FAST FASHION PURCHASING PRACTICES IN THE EU

Unfair business relations between fashion brands and suppliers

APRIL 2023

In partnership with

COLOFON

PUBLISHERS

Fair Trade Advocacy Office and
Clean Clothes Campaign Europe

LAYOUT

Both Nomads

AUTHORS

Authors: Artemisa Ljarja (ENS), Bettina Musiolek (ENS) and Ben Vanpeperstraete (FTAO) in cooperation with Deborah Lucchetti (FAIR), Luca Martinelli (journalist), Marco Tufo (legal expert), Anna Lazorová (Nazemi), Tereza Volmutová (Nazemi), Laura Ștefănuț (Haine Curate), Angelica Manole (Haine Curate), Georgi Medarov (KOI), Madlen Nikolova (KOI), Tania Orbova (KOI), Tomislav Kiš (Novi Sindikat) and Marta Garda (FTAO).

HOW TO CITE THIS REPORT?

Ljarja A., Musiolek B. and Vanpeperstraete B. (2023). FAST FASHION PURCHASING PRACTICES IN THE EU. Unfair business relations between fashion brands and suppliers, Fair Trade Advocacy Office and Clean Clothes Campaign Europe.

TABLE OF CONTENTS

SUMMARY

"Brands want the products very quickly and very cheap".

This quote from a Bulgarian manager of a garment manufacturer is emblematic of garment production in Europe: small and fast orders – cheap, with extremely short lead times (sometimes 2 weeks) at very uncertain trading terms. Shipment is usually done by lorries on the roads, and unlike ships and containers, can deliver finished products to stores in a matter of days. Moreover, there are no customs duties within large parts of Europe – not within the EU and neither outside as the EU concluded free trade agreements with most neighbouring countries.

European garment production profits from such proximity to brands' headquarters and retail markets in geographical terms. European garment production also profits from long-time established know-how and built-up production experience. At the same time, brands equally profit from cheap labour within Europe. In this report, we concentrate on two very important clusters of garment production within the EU: the Italian fast fashion system and the outward processing in Central-East, East, and South-East Europe.

The volatility and flexibility of orders placed in countries like Bulgaria, Romania, Croatia, or Czechia are facilitated by an EU production and trade scheme introduced in the seventies: the Outward Processing Trade (OPT). This means that mostly pre-cut fabrics are delivered to nearby low-wage countries, where the labour-intensive sewing and finishing are carried out, to be re-imported free of customs duties. Apparel supply chains within an OPT arrangement are characterised by particularly imbalanced relations of power and influence – with meagre perspectives to escape this role and upgrade. OPT thus creates regional clusters of poverty, covering-up, fear, and informality.

In Bulgaria, Romania, Croatia, Czechia, Italy, and Germany, we interviewed 11 managers or owners of 1st tier manufacturers, 7 buyers or former buyers of brands, 3 heads of garment manufacturer associations, 5 consultants or social auditors, 4 experts, 3 representatives of Multistakeholder Initiatives and 3 leaders of unions active in the garment industry.

The report outlines the main findings of the interviews in terms of contracting, pricing, order planning, delivery and lead times, payment terms, and the "hidden" costs of production. With smaller volumes and still low prices per piece, the economic pressure exerted by brands and retailers upon European manufacturers is arguably higher compared to other key garment-producing regions. Therefore, manufacturers are desperate for orders, despite lower margins.

Indeed, manufacturers see any negotiation with brands as a "lost cause" on all fronts, but particularly on price negotiations. Renegotiating terms and conditions to face skyrocketing material, transport, and utility prices is impossible for manufacturers. In contrast, brands and retailers buying from such firms seem to make most of their leverage, and demand changes in prices and times to their favour. This results in a general trend for lower prices, shortened lead times, more order changes, extended payment deadlines, and the increased transfer of "hidden" costs to manufacturers.

Manufacturers see any negotiation with brands as a "lost cause" on all fronts, but particularly on price negotiations

BALKAN INSIGHT

In conclusion, commercial relations between brands and suppliers in Europe are volatile, risky, and imbalanced. Widespread small and fast orders characterise the European garment manufacturing sector with already dramatic business-to-business power imbalances, giving buyers even more influence in defining terms and conditions than elsewhere. The report concludes with several concrete recommendations for fairer contract terms, for example on the maximum delay of payments, level of prices, lead times, conditions for the use of clauses such as 'force majeure', and penalties. However, while brands and retailers can take immediate action by committing to adopt fair practices in their buying policies, legislative action at EU level is needed to set a level playing field. In this regard, the report suggests adoption of an EU directive that bans the most harmful purchasing practices in textile and garment supply chains, accompanied by a strong enforcement strategy; and recommends that purchasing practices are integrated in the due diligence process that companies will be required to undertake following implementation of the upcoming Corporate Sustainability Due Diligence Directive.

INTRODUCTION

The textile sector has long been recognized for the unequal relation of power between international clothing brands and the manufacturers that supply them. In the global supply chain, brands and retailers hold the upper hand in contractual negotiations and production coordination, allowing them to dictate terms and conditions that benefit them. This can include delivery time frames, product prices, and purchasing terms.[1]

These power imbalances can result in unfair trading practices (UTPs), where one trading partner unilaterally imposes unethical business practices on another. Such practices are deviant from standard commercial conduct, lacking good faith and fairness in dealings between partners.[2]

The COVID-19 crisis has both highlighted and exacerbated the negative impact of these skewed power structures within buyer-driven supply chains such as clothing. For example, many fashion brands have invoked broad hardship clauses to cancel or suspend orders, leaving suppliers with no payment and factory workers with no income, particularly in countries with weak social safety nets.[3]

On their end, manufacturers often lack the bargaining power or other means to challenge these unfair practices. Indeed, they fear losing the brand's business if they challenge the latter when deviating from previously agreed terms. Enforcing the contract through judicial means is equally challenging due to elevated costs complex procedural aspects, and the fear of de facto ending the business relationship.

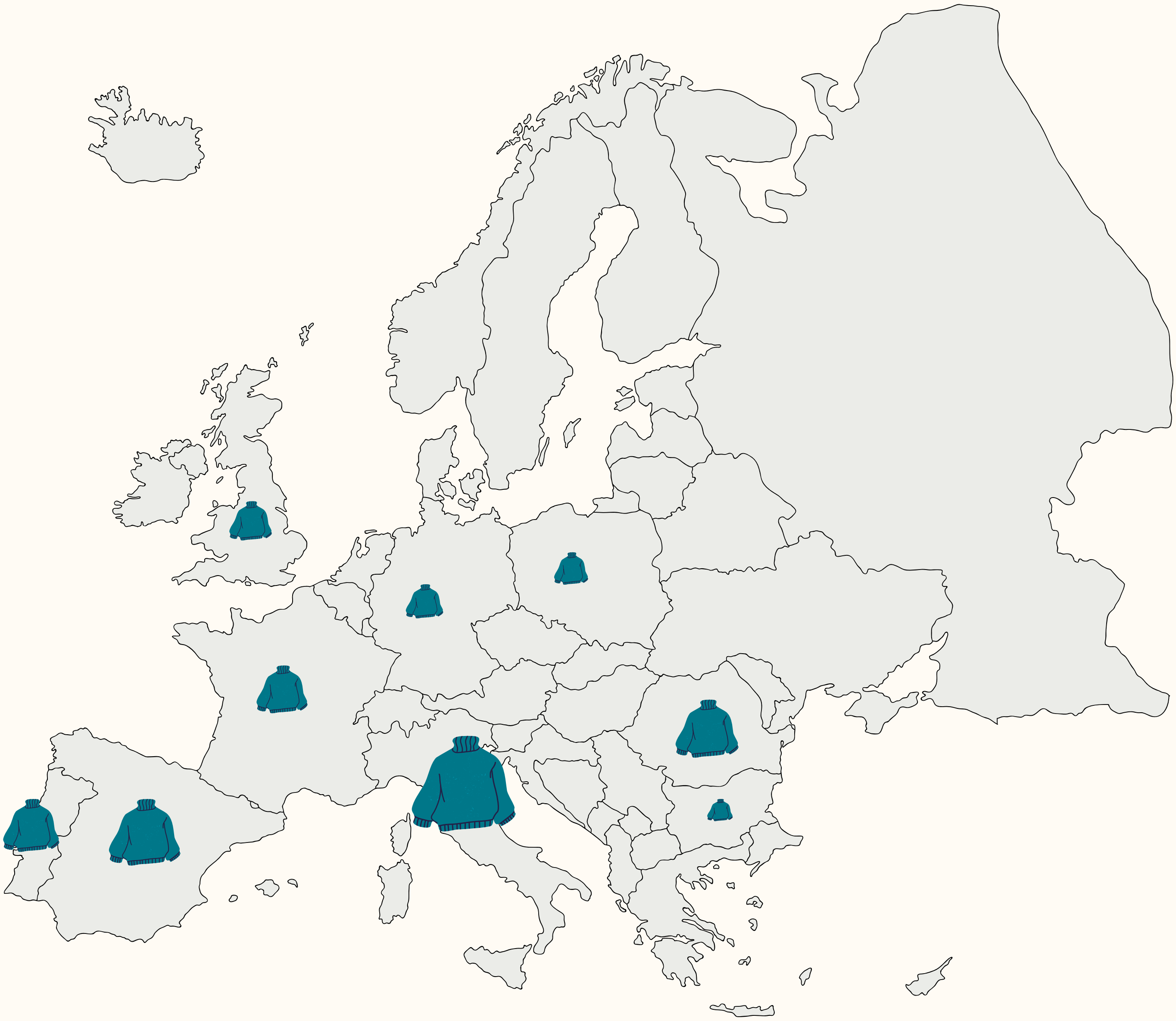
Unfair purchasing practices in the garment sector have been extensively documented, although mainly with a focus on global production locations such as Asia.[4] This paper aims to provide deeper insight into the UTPs prevalent in the garment sector within the EU, and the problems faced by the EU garment manufacturing industry.

