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November 22, 2022

Our File No. 202200335

Office of the Canadian Ombudsperson for Responsible Enterprise
Attention: Sheri Meyerhoffer

Dear Ms. Meyerhoffer:

Re: Complaint regarding Mark's Work Wearhouse and failure to ensure living wage is paid to workers in Bangladesh

Please accept this letter as a complaint to the Canadian Ombudsperson for Responsible Enterprise (“**CORE**”) regarding the conduct of Canadian Tire / Mark's Work Warehouse. This complaint is filed on behalf of the following entities:

- a. The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (United Steelworkers) (“**USW**”); and
- b. Canadian Labour Congress (“**CLC**”).

The above-noted entities are collectively referred to in this complaint as the “**Complainants**”. The information provided in this complaint is true to the best of the Complainant's knowledge.

I. OVERVIEW

1. USW and CLC (the “Complainants”) file this complaint with the CORE in order to request that the CORE investigate Mark's Work Wearhouse Ltd. (“**Mark's**”) for using suppliers and/or factories in its supply chain that pay workers poverty-level wages, in contravention of major international human rights covenants.
2. Mark's uses factories in Bangladesh to manufacture garments that it sells in its stores in Canada under the labels of Denver Hayes, Dakota, WindRiver, and Helly Hansen.
3. The Complainants obtained data of actual wages paid at factories used by Mark's in Bangladesh, and compared them with several living wage benchmarks for

United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union
Syndicat international des travailleurs unis de la métallurgie, du papier et de la foresterie, du caoutchouc,
de la fabrication, de l'énergie, des services et industries connexes

800-234 av. Eglinton Ave. E., Toronto ON Canada M4P 1K7 • 416-487-1571 • 416-482-5548 (Fax/Téloc.)

Bangladesh. The gap between the actual wage data obtained by the Complainants and *any* living wage benchmark is significant, meaning that workers in factories used by Mark's are living on poverty-level wages.

4. The Complainants submit that, for the reasons outlined herein, Mark's' failure to ensure a living wage is paid to workers in its supply chain is a human rights abuse falling within the CORE's mandate. The Complainants request that the CORE investigate Mark's and its parent company, Canadian Tire, to determine the extent of their human rights abuses in the Bangladesh ready-made garment industry with respect to the failure to pay a living wage. The Complainants further request that the CORE make recommendations that Mark's implement the measures outlined at the end of this document in order to cease the human rights abuse and remedy harm arising out of committed abuses.

II. BACKGROUND

The Complainants

5. USW is one of the largest private-sector trade unions in North America, with more than 225,000 members in Canada and 850,000 members in North America. In addition to protecting and promoting the rights of its members in their workplaces, USW's work includes supporting workers and unions internationally to advance their rights.
6. The CLC is the largest labour organization in Canada, representing dozens of national and international unions, provincial and territorial federations of labour, and community-based labour councils. CLC represents more than 3 million workers across Canada. CLC works to advance the rights of workers in Canada and internationally.
7. USW and CLC aim to provide concrete solidarity support to workers and labour unions in Bangladesh in their struggle for a living wage for garment workers.

Mark's Work Wearhouse

8. Mark's Work Wearhouse Ltd. ("**Mark's**") is one of Canada's largest casual and industrial garment and footwear retailers. It is a wholly owned subsidiary of Canadian Tire Corporation, Limited ("**Canadian Tire**").¹ The garment brands that Mark's sells include brands owned by Mark's and/or Canadian Tire, such as

¹ Canadian Tire Corporation 2021 Report to Shareholders at p. 115 [**Canadian Tire Annual Report**].

Denver Hayes, Dakota, WindRiver, and Helly Hansen.² As of the end of 2021, there were 380 Mark's stores in Canada.³

9. Canadian Tire was incorporated under the laws of Ontario by letters patent dated December 1, 1927, and is currently governed by the Ontario *Business Corporations Act*.⁴ Canadian Tire's head office is in Toronto, at 2180 Yonge Street. It is a public company that trades on the Toronto Stock Exchange (the "TSX").
10. In 2021, Canadian Tire's revenue was approximately \$9.2 billion.⁵ Mark's revenue was approximately \$1.4 billion.⁶ In 2021, Mark's experienced retail sales growth of 17.8% over 2020.⁷

III. THE GARMENT INDUSTRY AND A LIVING WAGE IN BANGLADESH

The Garment Industry in Bangladesh

11. The ready-made garment industry is a major driver of the Bangladeshi economy. In 2018-2019, ready-made garment export earnings were over \$34.13 billion, accounting for over 80% of Bangladesh's total exports that year.⁸ In 2019, there were approximately 5000 garment manufacturing firms in Bangladesh, together employing over 3.5 million people.⁹ Researchers estimate that the vast majority, between 60-80%, of workers in the ready-made garment sector are women.¹⁰
12. Notably, despite an increase in 2018, minimum wage in Bangladesh is one of the lowest among major ready-made garment producing countries, at tk¹¹ 8,000 per month (approximately \$107 CAD per month).¹²
13. In January, 2021, the Steelworkers Humanity Fund ("**SHF**") published a report entitled *Not Even the Bare Minimum: Bangladeshi Garment Workers' Wages and the Responsibility of Canadian Brands* ("**Not Even the Bare Minimum**"). A copy

² Canadian Tire Corporation, Limited, 2021 Annual Information Form, published February 16, 2022, at p. 7 [**Canadian Tire Annual Information Form**].

