may simultaneously take on orders from multiple customers that together exceed its production capacity. Factories may do so as they lack commitment for future orders or because of the very tight profit margins they operate under.

□ Poor production planning

Unrealistic planning might lead to situations where suppliers have to make use of subcontracted units to deliver goods on time.

□ Late arrival of inputs

If inputs such as fabric are delayed, manufacturers may subcontract orders in whole or in part in order to meet the shipping deadline. In Bangladesh, the two most common causes that prevent manufacturers from respecting contractual delivery times are problems in securing the bank credit required before the fabric will be shipped and turned over to the factory and strikes that hamper transporting fabric from the port city of Chittagong to a plant in the capital city of Dhaka.⁹

❑ Money speaks

If it is commercially attractive to subcontract orders out to cheaper workshops, manufacturers will often do so, regardless of the labour conditions at those production locations

❑ Worker actions

Occasionally, workers on strike may force suppliers to temporarily halt production.

❑ Political unrest

In some cases, political unrest may also interfere with smooth production processes. For example, in Pakistan or Bangladesh politically motivated 'hartals' (mass protests) regularly uproot daily life.

What can buying companies do?

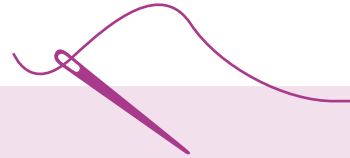


Align purchasing practices with human rights standards

The purchasing practices of buying companies should enable – and not inhibit – respect for human and labour rights at all supplier levels. Brands and retailers should practice what they preach in terms of social compliance. Purchasing practices too often undercut corporate commitments to improved social performance in supply chains and contribute directly to negative impacts.¹⁰

Aligning purchasing practices with human rights requirements means:

- Ensuring that corporate accountability considerations are taken into account in purchasing policies and decisions. This requires close cooperation within the buying company, between corporate social responsibility (CSR) and purchasing departments. Even better is an integrated approach where there are no longer separate CSR and purchasing/sourcing departments. In general, the relationship with suppliers should be collaborative (based on continuous improvement) rather than punitive (based on mere tick-box code compliance).
- Developing a pricing policy that takes the social and environmental quality of sourced products into account.
- Building long-term, stable buyer-supplier relationships. Buyers that maintain long-term relationships with their suppliers send a clear signal to these manufacturers that they are willing to invest in them and will be around next season. In turn, suppliers are more likely to invest in the physical improvement of their factory. Moreover, it is expected that suppliers will be more open about production schedules and bottlenecks, and the need for subcontracting when it arises.¹¹ Sustainable business relationships make for closer communication and collaboration between buyers and suppliers and facilitate the development of a continuous improvement policy.¹²
- Good production planning, including reasonable supply lead times, predictability of orders and minimising last-minute changes. Planning well and realistically, so factories do not need to subcontract work. Going for 'collaborative planning': sharing your business calendar with the factory and encouraging the factory to share detailed dates such as fabric arrival, cutting, sewing dates etc.¹³ Adapting the volume of orders to the total production capacity of suppliers.
- Effective communication with suppliers about specific orders, including required technical skills and capacity. Does the product design require outsourcing of certain processes (e.g. hand embroidery)? If so, buyers should require suppliers to inform them where outsourced processes take place. The same (labour) standards should apply at subcontracted facilities and buyer inspections should also take place at these sites.
- Buyers and manufacturers should agree on more equal, more realistic contractual agreements that do not unequally penalise the manufacturers for delays that occur outside the latter's responsibility.



Eliminating intermediaries from the supply chain

In their sourcing practices, some buying companies make use of agents or importers. In this set-up, such intermediaries take the role of purchasers of finished products. There are risks associated with this practice since it obscures knowledge of the actual supply chain. Business confidentiality allows the intermediary to protect their supply sources. However, “the duty of oversight incumbent upon the customer” that arises from the OECD Guidelines from multinational enterprises (MNEs) remains.¹⁴

Human rights due diligence

Brands and retailers should identify, prevent and mitigate risks and negative impacts in their supply chain in accordance with the UN Guiding Principles on Business and Human Rights. This means that companies need to proactively look into the human rights risks of their

activities, including their supply chain and business relations, and develop strategies to address these risks. Good due diligence requires a full understanding of the supply chain, including second and further tier suppliers, subcontracted units, down to the informal sector.

Companies should map their entire supply chain and provide transparency about their supplier base. Having teams on or near the site can be a major advantage, since knowledge of the site, regular visits to the factories in addition to formal audits and an understanding of the actual working environment are essential.¹⁵ Monitoring should be continuous.

Red flags should be raised if, when visiting a factory, the number of workers turns out not to be consistent with the production output. Also, the social and political situation in sourcing countries should be taken into account; strikes or unrest can lead to production delays.

More information

Reports and papers



From moral responsibility to legal liability?
Modern day slavery conditions in the global garment supply chain and the need to strengthen regulatory frameworks: The case of Inditex-Zara in Brazil', SOMO and Repórter Brasil, May 2015.