---

1. Human Rights Watch (2019) “Paying for a Bus Ticket and Expecting to Fly” How Apparel Brand Purchasing Practices Drive Labor Abuses. Available at: https://www.hrw.org/sites/default/files/report_pdf/wrd0419_web2.pdf p. 12
2. European Commission, COM(2014) 472 on Tackling unfair trading practices in the business-to-business food supply chain, Strasbourg, 15 July 2014. Available at https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014DC0472&from=EN
3. See for example: Kelly, A (2019) Primark and Matalan among retailers allegedly cancelling £2.4bn orders in ‘catastrophic’ move for Bangladesh. Available at: https://www.theguardian.com/global-development/2020/apr/02/fashion-brands-cancellations-of-24bn-orders-catastrophic-for-bangladesh
4. Anner, M. (2019) Predatory purchasing practices in global apparel supply chains and the employment relations squeeze in the Indian garment export industry, International Labour Review, Volume 154, Issue 4; Anner, M. (2020) Leveraging Desperation: Apparel Brands’ Purchasing Practices during Covid-19, Workers Rights Consortium, available at: https://www.workersrights.org/wp-content/uploads/2020/10/Leveraging-Desperation.pdf

THE FASHION INDUSTRY IN EUROPE

PRODUCTION CLUSTERS



In the EU, the garment industry is dominated by small and medium-sized enterprises (SMEs). The average size of a garment factory in Europe is likely to be smaller compared to Asia due to the focus on niche and high-quality products, which typically require a more artisanal and labour-intensive approach to production.

The garment industry within the EU is located throughout several important geographic clusters. One such cluster is Southwest Europe, where Spain and Portugal are the main production locations for shoes, garments, and textiles. Other key garment production hubs are France and the United Kingdom[5]. For this report, we focus on two clusters: Italy, a renowned fashion hub that counts more than 55,000 registered companies and employs 473,000 people in the textile, clothing, and footwear sectors alone[6]; and Eastern, Central, and South-eastern European countries (CEE, EE, SEE), including the post-socialist countries of the Baltic states, Poland, Romania, and Bulgaria. The last region is characterized by low labour and trading costs, and in 2019 an estimated 700,000 employees worked in the garment industry in these EU member states[7].

The first cluster, Italy, is widely recognized for its thriving fashion industry, and the Italian fashionv system is considered one of the country's economic flagship sectors. Next to being the home of world-class luxury brands, the Italian fashion system encompasses the entire supply chain, including high-value-added parts like high-quality wool weaving. The country thus harbours a significant part of garment production itself, often based on less qualified and migrant labour and characterized by subcontracting, irregular work, and labour rights abuses. These workers are mainly employed by first-tier suppliers who serve at the direction of the brand. As found in this research, there is little to no difference between the purchasing habits of discounters and premium or luxury brands.

The second cluster, comprised of Eastern, Central, and South-eastern Europe, has experienced significant growth over the past few decades. The region is known for its high-quality textiles and clothing production, benefiting from the lower labour costs, which have made it an attractive location for companies looking to reduce production costs. Eastern European countries like Bulgaria, Romania, and the Czech Republic have become key exporters of garments and textiles, with exports to countries such as Germany, the UK, and Italy.

5. However, garment production does take place in other EU member states. For instance, in the South-eastern part of Germany about 7.000 employees work in the garment industry, but its extent, depth, and complexity pales with the 800.000 UK garment workers.
6. Ministero degli Affari Esteri e della cooperazione Internazionale, Osservatorio Economico (2022) Statistiche relative all'interscambio cmmerciale italiano nel settore Sistema moda. Available at: https://www.infomercatiesteri.it/public/osservatorio/interscambio-commerciale-settoriale/Interscambio_Settoriale_Moda_17_01_2022_1642414760.pdf
7. International Labour Organisation (2015) ILOSTAT Statistics on employment and own calculations.

OUTWARD PROCESSING TRADE

Outward Processing Trade (OPT) is a trade mechanism used by companies to take advantage of lower labour costs and more favourable production conditions in other (nearby) countries while maintaining control over their production processes. OPT works by sending raw materials or semi-finished goods from a company to a processing company in another country for further processing and manufacturing. The processed goods are then returned to the original company for sale in their home market or other markets.

One of the main benefits of OPT is the ability to take advantage of lower labour costs and more favourable production conditions in other countries. In practice, clothing brands send raw fabric to a processing factory for cutting, sewing, and finishing. The processed goods are then returned for sale under the buying company's brand, providing significant cost savings and increased competitiveness.

In Europe, the OPT relationship between post-socialist countries in Central and Eastern Europe (CEE), Eastern Europe (EE), and South-eastern Europe (SEE) and their consumer markets in Western Europe was the prevalent mode of production and trade in the clothing sector since the 1970s.[8] The scheme (also known as “Lohn”, “Ishleme” or “Fason”) was introduced by the German and Italian textile sector business associations within the European Economic Community (EEC).[9]

8. Pickles, J. Smith, A. and all (2016) Articulations of Capital: Global Production Networks and Regional Transformations. Wiley-Blackwell.
9. A similar system was later introduced by the Reagan administration for Central America and the Caribbean.

PT can be used to avoid trade barriers and tariffs that would otherwise apply to the finished goods. By processing the goods in another country, the original company can take advantage of lower trade barriers and tariffs that apply to raw materials and semi-finished goods. In Europe, the export and re-import of garments were exempted from customs duties and enjoyed streamlined border formalities. As a result, most of the garment production in the CEE, EE, and SEE regions is carried out and exported under this system.The proximity of Eastern, Central, and South-eastern countries to their buyers, minimises the challenges and risks associated with such an arrangement, in terms of transport, cost, quality control, and overall coordination. However, the consequences of OPT for workers, manufacturers, and national economies have been less advantageous.

Given that under the OPT system, the work is mainly limited to assembly, OPT production does not generate much value-added, as wages (lohn in German) are almost the only production cost needed. This means that producers are often left operating ‘from hand to mouth’ without any financial leeway for investment. This is compounded by the fact that they are fully dependent on the ‘customer’, who is economically and factually the principal employer. To survive, manufacturers must work with sub-subcontractors and home-based workers to keep costs low and remain flexible for clients.

Apparel supply chains involving OPT tend to be fragmented and often create nearby precarious clusters of subcontracting, informal and home-based work. The price squeeze means that wages are often not paid on time, workers receive minimal salaries, and live in poverty. Additionally, the reduced margin also results in an overall lack of investment in workplace improvements.

RESEARCH

This research was conducted from March to September 2022 and focused on five countries: Bulgaria, Croatia, Czechia, Italy, and Romania. Researchers carried out both field research and desk research to gather information and data for the study.

To identify qualified individuals for interviews, the research team developed a shortlist of potential interviewees from first-tier suppliers working directly with international brands.[10] The list of manufacturers was compiled from public databases of employer associations and other online resources such as wikirate,[11] open apparel registry,[12] national statistics, and media articles.

In some countries, the employers' association proved to be an effective channel for reaching out to manufacturers. In other cases, the researchers relied on their contacts and trust relationships developed over the years through work on labour rights in the garment sector.

BALKAN INSIGHT

10. While identifying respondents, the research team encountered a climate of distrust and silence, making it difficult to find witnesses who were willing to be interviewed. The decline rate was high, with for example almost 95% of potential interviewees declining the request in Bulgaria and Czechia.
11. https://www.wikirate.org
12. Open Apparel Registry became Open Supply Hub and can be found here: https://opensupplyhub.org

The manufacturers who participated in the research ranged from Own Equipment Manufacturing (OEM) to Cut-Make (CM) and Cut-Make-Trim (CMT) to small sewing workshops specialized in operations such as embroidery for luxury articles and delicate materials.

Brands and retailers were contacted either officially through an institutional email or through bilateral relationships with the research team. 6 out of 10 brands contacted replied to the research team's request for an interview, with 3 of them responding only in writing. The interviews were conducted both in person and online.

Brands that source from the interviewed manufacturers in Croatia, Bulgaria, Romania, and Czechia include ASOS, Metro, MS Mode, Moncler, and the Otto Group, among others. The fact that only ASOS and Metro are retained in the quotes in the text means that the interviewees approved the use of these brands. In the case of Metro, both suppliers' management and brands' buyers provided information about Metro's purchasing practices.

Brands that source from the interviewed manufacturers in Italy do not appear because the respondents did not give authorisation to publish their names.

UNFAIR TRADING PRACTICES IN EUROPE

CONTRACTING AND CONTRACT MANAGEMENT

PAY YOUR WORKERS CAMPAIGN

A contract is often crucial to a business relationship as it outlines clearly and durably the terms and conditions of a business transaction. However, in many cases, especially in the fashion industry, contractual relationships are informal, relying on oral agreements, trust, and personal connections rather than codified written agreements. This was prevalent across the interviewed countries.

The absence of written contracts can sometimes be somewhat balanced out by laws that specifies supplementary rules for business-to-business relations.[13] An analysis of the interviews and contracts at the researchers' disposal shows that this effect is more pronounced in Italy, where both parties to the commercial relationship are within Italy and thus the contract is purely domestic in those cases. At the same time, this is highly regulated in favour of the brands.

More importantly, and contrasting the informality of the business relations, brands, and retailers unilaterally lay out detailed and written contractual terms through the brands' terms and conditions. Although these terms and conditions are not individualised per order or supplier, they do provide key economic parameters for the transaction. Given the non-negotiated character, these can be considered contracts of adhesion,[14] which largely structure the agreement in favour of the brands and retailers and reduce the bilateral agreements to parameters of the specific order.