³ Canadian Tire Annual Information Form at p. 7.

⁴ Canadian Tire Annual Information Form at p. 2.

⁵ Canadian Tire Annual Report at p. 128.

⁶ Canadian Tire Annual Report at p. 128.

⁷ Canadian Tire Annual Report at p. 14.

⁸ Steelworkers Humanity Fund, *Not Even the Bare Minimum: Bangladeshi Garment Workers' Wages and the Responsibility of Canadian Brands*, January 2021, at p. 12 [*Not Even the Bare Minimum*].

⁹ *Not Even the Bare Minimum* at p. 13.

¹⁰ *Not Even the Bare Minimum* at p. 13.

¹¹ "tk" refers to Bangladeshi taka.

¹² *Not Even the Bare Minimum* at p. 13.

of *Not Even the Bare Minimum* is enclosed at **Tab A**. SHF was founded in 1986 and is a registered Canadian charity funded largely by contributions of USW members. Among other things, SHF's work includes supporting workers and unions internationally to advance their rights.

14. *Not Even the Bare Minimum* documents the experiences of garment workers employed in supplier factories for Canadian brands, and amplifies their voices. The worker interviews conducted for the report illustrate the daily struggle of garment workers to provide for their families, and the impact of the low wages they earn in all aspects of their lives. The worker interviews clearly establish that workers themselves view the wages they are receiving as inadequate for them to enjoy a decent standard of living.

15. *Not Even the Bare Minimum* reports on research conducted by the SHF into wages and living conditions of workers in Bangladesh's ready-made garment sector. The report ultimately found:

Canadian garment companies are no different than other global brands as they seek to minimize the cost of production as much as possible. Given the abundance of potential supplier factories in competition with each other over brand contracts, costs of production are pushed onto the shoulders of the women and men who work in factories across the supply chain.¹³

16. Since *Not Even the Bare Minimum* was published in January 2021, the ready-made garment industry has experienced unprecedented growth. The average monthly export growth for the last four months of 2021 was 45%. In the first half of 2022, the average increase in export growth was 43% when compared to the previous year.¹⁴ Unfortunately, this effect has not been translated into the working conditions and wages of workers in the industry. USW estimates that the working conditions reported on in *Not Even the Bare Minimum* are still present, and have likely been exacerbated by growth in the industry coupled with inflation which, as described below, has driven down the real wages earned by employees in the sector.

¹³ *Not Even the Bare Minimum* at p. 9.

¹⁴ Dr. Khondaker Golam Moazzem and Tamir Ahmed, "Debate on Recent Export Growth and Employment in RMG Industry: a UNGPs perspective", Christian Aid and Centre for Policy Dialogue, August 31, 2022, at p. 3.

Defining a Living Wage in Bangladesh

17. In the Complainants' submission, the concept of a living wage is crucial to meaningfully achieve compliance with international human rights law. The reality is that in many countries, government-legislated minimum wages trap workers in poverty. By contrast, there is broad international consensus that a living wage is a wage that enables workers and their families to meet their basic needs, by allowing them sufficient income to obtain adequate food, housing, clothing, education, and other necessities of life, while saving for the future.

18. The Clean Clothes Campaign is an internationally respected and recognized human rights organization advocating for the rights of workers across the garment and sportswear industry. Founded in the Netherlands in 1989 it has since become a global network of over 235 organizations operating in over 45 countries. The Clean Clothes Campaign describes a living wage as follows:

A living wage, recognized by the UN as a human right, is a wage that is sufficient to afford a decent standard of living for a worker and their family.

It should be earned in a standard work-week of no more than 48 hours, and must include enough to pay for food, water, housing, education, health care, transportation, clothing and some discretionary earnings, including savings for unexpected events.¹⁵

19. The Global Living Wage Coalition describes a living wage as:

The remuneration received for a standard workweek by a worker in a particular place sufficient to afford a decent standard of living for the worker and her or his family. Elements of a decent standard of living include food, water, housing, education, health care, transportation, clothing and other essential needs including provision for unexpected events.¹⁶

20. Currently, wages for workers in the ready-made garment industry in Bangladesh are generally well below a living wage, and there is evidence that the gap between wages earned and a living wage is growing. At the same time as the ready-made garment industry is experiencing unprecedented growth, as discussed above,

¹⁵ Clean Clothes, Fashion Checker Campaign, "What is a Living Wage?", available online: <<https://www.globallivingwage.org/about/what-is-a-living-wage/>>

¹⁶ Global Living Wage Coalition, "What is a Living Wage?", available online: <33. <https://www.globallivingwage.org/about/what-is-a-living-wage/>>