Fact Sheet child labour in the textile & garment industry – Focus on the role of buying companies, SOMO, March 2014



NCP Report on Implementation of the OECD Guidelines in the Textile and Clothing Sector
French National Contact Point for the Implementation of the OECD Guidelines for Multinational Enterprises, 2 December 2013.



Fact sheet forced labour – Focus on the role of buying companies, SOMO, September 2013



From Audit to Innovation Advancing Human Rights in Global Supply Chains
Shift, August 2013.



Fact Sheet: Unsafe Garment Factory Buildings
– Zooming in on the role of buying companies, SOMO, July 2013



Fatal Fashion – Analysis of recent factory fires in Pakistan and Bangladesh: a call to protect and respect garment workers' lives, SOMO and Clean Clothes Campaign (CCC), March 2013.



Time for Transparency – The case of the Tamil Nadu textile and garment industry', SOMO and ICN, March 2013.



How to use the UN Guiding Principles on Business and Human Rights in company research and advocacy: A guide for civil society organisations, SOMO, CEDHA and Civedep, November 2012.



The Rehab Archipelago – Forced Labor and Other Abuses in Drug Detention Centers in Southern Vietnam, Human Rights Watch, September 2011.

Useful links

- ❑ [Centre for Research on Multinational Corporations \(SOMO\)](#)
- ❑ [Clean Clothes Campaign \(CCC\)](#)
- ❑ [Fair Wear Foundation](#)
- ❑ [WellMade](#)

End notes

- 1 WellMade is an initiative of Fair Wear Foundation (FWF), Christian Initiative Romero (CIR), National Federation of Christian Trade Unions in the Netherlands (CNV), the Centre for Research on Multinational Corporations (SOMO) and the Ethical Trading Initiative (ETI). WellMade provides people working for European clothing companies with the tools to understand major labour issues that they have an influence over, and how they can support better working conditions. For more information, go to www.wellmade.org.
- 2 SOMO, 'Fact sheet forced labour', September 2013 <http://www.somo.nl/publications-en/Publication_3991>; SOMO, 'Fact Sheet child labour', March 2014 <http://www.somo.nl/publications-en/Publication_4058>; SOMO, 'Fact Sheet: Unsafe Garment Factory Buildings', July 2013 <http://www.somo.nl/publications-en/Publication_3979>
- 3 The Wall Street Journal, 'Apparel Retailers Confront Tough Options', 8 May 2013 <<http://www.wsj.com/articles/SB10001424127887323687604578468912873242332>>
- 4 In April 2013, the Rana Plaza building (housing, amongst others, several garment factories) collapsed. More than 1,100 workers lost their lives and another 1,650 were severely injured.
- 5 SOMO, Center for Human Rights and Environment (CEDHA) and Civedep, 'How to use the UN Guiding Principles on Business and Human Rights in company research and advocacy: A guide for civil society organisations', November 2012 <http://www.somo.nl/publications-en/Publication_3899>
- 6 French National Contact Point for the Implementation of the OECD Guidelines for Multinational Enterprises, 'NCP Report on Implementation of the OECD Guidelines in the Textile and Clothing Sector'. 2 December 2013.
- 7 Ibid.
- 8 Wall Street Journal, 'Why Retailers Don't Know Who Sews Their Clothing: Poorly Regulated Subcontractors Are a Factor in Garment Trade's Deadly Accidents', 24 July 2013 <<http://www.wsj.com/articles/SB10001424127887324436104578579552855683948>>
- 9 The Wall Street Journal, 'How to Spot Factory Subcontracting', 24 July 2013 <<http://blogs.wsj.com/indiarealtime/2013/07/24/how-to-spot-factory-subcontracting/>>
- 10 Shift, 'From Audit to Innovation: Advancing Human Rights in Global Supply Chains', August 2013.
- 11 Ethical Corporation, 'Bangladesh factory fires – the hidden dangers of subcontracting', 5 February 2013 <<http://www.ethicalcorp.com/supply-chains/bangladesh-factory-fires-hidden-dangers-subcontracting>>
- 12 French National Contact Point for the Implementation of the OECD Guidelines for Multinational Enterprises, 'NCP Report on Implementation of the OECD Guidelines in the Textile and Clothing Sector', 2 December 2013.
- 13 WellMade website, 'Cases: Subcontracting: How can this small group of workers produce so many T-shirts?', no date <<http://www.wellmade.org/cases/subcontracting-can-small-group-workers-produce-many-t-shirts/>>
- 14 French National Contact Point for the Implementation of the OECD Guidelines for Multinational Enterprises, 'NCP Report on Implementation of the OECD Guidelines in the Textile and Clothing Sector', 2 December 2013.
- 15 French National Contact Point for the Implementation of the OECD Guidelines for Multinational Enterprises, 'NCP Report on Implementation of the OECD Guidelines in the Textile and Clothing Sector', 2 December 2013.

Colophon

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The Centre for Research on Multinational Corporations (SOMO) is an independent, not-for-profit research and network organisation working on social, ecological and economic issues related to sustainable development. Since 1973, the organisation investigates multinational corporations and the consequences of their activities for people and the environment around the world.



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