An Italian supplier said that "the contracts proposed by brands never include a commitment on quantities to be produced or even a commitment on prices. The 'contracts' for the brands are to say that the supplier must respect quality, and delivery times because if he doesn't, penalties are triggered. Safeguard clauses 'safeguarding the interests of the supplier' are never put in place".

A Romanian factory owner added that "the contract with Moncler was like a book, I mean they protected their brand so much that if they thought they had lost a piece of Moncler, you could find yourself offering such compensations that you would go bankrupt".[15]

Building relationships with new clients can be challenging as all aspects of production, including costs and quantities, must be negotiated. After a first contact, the brand or customer visits the workshop, provides the materials to be used, and the supplier produces a sample. Pricing is then negotiated through communication by mail, phone, or email, with written contracts being rare.

However, the lack of written agreements also demonstrates the precarious nature of the relationship, as demonstrated by a Bulgarian manager who stated that "the manager changed and overnight they no longer gave him [orders]". An Italian manufacturer manager reported a similar story. "They used to make 10,000 trousers a year and they didn't give him anything anymore".

---

13. See EU Directive 2011/7/EU on combating late payment in commercial transactions.
Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32011L0007
14. See also Vogt J., Saage-Maaß M., Vanpeperstraete B. and Hensler B. (2020) Farce majeure:
How global apparel brands are using the COVID-19 pandemic to stiff suppliers and abandon workers.
Available at: https://www.ecchr.eu/fileadmin/ECCHR_PP_FARCE_MAJEURE.pdf
15. In reaction to an advanced version of this publication, Moncler clarified that Moncler contracts with suppliers are made of an open-ended master agreement intended to set a mutually agreed framework and facilitate the longevity of the commercial relationship with the supplier and secondly, specific orders which automatically become part of the relevant master agreement once negotiated and agreed together with the supplier. The orders include the terms and conditions of each supply such as models, quantities, prices, delivery dates etc. In addition, the Moncler contracts seek to define all aspects of thecomplex relationship between Moncler and its suppliers including but not limited to the protection of the brand and its intellectual property, brand reputation, production standards, human rights and social responsibility commitments as well as environmental and safety requirements and respect of Moncler Code of Conduct and Supplier Code of Ethics. Finally, all Moncler orders are agreed in writing and form part of the (first) master agreement undersigned.

Being told that work is given to them is a common, yet emblematic, phrase for suppliers, who feel undervalued and unappreciated. Manufacturers felt that brands and retailers should aim to build stable relationships that recognize and enhance the craft skills of the manufacturers, rather than treating them as disposable commodities. At the same time, manufacturers are often forced to work for a single customer at low prices, which leads to low revenues. In practice, manufacturers work with other buyers to make up for the low revenues single orders provide them. Whereas those who maintain exclusivity put themselves in a precarious place, as was the case of the Orljava factory in Croatia.

THE BANKRUPTCY OF THE ORLJAVA FACTORY

The bankruptcy of the Orljava factory provides a case study of the risk of exclusivity contracts in the garment industry. The Orljava factory was in Požega, a city in Eastern Croatia, with a total population of 22,364 (census 2021). The factory has been in place and fully working since 1946. At the beginning of 2019, Orljava was employing 300 workers, a significant number for a small town.

For over 50 years, the Orljava factory had been exclusively producing high-quality shirts for Olymp, a German brand.[16] This meant that the factory was unable to produce in large quantities for other brands, thus limiting their potential customer base to diversify their revenue streams. The low prices paid by Olymp and the limited possibility of working with other buyers may have resulted in, or has contributed to, the situation that the factory was struggling to cover its costs even before the Covid-19 crisis hit.[17] The withdrawal of Olymp's orders in October 2020 left the factory without orders, resulting in bankruptcy in August 2021.

16. In reaction to an advanced version of this publication, Olymp clarified that there was a provision in their contract which excluded cooperation with certain other brands. The list of companies had 11 entities, namely six direct competitors of OLYMP (all based in Germany) as well as five large customers of OLYMP (large German retailers). Olymp clarified that this part of the contract was cancelled in 2019.
17. For a more detailed understanding of the possible factors, Olymp has in a reaction also pointed to their Fair Wear Brand Performance Check, specifically page 13: https://api.fairwear.org/wp-content/uploads/2022/07/BPC-OLYMP-BEZNER-KG-2022a.pdf

In case of a breach of contract, brands often take legal action against suppliers, while the latter rarely, if at all, take any action in return. According to several interviews with brands' buyers and manufacturers' representatives, the power dynamics in these relationships tend to favour the buyer. Several cases were mentioned where brands and their buying agents sued or fined suppliers, but no instances were mentioned where suppliers sued brands for breach of contract. Or as a buyer working for a brand put it: "When there are problems, the buyer is more influential".

The Covid-19 pandemic has only amplified these imbalanced power dynamics. One Romanian manufacturer manager, who had previously produced for ASOS for over a decade, spoke about how ASOS, despite having a 5-year contract in place, cancelled orders due to a decrease in sales caused by the pandemic stating: "We have no work to offer, look for something else".[18] The manager felt betrayed but decided not to sue ASOS. Similarly, another Romanian factory owner reported that other UK brands refused to renegotiate contracts for better pricing after Brexit caused a 20% drop in the pound.

In contrast, when suppliers tried to renegotiate contracts due to changes in currency rates or raw material prices, their requests were turned down. In case of conflicts, brands take precedence over contractual obligations, with the supplier having to accept changes imposed by the brand. Challenging the contract for small orders would often be a resource-intensive process. However, despite the 'flexible' approach by brands and retailers over terms and conditions of their own placed orders, no interviewee mentioned a case where suppliers had sued brands for breach of contract.

PAY YOUR WORKERS CAMPAIGN

18. In reaction to an advanced version of this publication, ASOS clarified that they initially cancelled some orders at the beginning of the Covid-19 pandemic in March 2020, but that by May 2020 ASOS had committed to paying in full for all cancelled made orders. Asos also provides more information to their approach to orders during the pandemic here: https://www.asosplc.com/news/working-our-suppliers-during-covid-19-may-2020-update/

PRICES AND PRICE SETTING

Price setting is a key aspect in the context of unfair trading practices. According to various respondents interviewed, including brand buyers, the purchasing prices are proposed by the brands, which have a clear understanding of the range of prices they wish to offer. Another popular method of sourcing is through e-auctions with predetermined prices. This method is especially popular among large German discount retailers like ALDI and LIDL.

Brands and retailers usually have well-defined guidelines and a list of standard values for purchasing prices specific to different countries. The process of price determination typically starts with the brand or retailer estimating the desired retail price that is both achievable and profitable. They then factor in the minimum wages of the respective countries, the cost of raw materials such as cotton and electricity, as well as logistics expenses.

Prices for labour costs for sewing per minute can vary widely, with some suppliers reporting prices ranging from 0.30 / 0.40 EUR up to 3.90 EUR (3 GBP) depending on cost structure and quality specifications. An Italian supplier criticises this approach by noting that the calculation of prices per sewing minute *“should take into account all those ‘shadow’ costs that are not directly related to the processing times of the orders, for example, the costs for safety measures”.*

he baseline price is determined by the standard cost per minute for a basic model and is then adjusted based on the cost of any additional accessories or processes, such as pockets, buttons, embroidery, etc. The negotiation phase is critical for suppliers, who can negotiate prices (upwards) by 1-2%. For manufacturers who develop their own models from the brand’s designs, the price-setting process is longer.

A Bulgarian manufacturer describes the process as a negotiation between the supplier and the brand's intermediary, with prices being lowered or agreed upon without certain features such as embroidery. *"Yes, prices are negotiated. They send us a design sample and ask us to produce it for 10 EUR, for example, but we can produce it for 12 EUR. Then they lower the price to 11 EUR and we agree to do it, but without the embroidery, for instance. Then they ask us directly what we could produce at their target price. It's basically the same process as negotiating models – sample and counter-sample of clothes, sample and counter-sample of prices until we get to what we could produce and what they could sell. That's the process. We have a voice in the negotiation, but they often pressure us. We try to resist. The negotiation process is long and difficult".*

For mass production, small changes in the price per piece can result in significant losses for the supplier. In some cases, suppliers agree to low prices just to maintain the relationship or to survive, sometimes resulting in no profit. For example, a Bulgarian manufacturer manager shared that *"the buyers are very prepared, they know the minimum price we? Will be forced to accept so sometimes we do work only for a few cents".* Adding that *"we have worked on extremely low pricing. We have taken orders only for prestige, for fame, not for profits, well there are some profits, but very low, just to survive".* While a Romanian manufacturer manager working for more than 10 years for ASOS goes as far as to declare that *"many times you end up with no profit".*

"And then the further down the chain you are, the more you have to lower your head, just to have a job. Because if you say no, your work stops, your orders stop, you get a bad name, they say: 'these guys refused to do it, we are not going to work with them anymore.' It's a vicious circle", a Bulgarian supplier manager explains. He singles out German brands stating: *"In particular Germans are very strict about the price, they really know how to extract every cent; with them, we have to accept minimum profits".*

Brands use their power to keep their suppliers in check and are very specific about their demands, but very opaque about their retail price policy. Brands are well-informed about the profit margins of their suppliers and this pressure trickles down to sub-contractors as well. A Bulgarian supplier accounted: *"They send us audits, they look at what machines we produce with, how we produce. They know very well what they want and they know very well the situation in Bulgaria. They know better than our accountants what our profits are! They do their research, they follow prices".* Additionally, many manufacturers expressed frustration that brands and retailers do not share the retail prices of the items they produce.

Brands use their power to keep their suppliers in check and are very specific about their demands, but very opaque about their retail price policy.

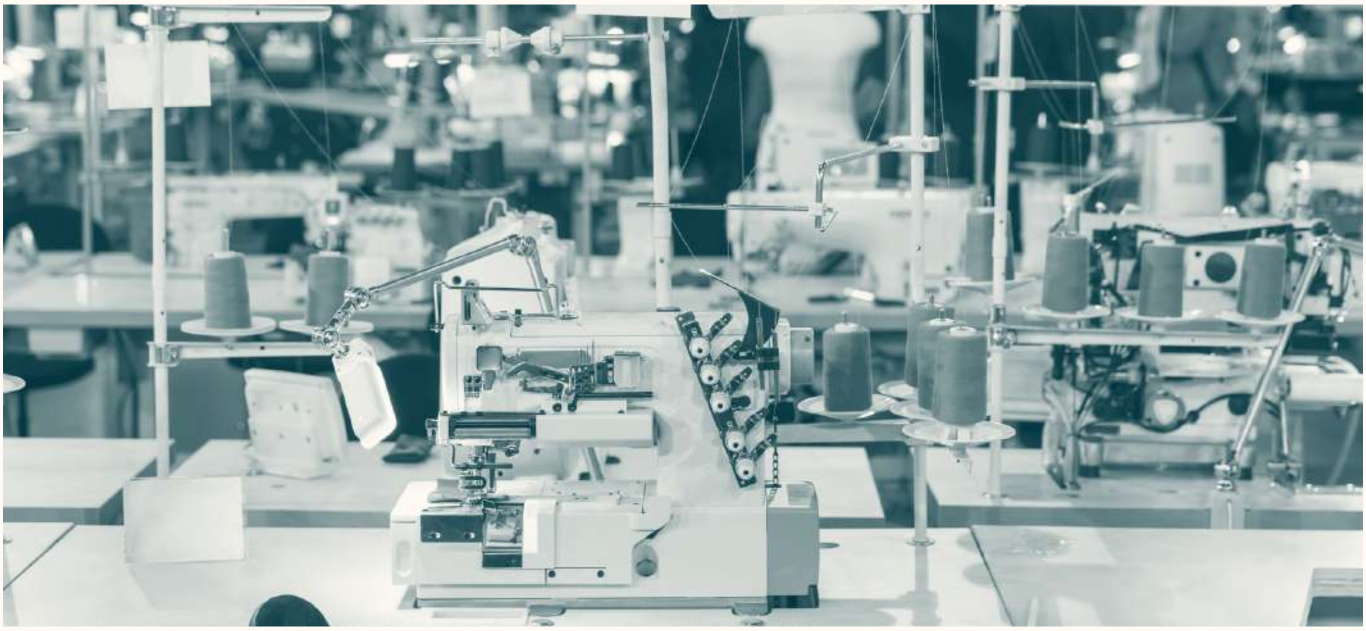
PROFIT, MARGIN AND RECENT EVOLUTIONS

The profit margins of suppliers vary based on their specific roles and functions in the production process. C-M (cut, make) and C-M-T (cut, make, trim) suppliers, who operate under the "Lohn" or OPT system, are said to only earn a gross profit margin of less than 10%, according to a Romanian trade union representative. This is because smaller orders generally result in lower profits, as there is limited room for negotiation, and economies of scale cannot be achieved for small-scale production.

On the other hand, OEM (Original Equipment Manufacturer) suppliers have more room for increased profits and often invest their earnings in upgrading their facilities to establish their own brands. However, the low-profit margins for OPT suppliers restrict their ability to pay their workers regularly, let alone grow their capital and make productive investments. A Bulgarian manufacturer manager argues that: *"If you want to have your own brand, the logic is completely different from being a mere OPT producer. You have to play by the rules: you also have to subcontract the production, where it is cheaper, and not manufacture it yourself. There is no other way. We try to do something different, we experiment with our own brand, but it is very hard, we try to escape by putting more and more things in our hands, we develop models to be more independent, but it is hard as profit margins are low. The only way to get investment is via a bank loan".*

The current market conditions have had a significant impact on the costs associated with supplying products, ranging from increases in the prices of raw materials such as cotton and wool to the costs for accessories, logistics, transport, and electricity. For example, a Czech manufacturer has reported that the cost of buttons has doubled or more. One example was an item that used to cost 0,40 CZK and currently costs 2,50 CZK. Raw materials may seem like a small part of the total cost but can have a significant impact when multiplied by the number of pieces in an order.

TOO LOW MARGINS



A social auditor who worked for an international bran explains that he would previously calculate the total hours worked in a month by dividing the company's turnover by a standard labour cost per sewing minute, which was calculated based on the minimum wage. However, if the number of hours worked was significantly higher than the number of workers employed, this could indicate excessive overtime or the use of undeclared subcontractors. *"I used to take the turnover of the company I was auditing, divide it by 0.30 [labour costs per sewing minute calculated on the basis of minimum wage] and this gave me the hours worked in the month. If the total number of hours was 3,000 and there were only 10 workers, the turnover can only be reached by excessive overtime or undeclared subcontracting".* Another interviewee further pointed out that the standard labour cost per sewing minute of EUR 0.30-0.40 for Italian suppliers is too low, as it only pays the suppliers 18 EUR per hour, which is not enough to cover the employer's gross labour costs, including mandatory social contributions and taxes, which amount to at least 24 EUR.

Similarly, a Czech supplier highlights that it is not possible to offer lower prices while working legally, including having all necessary machine inspections and revisions in place. However, some companies engage in informal work, which is also common in Romania, where subcontracting and illegal/undeclared work are prevalent. In 2022, interviewees reported a campaign was carried out by the territorial labour inspectorates to detect and penalize such practices, and the results confirmed the widespread use of illegal work in these regions. According to the president of the trade union UNICONF, companies that engage in undeclared work gain a financial advantage of at least 41.5% by not paying social contributions and income taxes.

NEGOTIATING HIGHER PRICES IN TIMES OF COVID-19 AND THE WAR IN UKRAINE

Suppliers and manufacturers have been hard-hit by the changing environment, especially after trying to navigate the challenges posed by the Covid-19 pandemic. Many have had to reduce their workforce, close facilities, and restructure their production processes.[13] Especially suppliers under the OPT system are dependent on the brands they work with for materials, pricing, costs, and payment terms, and have little margin of manoeuvre.

The increasing costs have also made it difficult for suppliers to negotiate higher prices, as brands and intermediaries often use their power to dictate pricing, timing, and payment terms. Brands and intermediaries often demand price reductions, even when the prices of raw materials have increased, making it difficult for suppliers to maintain their profit margins. Or, as a Bulgarian manager put it: "*The real problem is that it is extremely hard for us to raise the prices we get from the brand. Earlier this month [July 2022] a client [brand or intermediary agent] called us and asked us to lower the prices because cotton is going down. But we bought the material in April when the cotton prices were higher. We managed to explain, but it was a very hard negotiation. Vice versa, when prices go up they don't ask us to increase prices*".

Suppliers often find it difficult to resist these requests, as they risk losing business if they do not comply. A Bulgarian supplier explained that they sometimes must lower their prices to keep the business of their clients, but they try to resist whenever possible. *“Germans sent us a letter concerning the rapid changes in cotton prices. They said the price of cotton has dropped. But when we ordered the fabrics, the price was much higher. And they start pushing us and if we bend... very often we lower the prices too, we try to resist, but often we lower our heads. They try if it will pass. […] We have more ways to resist the changes of prices because there is no way they know when we purchase the cotton, so I can argue, but the risk is high”.*

The conflict in Ukraine did mean an increase in orders, as buyers were shifting garment production from Ukraine to elsewhere. However, this has equally led to increased costs for production and transport. A brand’s buyer estimated that *“sourcing prices went down until 1 year ago. Since a few months now, for newly concluded order contracts, the prices have gone up by 70 – 80%”.*

However, suppliers reported that renegotiating prices with buyers considering rising costs is often a lost cause, and they are unable to change prices once an order has been placed. Or, as a manufacturer attests: *“If you have accepted the order and the price, you can do nothing more. Transport including storage in the UK was our responsibility. So, we bear the price changes”.* Additionally, the rise of labour costs can also be a challenge, which can increase from year to year and is not easy to predict when an agreement is made on a specific order that will be implemented in the future.

“If you have accepted the order and the price, you can do nothing more."

PLANNING, OR ABSENCE THEREOF

The European garment industry is characterized by smaller volume orders with shorter lead times compared to those placed in Asia or Turkey. This is due to the advantage of European suppliers in providing quick production of small quantities, which often include high-quality products and fabrics.

Brands often purchase directly from suppliers, reducing the role of intermediaries and making communication easier. However, smaller volumes and low prices per piece lead to lower margins for suppliers, putting them under more pressure to accept more orders to maintain a steady flow of work. A Croatian manager reported on how their main client – the German-based brand Olymp – used to order: *"We received 2 or 3 weeks of program in advance".*

This trend towards smaller and faster orders, also known as fragmented orders, has led to the overbooking of production capacities and "improvisation" in production planning. As a social auditor explains about the luxury market, this *"has increasingly turned into fast fashion, in the sense that there has been a move towards greater fragmentation of orders with less delivery time: from design to delivery of the finished product [there is] very little time because the competition among luxury brands is played out on the ability to get to the shop as quickly as possible, an urgency that leads to stress in the supply chain".*

Similarly, the specification of the orders can change rapidly. A Czech factory manager shares the anecdote of an *"evening call to stop using the old buttons and that the client is sending new buttons and then we have to stop the sewing of buttons, rip the already sewn buttons. This is very common now".*

The absence of long-term contracts and fast, last-minute orders with low margins make it difficult for suppliers to plan their production and business development.

The discontinuous rhythms associated with quick delivery requests also force suppliers to rely on subcontractors, which can lead to the exploitation of lower-tier suppliers and the violation of labour laws. *“The biggest orders go to Asia, but short and smaller orders are placed in Europe. During certain parts of the year, there are only a few orders, sometimes we are extremely busy and we have to subcontract out to cope with this peak season. It’s known that no laws are obeyed in subcontractors”* explains a Bulgarian manager.

While brands buyers often stress the importance of stable business relationships with selected suppliers, this study could not find any supplier in a position of economic stability and able to sustain long-term business and human resource development. The hierarchical nature of the sector and the reliance on subcontractors further exacerbate the exploitation of lower-tier suppliers and the violation of labour laws.[19] The pressure to meet demands for fast-paced orders makes it difficult for suppliers to invest in upgrading material, innovation, as well as in training personnel.

L'ESPRESSO

The hierarchical nature of the sector and the reliance on subcontractors further exacerbate the exploitation of lower-tier suppliers and the violation of labour laws

19. Musiolek, B., Tamindžija, B. et al. (2021): Exploitation made in Europe. Human Rights Abuses in Facilities Producing for German Fashion Brands in Ukraine, Serbia, Bulgaria, Croatia. Available at: https://cleanclothes.org/report-exploitation-made-in-europe

IMPACTS OF COVID-19

The Covid pandemic has had a profound impact on order and production planning in the global supply chain. As a result, many brands have cancelled or reduced their orders, forcing suppliers to accept new clients and improvise to keep their production lines running. This has led to a rise in small and last-minute orders, adding to the already fast-paced nature of the fashion industry.

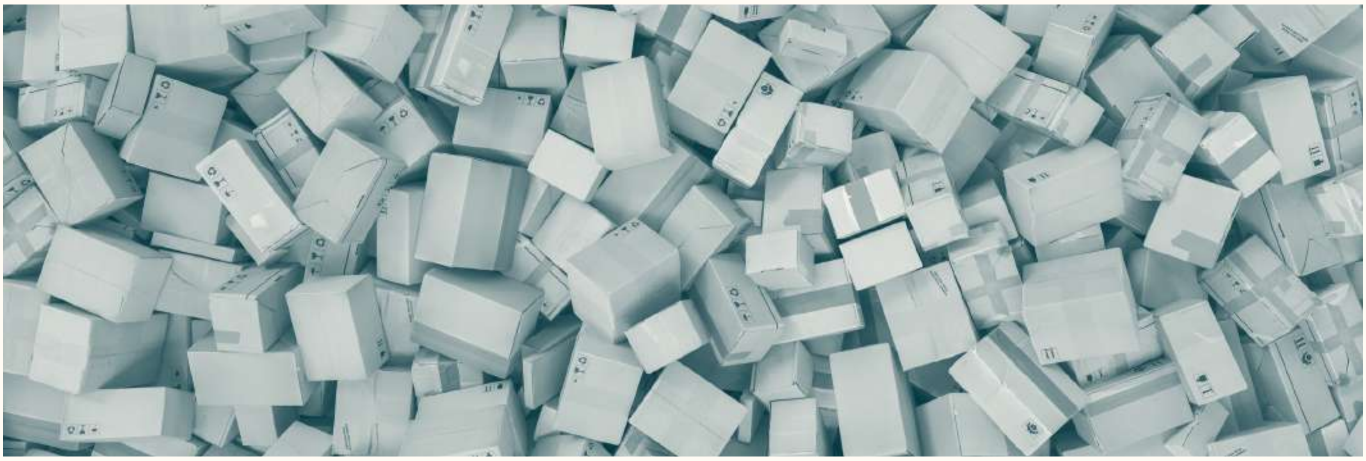
This is particularly marked within Europe, given the pre-existing tendency of small and fast, last-minute orders being placed.[20] An Italian supplier manager explains: *"I miss the possibility to have planning that allows us to face the future with serenity, to be able to plan as well. Because of the delays that are happening at the moment in the supply of raw materials, I have had to turn down some work. (…) Even if you work for a small number of customers, you struggle because of the timeframe they [brands] have: in Italy, they [brands] keep the production they can't manage outside, they make last-minute orders, and small quantities they can't manage abroad. This problem explodes, even more, today, because the sourcing of raw materials is volatile, there is no longer a stable supply chain, and you don't know exactly when the stuff will arrive".* The sourcing of raw materials has become increasingly volatile, with supply chains no longer stable and the arrival of materials becoming uncertain. This has led to delays and has resulted in suppliers having to turn down work. Even small suppliers are struggling to keep up with the demands of their customers, who often place last-minute orders for small quantities that they are unable to manage overseas. "No one is sure anymore that they will deliver the stuff because it has often happened that some ships stand still in Shanghai for a month and a half, you're here waiting for the stuff, the machines stand still, and this spills over into a question of price", says an Italian unionist.

The impact of the Covid pandemic has created a challenging environment for suppliers, forcing them to rethink their strategies for order and production planning. In this new reality, it is more important than ever for suppliers to have flexibility, resilience, and strong relationships with their customers to succeed in the rapidly changing global marketplace.

20. IndustriALL Global Union (2020) Building trade union power in South-East Europe. Available at: https://www.industriall-union.org/building-trade-union-power-in-south-east-europe

The hierarchical nature of the sector and the reliance on subcontractors further exacerbate the exploitation of lower-tier suppliers and the violation of labour laws

DELIVERY TIMES



The fast-paced and highly competitive world of fashion has led to a situation where delivery times are becoming shorter and shorter. This sense of urgency has put immense pressure on the supply chain, making it challenging for suppliers to meet the demands of the brands and customers. The increasing trend towards fast fashion, with a focus on delivering products quickly, has further amplified this situation.

The integration of luxury brands into the fast fashion business model has resulted in a constant rush to beat the competition and deliver orders with increasing product diversity and complexity. An auditor reports that there is *“very little time because the competition among luxury brands is played out on the ability to get to the shop as quickly as possible, an urgency that leads to stress in the supply chain”.*

The trend towards shorter delivery times is noticeable in Europe, where smaller and faster orders are placed. The pressure to meet short delivery times is a constant challenge for suppliers in the fashion industry. Brands often impose strict deadlines on their suppliers, and in some cases, even impose fines for missing those deadlines. *“Very often, the Germans react with fines. They don’t argue, they just fine you. You can’t argue with [German fashion group]”*, states the executive director of a Bulgarian supplier. This puts pressure on the suppliers to work even harder to meet deadlines.

A Bulgarian supplier manager reports: *"Fast lead times are usually a month – from placing the order until delivery. Before, the model has to be agreed upon. But if it's a new product that goes through the whole process of constructing the model according to the brand's design, deciding about the fabric, ordering the fabric, sewing, and shipping the product, it takes between 2 and 3 months". "The idea of our company is 'fast fashion', to get your product six weeks after the order has been placed, six weeks!", another Bulgarian manager says, "whereas orders from Asia can take between 6 and 10 months from placing the order until receiving the products".*

This situation has created a culture of dishonesty in the industry, with suppliers making excuses for missing deadlines. *"When we are late they get mad. Fortunately, we often find a way to get away with some excuses. There are many force majeure delays that can arise in such short timelines like waiting time at the border, protests with blocked roads in Belgium, national holidays in Turkey, broken machines, electricity cut due to construction works nearby. Everyone is lying to everyone"*, a Bulgarian manager explains.

The COVID-19 pandemic has only added to the existing difficulties of meeting short delivery deadlines, as supply chains have become even more unstable. Brands are now demanding additional flexibility in lead times, but the blame for delays often falls on the suppliers.

The high time pressure and focus on commercial success also means that production know-how is not a priority for brands. The main goal is to achieve a certain price and delivery time in retail, regardless of the difficulties that suppliers face in meeting these demands. A former brand's buyer interviewed for this study summed up the situation by saying: *"The main thing is that there is enough profit. How suppliers cope with the timing, they [brands] couldn't care less".*

PAYMENT TERMS

TIPPING POINT MAG

There is a major difference in payment between Asia and Europe. In Asia, letters of credit through banks are widely used to secure payments and reduce risks for suppliers. This involves the signing bank taking on the responsibility of paying the supplier and guaranteeing the payment. However, the use of letters of credit also results in higher costs for brands, as they have to pay the processing fees charged by banks.

In Europe, the payment mechanism is more direct and can be done using the Cash Against Documents (CAD) method. This involves the delivery of goods to a logistics centre or warehouse, and the release of shipping documents to the brand only after payment has been made. Payment terms are negotiated on a case-by-case basis with each client and can vary depending on the order.

The payment modalities for each order can also vary greatly. They are *"negotiated separately with each client, usually after they get the delivery. But it depends on each order, it is negotiated each time"*, explains a Bulgarian manager. The Covid pandemic has also led to an increase in the need for more flexible payment terms at the expense of suppliers.[21]

Brands can use a variety of payment tools, ranging from insecure options like cheques to more secure methods like reverse factoring or pre-financing orders. Reverse factoring involves a third party financing the supplier on behalf of the customer, reducing risks for all parties involved.

In Italy, reverse factoring is often done with the backing of the brand's bank. This allows suppliers to make liquidity claims in case of long payment terms, but it also means that the supplier bears the financial charges and pays interest to access credit facilities, or that it accepts a lower invoicing amount to compensate the bank (the factor).

21. Ljarja, A. (2021) Survey of brands' business practices during Corona-Crisis.
Available at: https://saubere-kleidung.de/2021/05/auswirkungen-der-covid-krise/

LETTERS OF CREDIT (LOC) VS CASH AGAINST DOCUMENTS (CAD)

Letters of credit (LOC) and Cash Against Documents (CAP) are two different methods of payment in international trade transactions.

A LOC is a financial instrument issued by a bank that acts as a guarantee to the supplier that payment will be made. The bank assumes the risks of the customer not paying the supplier and ensures that the supplier receives payment for the goods or services provided. The supplier can only access the payment once they have met all the conditions specified in the letter of credit, such as providing the necessary documents or shipping the goods to a specific location.

In contrast, CAD involves the delivery of goods to a warehouse or other specified place, and the release of shipping documents to the brand to receive the payment. This method is used when buyers want to ensure that they have received and inspected the goods before paying for them. It doesn't need a bank to act as a guarantor – although the bank can still play a role in terms of releasing the payment – and is typically used in situations where buyer and supplier have a long-standing relationship and trust each other.

In summary, a letter of credit provides a more secure method of payment for the supplier, as the bank acts as a guarantee, while Cash Against Documents involves more trust between the buyer and the supplier as there is no bank involved.

Feature	Letter of Credit (LOC)	Cash Against Documents (CAD)
Role of bank	Bank acts as a guarantee	Bank can be involved for payment but is not necessary
Risk	Low: bank assumes (part of) the risk	High: relies on trust between buyer and supplier
Payment release	Upon meeting conditions specified in the LOC	Upon receipt and inspection of goods by the buyer
Documents required	Yes (depending on conditions specified in the LOC)	Yes (shipping documents)

Payment terms for garment manufacturers have been a longstanding issue, with some brands stretching payment terms endlessly. This was particularly prevalent during the Covid crisis, with brands citing financial insolvency as the justification for the delay in payments.[22] The average payment term for garment manufacturing varies across countries, with some reporting a range from 3 to 60 days, while others practice up to 90 days.

However, the problem of delayed payments has worsened in recent years, with some buyers confirming a decline in payment terms over the last 15 years. Some brands and retailers have extended payment deadlines from 30 to 60 days, and during the Covid crisis, some have even imposed a further extension.

22. IndustriALL Europe, Traidcraft Exchange and Fair Trade Advocacy Office (2021) Leveraging the Unfair Trading Practices Directive to benefit the Garment Sector See also TX and IAE paper. Available at: https://news.industriall-europe.eu/documents/upload/2021/9/637684400585561764_210106%20Draft%20Leveraging%20UTP%20transposition_20210927.pdf

A buyer conceded that *"one of these practices was the unilateral extension of payment deadlines from 30 to 60 days. During 2000s it used to be 10 days payment deadline. Pre-Corona it used to be 30 days"*. Another former buyer of brands explains there is no rule: *"Can be 60 days after issuing the invoice and receipt of the products. In Italy, 90 days are often practiced. Sometimes brands do advances of 30 or 50% of the order value for strategic suppliers which had to order fabrics and accessories". A Bulgarian manager adds that "after the shipment, there's a delay of the payment – 90 days, some clients want 120 days. It used to be 60 days. Now along with the Covid crisis, they started to delay even more".*

Several brands are increasingly using payment timing to regulate their cash flow, meaning the moment in which the payment is done is becoming less determined by the commercial handover of goods. A Bulgarian manager reported that *"sometimes brands only pay when they had successful promotion campaigns, i.e., high cash flows"*. He also added that brands *"used to pay us only when they made big turnovers with their sales promotions. They paid with huge delays".*

SICOBAS

A buyer conceded that "one of these practices was the unilateral extension of payment deadlines from 30 to 60 days. During 2000s it used to be 10 days payment deadline".

IMPACT OF EXTENDED PAYMENT TERMS

CORRIERE FIORENTINO

Original Equipment Manufacturers (OEM), which are often smaller garment manufacturers, are often affected by delayed payments from brands. With lower capitalization, these manufacturers rely heavily on timely payments to meet their running costs, including paying their employees. Delays in payments reduce their liquidity, putting their financial stability at risk.

Extended payment terms create a delay in wage payments, causing financial difficulties for these smaller manufacturers. These are also detrimental to their investment capability, reducing their ability to innovate and grow.

An Italian garment supply chain expert interviewed highlights that now that most orders are paid after 90 days, companies struggle financially and have no ability to make investments. This lack of investment can result in reduced technological innovation and an increased risk for the company to disappear.

DIVISION OF COSTS NOT RELATED TO PRODUCTION

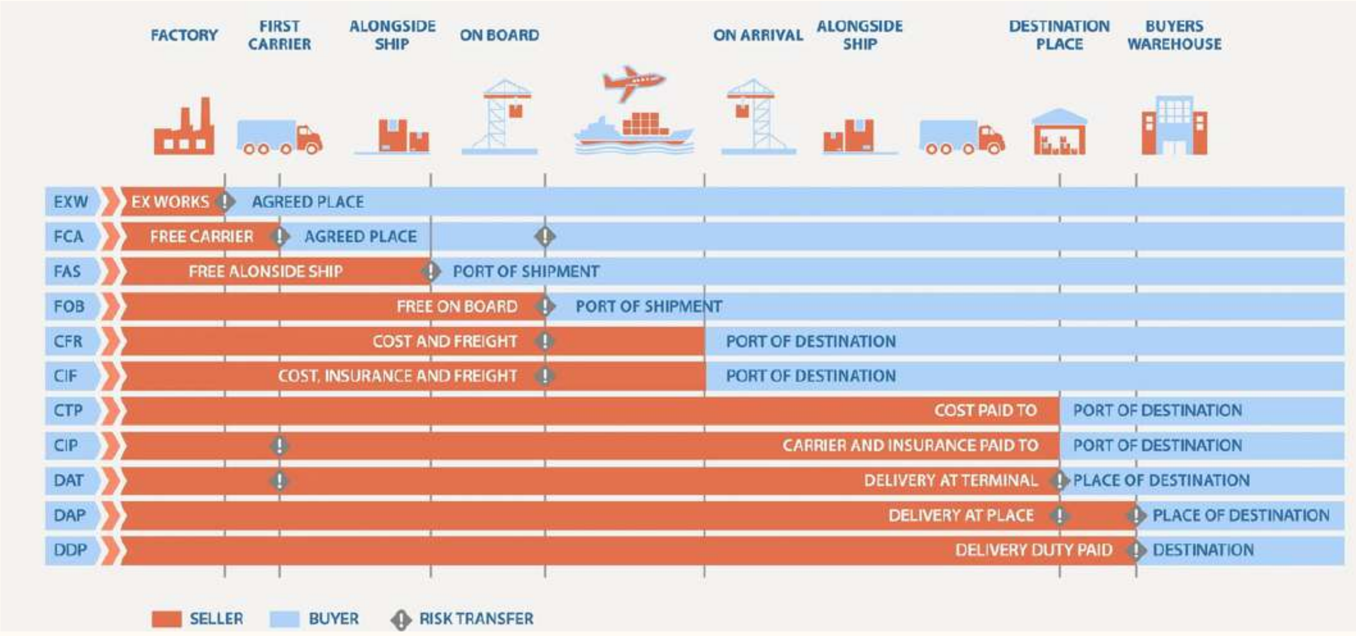
SHIPMENT COSTS

The manufacturer interviewed indicated they are responsible for the transport of the products directly to the warehouse or logistics centre of the brand. Only when the delivery is approved by the technical staff of the brand, does the time allowed for payment begin. This creates a significant responsibility for the supplier, as any delays or issues with delivery can delay payment and cause financial difficulties.

To manage the risk, some manufacturers have implemented long-term contracts with logistical companies and forwarding agents: this way, risks are insured, and transport costs are included in the negotiated price. A Czech manager shared that *“there was one brand that hired their own forwarding agent, but that is not the rule”.* A Romanian manager explained that in his case, *“the brand is responsible for the shipment and pays for it; but the supplier, not the brand, had to deposit a guarantee payment at the border to the UK (after Brexit) and it would get back the money only a year later”.*

While in Asia prices are usually paid FOB (see box below), and the risk associated with loss and deterioration is transferred when the products enter the ship, in Europe the practice with regard to prices varies. Typically, the risk is transferred when the products are delivered to the brand's warehouse or intermediary agent's logistics centre, with corresponding price terms such as DDP, DAP, or DPU (see box below). This means that the supplier bears a higher risk and higher costs in the transport and delivery of the products.

INCOTERMS



DDP, DAP, DPU (DPU was formerly referred to as DAT), and FOB are international commercial terms, also known as Incoterms, which specify the rights and responsibilities of buyers and sellers during the transportation and delivery of goods. These terms are often used in contracts for international trade.

DDP (Delivered Duty Paid): Under this term, the seller is responsible for delivering the goods to the buyer at the named place of destination, and for clearing the goods through customs in the destination country and paying any duties and taxes. The buyer has no responsibility for the delivery or any additional costs after the goods are delivered.

DAP (Delivered at Place): This term requires the seller to deliver the goods to the buyer at the named place of destination but does not include the cost of unloading the goods at the destination or any customs duties or taxes. The buyer is responsible for these costs.

DPU (Delivered at Place Unloaded, known as DAT Delivered at Terminal before the Incoterms 2020 revision): Similar as DAP, but the seller is responsible for unloading the goods at the named place of destination.

FOB (Free on Board): This term means that the seller is responsible for delivering the goods to the port of shipment and loading them onto the shipping vessel. Once the goods are on board, the buyer assumes all responsibility for the goods and any costs associated with transporting them to the destination.

The lack of clear rules and standardization for payments and invoicing amongst brands can create a variety of payment modalities that is often disadvantageous for manufacturers. Additionally, increasing transport costs without a corollary price increase can dramatically affect the supplier's profitability, particularly in the current climate of unstable supply chains, increased risk, and delivery delays. Overall, the current system places a significant burden on suppliers, who must navigate a complex web of payment and delivery responsibilities while managing a high level of risk and cost.

QUALITY RELATED COSTS

The manager of a Czech manufacturing company provided insight into their quality assurance process: *“There is a sample in the beginning of the production, approved by the customer. After delivery of the final product, the brand checks some pieces randomly, not all of the collection is checked. Big brands used to send their technological personnel while the production was still in process”.* All suppliers interviewed confirmed that they must produce a sample at their own expense before an order is placed.

The manufacturer is responsible for developing the model or sample that will serve as the basis for production. At this stage, the supplier produces the sample free of charge with no guarantee of receiving the order. In some cases, the supplier must produce the entire model according to the brand's design, including developing the construction, selecting fabrics and accessories, and procuring them in all sizes. Even after completing these tasks, the brand may still cancel the order, leaving the supplier with all the costs of production preparation activities and no compensation.

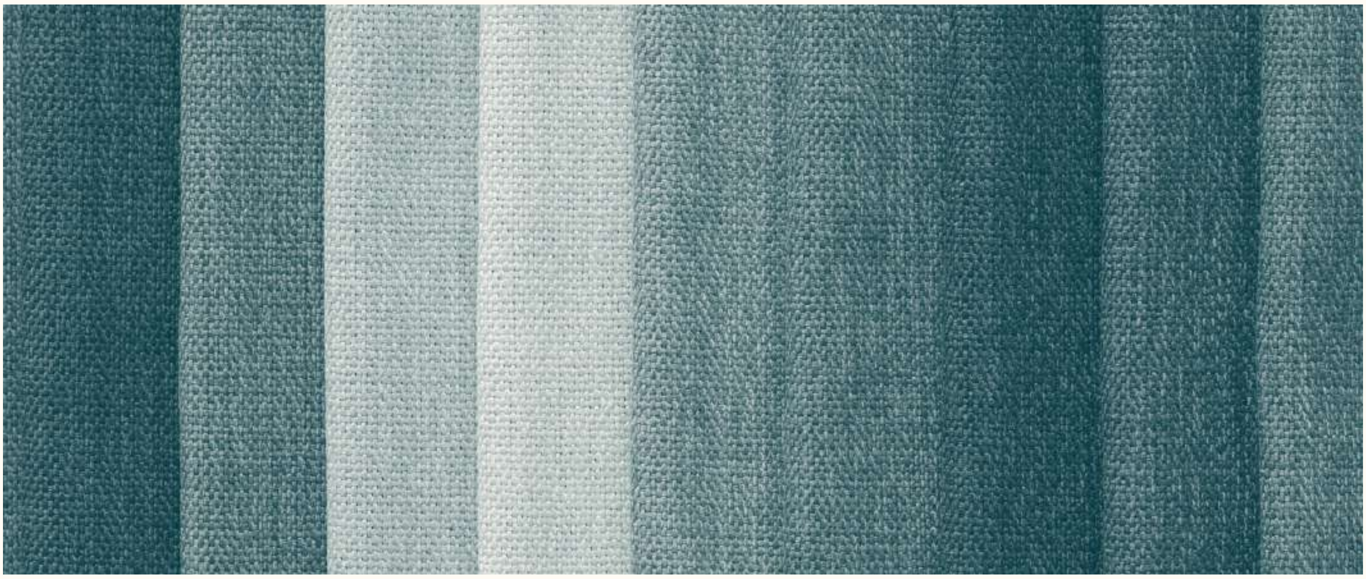
Overall, the current system places a significant burden on suppliers.

The lack of communication on delivery specifications, such as changes in legal requirements at the border, can also result in additional costs for the supplier. For instance, after Brexit, manufacturers working for UK brands had to provide a guarantee at the border control, which was returned only after more than a year.

Hidden costs may also arise for the supplier after delivery. This could include repairing returned deliveries or compensating the brand for alleged repairs or fines. Brands may try to pass on unsold goods to the supplier, as and Italian manufacturer quoted: *"the product we do not sell, we will give back to you".* Brands may also refuse payment for alleged quality issues, penalizing the supplier months after delivery. One Bulgarian supplier noted that they produced extra pieces and sold them in their own outlets to recover some of the losses incurred from unsold goods.

A Romanian manager shared that *"even after a few months, if quality problems are identified, you can be penalized. And the penalties were decided by the brand, according to their evaluation of the so-called flaws".* A Bulgarian manufacturer added: *"For example, once the buyer didn't pay because there was a difference in colour in the final product. They showed us pictures from the shop, and it was quite clear that there was some small difference in the nuances of the blue, so they did not pay, even though they did not return the delivery".*

However, the quality criteria imposed by brands can also result in unexpected costs for the supplier. For example, a Croatian manager reported that they were charged for the few hours' work of an employee of a German brand, even when new quality criteria were introduced, without prior notice for the factory to adjust.



COMPLIANCE COSTS

Increasing sustainability requirements from buyers add pressure on suppliers. A Bulgarian supplier manager noted that 'Western' clients have increasingly demanded these certificates: *"In recent years there is a tendency for requiring certificates, so maybe we will be forced to get some. We are waiting for some EU funds because otherwise, we will have to pay for it. They [institutions issuing certificates] are supposed to do some kind of audit, some checks, but no one comes, you just pay, and you get your certificate, that's it. So, we try to avoid certificates. Well, we do have some, but we try to avoid them. But now we started to get very good orders from the German army, and we are thinking they might require some certificates".*

According to a Romanian manager of an ASOS supplier, sustainability and audit systems are often just a cover for brands to exploit factories to the maximum. In some cases, brands conduct their own audits and assume responsibility for them, but the factory must pay for the audit. Different brands have their own codes of conduct and sets of measures for social audits, and the expenses associated with complying with these codes are typically borne by the supplier.[23]

Italian factory managers also report that additional certificates, whether quality or CSR related, create additional burdens. They complain about the proliferation of codes of conduct and CSR-related institutions, which require additional time and resources to obtain.

Sustainability and audit systems are often just a cover for brands to exploit factories to the maximum.

Even approved subcontractors by the brand must respond to requests for documents beyond the normal certifications related to working environment quality and mandatory social contributions. The same Italian managers' report that subcontractors must spend their own resources to obtain these additional documents.

Finally, the consequences of non-compliance can be severe. In one case, a factory in Romania was fined 25,000 GBP (approximately 27,600 EUR) after an audit found out that the factory had subcontracted the production of clothes to another factory to meet the quantity required by the buyer. The Turkish intermediary buying agent was fined, and the Romanian factory was forced to pay the fine in several tranches.

23. See also Terwindt, C. Saage-Maaß (2015) Liability of Social Auditors in the Textile Industry. Available at: https://www.ecchr.eu/fileadmin/Publikationen/Policy_Paper_Liability_of_Social_Auditors_in_the_Textile_Industry_FES_ECCHR_2016.pdf

CONCLUSION

This research clearly demonstrates the existence of unfair trading practices in the European garment industry. Although widespread in the garment sector, the comparatively smaller orders and lower margins put European manufacturers on an even worse footing when dealing with brands and retailers. While manufacturers need to accept terms and conditions as proposed by the brands, brands do not feel equally bound by the already favourable terms of trade. Post-hoc renegotiations, cancellations and reductions seem commonplace.

By contrast, the existing regulatory framework do not seem up to the task. For example, the Italian legislator has already provided a legal remedy to prohibit the abuse of economic dependence.[24] Equally did the EU legislator with the introduction of a minimum harmonization of payment terms within the single market.[25] However, such legal tools are rarely activated by the suppliers, precisely due to their dependency on the (individual) buyer, and the broader power imbalance preceding the contractual relationship.

24. See Law no. 192/1998, which defines economic dependency as: “the situation in which a company is able to determine, in commercial relations with another company, an excessive imbalance of rights and obligations”
25. See EU Directive 2011/7/EU on combating late payment in commercial transactions.
Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32011L0007

RECOMMENDATIONS

RECOMMENDATIONS FOR FAIRER CONTRACT TERMS FOR BRANDS, RETAILERS, AND LEGISLATORS IN THE CLOTHING SECTOR

Prevailing terms and conditions of orders for clothes placed in Europe clearly deviate from good business conduct. They result in pressurized manufacturers, low wages and labour rights abuses. Few initiatives have tried to address these by formulating, in varying degrees of prescription, a standard for conduct when placing orders.[26] These standards align with a number of recommendations in the research paper and can already structure ongoing Business-to-Business action, as well as assist legislators in establishing new norms.

26. See for example the MSI Working Group on Purchasing Practices (2022) The Common Framework for Responsible Purchasing Practices, available here: https://api.fairwear.org/wp-content/uploads/2022/07/CFRPP-Full-Framework-Updated.-V1.-30.06.22.pdf, Sustainable Terms of Trade Initiative (2021) White Paper on the Definition and Application of Commercial Compliance, available at: https://betterbuying.org/wp-content/uploads/2021/09/STTI-White-Paper-on-the-Definition-and-Application-of-Commercial-Compliance.pdf and the ABA (2021) Model Contract Clauses to Protect Workers in International Supply Chains, available at: https://www.americanbar.org/content/dam/aba/administrative/human_rights/contractual-clauses-project/mccs-full-report.pdf, specifically article 1.3 and Schedule Q. See also the joint “Wage Forward” campaign between the Asia Floor Wage, Clean Clothes Campaign, and the Worker Driven Social Responsibility Network: https://wageforward.org/;

GOOD PURCHASING PRACTICES SHOULD AT THE MINIMUM INCLUDE:

- Payment of orders must be made within max 60 days after delivery.
- In case of significant increase in costs (for example raw materials, wages, transport, or model modifications), the supplier should have the right to adjust the price accordingly.[27]
- Prices and volumes should allow for production providing a living wage for workers within regular working hours.
- Prices should cover the production costs, direct and indirect costs, and a reasonable profit.
- Order modifications that incur additional costs should be compensated by the party responsible for those modifications.
- Contracts should include a clear definition when the risk of loss, deterioration, and ownership of the goods is transferred to the brand or intermediary (production agent or importer).
- 'Force Majeure' can only be invoked on legally valid grounds and should respect the transfer of ownership and risks as defined in the contract.[28]
- Penalties or fines should be clearly defined in the contract, namely on which occasion, which amounts and the bearer.
- Capacity should be reserved, and unused capacity should be compensated for.
- Orders should have a reasonable lead time. A reasonable lead time is defined as a time which allows the supplier to deliver the ordered volumes respecting regular working hours. However, in exceptional cases, additional overtime is possible, namely within the limits of international standards, national law, and Collective Bargaining Agreements. Additionally, production can be outsourced to declared sub-suppliers authorised by the brand.

27. The SSTI proposes a threshold 5%, but given the sector's low margins and structural cost squeeze, a lower percentage might be more appropriate
28. Vogt J., Saage-Maaß M., Vanpeperstraete B. and Hensler B. (2020) Farce majeure: How global apparel brands are using the COVID-19 pandemic to stiff suppliers and abandon workers. Available at: https://www.ecchr.eu/fileadmin/ECCHR_PP_FARCE_MAJEURE.pdf

RECOMMENDATIONS FOR AN EU APPROACH TO UNFAIR TRADING PRACTICES IN THE CLOTHING SECTOR

Several European Membe States[29] have taken steps to address unfair trading practises in general and in the garment sector. However, given the extreme power imbalances between buyers and manufacturers in the clothing sector, its transnational character and the specific regioanl relations between production and consumption within Europe, the European Union - rather than individual Member States - is better placed to addres unfair trading practices in the clothing sector than individual member states:

- The European Commission should submit a proposal to the European Parliament and the Council of the European Union for **a Directive banning the use of Unfair Trading Practices in the textile and clothing sector.** Such a proposal should take inspiration from the 2019 *Directive on unfair trading practices in business-to-business relationships in the agricultural and food supply chain.*[30] The proposed textile UTPs directive should outlaw several practices such as late payment, late order amendments, cancellations, prices below the cost of production and auctions.

- Such proposed directive should include a dedicated anti-Unfair Trading Practices enforcement strategy. It shall comprise of either **a competent regulating and investigation authority,** both at Member States and EU level, **which can launch investigations on UTPs *ex officio* or following anonymous complaints.**

- The European Parliament and the Council of the European Union should ensure that the final Directive on Corporate Sustainability Due Diligence includes an obligation for companies to address their **purchasing practices throughout the due diligence process.** This is central to ensure that more powerful companies do not cause or contribute to human rights harm in their supply chain through unfair trading practices. In addition, the CSDDD should equally **ensure for responsible disengagement with commercial partners** and ensure that bigger market players can be held **jointly and severally liable** for impacts caused by business partners.

---

29. E.g. a number of countries such as Italy (Art. 9 of Legislative Decree 192/1998), Belgium (Article IV.2/1 Belgian Code of Economic Law) and France (art. L. 420-2 of the French Commercial Code) have introduced legislation addressing the abuse of economic dependency. Furthermore, Italy has equally foreseen joint and several liability for unpaid wages, social security contributions and insurance premiums due to the workers of the supplier. (Legislative Decree no. 276/2003). However, no case law exists pertaining to the garment sector.
30. Directive (EU) 2019/633 of the European Parliament and of the Council of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain. Available at: https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:32019L0633

- After the adoption of the *Corporate Sustainability Due Diligence Directive,* the European Commission should issue more detailed guidance on how companies (including clothing brands and retailers) can **ensure living wages and living income** in their value chain through sound purchasing practices, as well as guidance on **ensuring freedom of association and collective bargaining.** Such guidance should include references to **credible living wage and living income benchmarks** and lay down approaches to achieving living wages of workers as well as living income for farmers and other non-wage workers in supply chains of EU companies.

- The European Commission should, in the planned evaluation of the *Late Payment Directive,*[31] pay special attention to the European textile and clothing sector. It should seek strengthened enforcement of the directive and formulate measures that address the so-called "fear factor", which impedes weaker bargaining partners to enforce their claims in civil court.

- The European Commission should, in *its Textile Ecosystem Transition Pathway,*[32] develop and implement a genuine industrial strategy for the European textile sector. Such strategy should support clothing manufacturers, and especially SMEs, by improving their bargaining position vis-à-vis clothing brands and retailers.

EXTINCTION REBELLION

31. Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32011L0007
32. Available at: https://single-market-economy.ec.europa.eu/sectors/fashion/textiles-transition-pathway_en#:~:text=The%20updated%20EU%20Industrial%20Strategy,social%20partners%20and%20other%20stakeholders

ANNEX I
METHODOLOGY

SAMPLING AND OUTREACH

Between March and September 2022, a research study was conducted, using both field research and desk research methods, focusing on Bulgaria, Croatia, Czechia, Italy, and Romania. The selection of these countries was based on their accessibility to manufacturers, geographical spread, relevance to the sector, and availability of specific research expertise.

During the field research, the researchers identified qualified contact persons and developed a shortlist of potential interviewees based on general criteria. The criteria specified that the companies selected for the study had to be first-tier suppliers and work directly with large international brands, rather than being suppliers for higher-tier manufacturers. To compile the list of concrete manufacturers, the researchers used various sources, including the public databases of employer associations, wikirate, open apparel, national statistics, and media articles.

Employers' associations were identified as influential institutions with important information on the industry. In Italy, the employers' associations representing small and medium-sized enterprises (SMEs) were particularly effective in connecting the researchers with the manufacturers' management, under the condition of guaranteeing total anonymity and confidentiality. The researchers also relied on personal contacts and trust relationships developed over the years.

To contact the brands, the researchers used two methods: an institutional email provided by the brands themselves, requesting an interview with the production or supply chain manager; and internal corporate sources that regularly collaborate with the researchers. Out of 10 brands, 6 replied to the interview request, under a guarantee of anonymity, with 3 responding only in written form. The interviews were conducted in several waves through email, phone, in-person or online, depending on availability.

In general, the research team faced a pervasive climate of distrust and reticence, which made it challenging to identify willing interviewees. In Bulgaria and Czechia, the refusal rate was almost 95%. Although the reasons for non-response were not specified, the researchers and other stakeholders identify several factors that may have been at play.

One potential factor is a climate of fear among supplier management, who may be reluctant to speak out of concern for losing business, or due to subordination towards their customers or brands. Even with anonymity, they may worry about being recognized and the potential impact on their orders and contracts. Additionally, the research timeline coincided with the high manufacturing season, leading some manufacturers to be too busy with orders to participate.

Another possibility is that some manufacturers may not see the value in the research. From their perspective, answering the questions may be too risky, and they may not anticipate any meaningful change within the industry. Some supplier managers may accept the rules of the fast fashion business without questioning them.

PROFILE OF INTERVIEWEES

The factories investigated ranged from Own Equipment Manufacturing (OEM) to Cut-Make (CM) and Cut-Make-Trim (CMT), as well as smaller sewing workshops that specialize in special operations like embroidery, luxury articles, and delicate materials. These smaller workshops often function as sub-contractors.

The research team spoke with manufacturers and experts in Croatia, Bulgaria, Romania, and Czechia who supply to a variety of brands, including but not limited to ASOS, Metro, MS Mode, and Moncler. However, not all interviewees approved the release of brand names, so only ASOS and Metro gave their permission to be mentioned.

In the case of Metro, both suppliers' management and brand buyers referred to their purchasing practices during the interviews. Metro is a German-headquartered food and non-food discounter.

	CEE/SEE	Germany	Italy	Total
Management of manufacturers / supplier factories (owners, executive directors, technical managers	7		4	**11**
Leaders of trade unions active in the garment industry and shop steward	2		1	**3**
Buyers of brands and importers / production agents		7		**7**
Heads of employer's/ business associations	1		2	**3**
Consultants/ social auditors	1	3	2	**6**
Scholars/ field experts	1	2	1	**4**
Representatives of Multistakeholder Initiatives		3		**3**

GLOSSARY

CM: "Cut, Make". It refers to a manufacturing process where a manufacturer provides labour and equipment to cut, sew, and finish a garment or textile product, while the customer provides the fabric and any necessary trims (such as zippers or buttons).

CMT: "Cut, Make, Trim". It refers to a manufacturing process where a supplier provides labor and materials to cut, sew, and finish a garment or textile product, but the customer provides the fabric.

CSR: "Corporate Social Responsibility." It refers to a company's voluntary commitment to conduct business in a socially and environmentally responsible manner.

DAP: "Delivered at Place". It is a shipping term that means the seller is responsible for delivering the goods to a named place of destination, but the buyer is responsible for paying for any taxes and customs duties.

DDP: "Delivered Duty Paid". It is a shipping term that means the seller is responsible for delivering the goods to the buyer's destination, including all taxes and customs duties.

DOC: "Documentary Collection." It is a payment method where the seller's bank collects payment from the buyer's bank in exchange for shipping documents.

DPU: Stands for "Delivered at Place Unloaded." It is a shipping term that means the seller is responsible for delivering the goods to a named place of destination, and unloading them at the agreed-upon location.

FOB: "Free on Board" or “Freight on Board”. It is a shipping term that means the seller is responsible for delivering the goods to the port of shipment and loading them onto the shipping vessel. The buyer is responsible for all costs and risks associated with transporting the goods from the port of shipment to their final destination.

LOC: "Letter of Credit". It is a document issued by a bank that guarantees payment to the seller of goods, provided that certain conditions are met.

OEM: "Original Equipment Manufacturer". It refers to a company that produces parts or products that are used in another company's end product.

OPT: "Original Production Technology". It refers to the production process used to manufacture the original product, typically for the purpose of duplicating the product later.

QUESTIONS & INFORMATION

info@fairtrade-advocacy.org
https://fairtrade-advocacy.org

FOLLOW US

@FairTradeFTAO
Fair Trade Advocacy Office (FTAO)

In partnership with