Bangladeshis are experiencing the highest inflation the nation has seen in 9 years.¹⁷ In July of 2022, inflation hit 7.56%. The Asian Development Bank forecasts that this fiscal year will see inflation continue to climb.¹⁸

21. The impact of inflation on the daily lives of workers in the ready-made garment industry is real. Inflation has raised the cost of daily necessities significantly. The Centre for Policy Dialogue, an institution that conducts in-depth research to support inclusive policy-making in Bangladesh, found that local prices of some food items were higher than many other cities in the world. For example, by March of 2022, the cost of a litre of milk in Dhaka was more expensive than a litre of milk in Ostrava, Czech Republic, or Malaga, Spain, and a dozen eggs cost more in Dhaka than Dayton, Ohio, or Cyberjaya, Malaysia.¹⁹ These increased food costs in 2022 have put significant financial pressure on many in Bangladesh, particularly low-income earners such as those in the ready-made garment industry.

Examples of living wage benchmarks for Bangladesh

22. In preparing this complaint, the Complainants have researched three living wage benchmarks in Bangladesh. The first is developed by the Centre for Policy Dialogue, the second is developed by the Asia Floor Wage Alliance, and the third by Garment Worker Diaries. While there are other living wage benchmarks for Bangladesh, highlighting these three shows a range of living wage estimates based on the different assumptions considered by supporters of each. As discussed later in this complaint, the earnings workers in the ready-made garment industry on average fall far below any of these benchmarks.

23. As discussed above, the Centre for Policy Dialogue is a leading research institute in Bangladesh. The Centre for Policy Dialogue conducted research in 2022 to determine the cost of food expenditure in Dhaka City in May, 2022. It found that for a regular diet, the cost to feed a family of four was tk 21,358 per month. For a compromised diet, excluding fish, beef, mutton and chicken entirely, the cost was tk 8,016.²⁰ The Centre for Policy Dialogue further found that the average cost of

¹⁷ "Inflation hits 9-year high at 7.56%", *The Daily Star* (19 July 2022), online:

<<https://www.thedailystar.net/business/news/inflation-hits-9-year-high-in%20banglaesh-3074146>>

¹⁸ "Higher inflation, lower GDP this fiscal" *The Daily Star* (22 September 2022), online:

<<https://www.thedailystar.net/news/bangladesh/news/higher-inflation-lower-gdp-growth-fiscal-year-3125126>>

¹⁹ "Local prices of rice, oil, beef, egg, onion now higher than global markets: CPD" *The Daily Star* (20 March 2022), online: < <https://www.thedailystar.net/business/news/local-prices-rice-oil-beef-egg-onion-now-higher-global-markets-cpd-2986611>>

²⁰ Centre for Policy Dialogue, "State of the Bangladesh Economy in FY 2021-2022," published June 5, 2022, at p. 41, available online: < <https://cpd.org.bd/wp-content/uploads/2022/06/Presentation-IRBD-FY22-3rd-Reading.pdf>> [CPD, "State of the Bangladesh Economy].

living for a family of four eating a “regular” diet and living in a one bedroom apartment outside of the Dhaka city centre in May, 2022 would be tk 42,548, and eating a “compromised” diet in May of 2022 would be tk 29,206.²¹ For a family of four in a one bedroom apartment in Dhaka city centre, the cost would be tk 47,182 for a regular diet, and tk 33,841 for a compromised diet.²² The Centre for Policy Dialogue further found that an average worker in the cotton textile industry would not be able to afford the cost of the regular *or* compromised diet.²³

24. The Asia Floor Wage Alliance (“**AFWA**”) was founded in 2007 as an Asian-led labour alliance between garment-producing countries (including Bangladesh) and consumer regions (including Canada). The goal of AFWA is to address poverty level wages, gender discrimination, and freedom of association in global garment production networks.²⁴

25. AFWA has calculated a living wage in 2022 in Bangladesh to be tk 53,104 per month.²⁵ This is based on the following assumptions:

- a. A worker needs to be able to support themselves and two other “consumption units” (1 consumption unit being either 1 adult or 2 children);
- b. An adult requires at least 3,000 calories per day to be able to carry out physical labour;
- c. The Asia Floor Wage must be earned for a work week of maximum 48 hours, not including bonuses, allowances or benefits;
- d. The Asia Floor Wage was revised in 2022 using a Consumption Survey to calculate the cost of food and non-food expenditures of an Asian worker.²⁶

26. Microfinance Opportunities is a global non-profit based in the United States. SANEM is a non-profit research organization registered with the Registrar of Joint Stock Companies and Firms in Bangladesh. It is also a network of economists and policy makers in South Asia with a special emphasis on economic modeling. Microfinance Opportunities and SANEM collaborate on a unique data-gathering

²¹ CPD, “State of the Bangladesh Economy”, at p. 44.

²² CPD, “State of the Bangladesh Economy”, at p.45-46.

²³ CPD, “State of the Bangladesh Economy”, at p. 49.

²⁴ Asia Floor Wage website: < <https://asia.floorwage.org/about/>>

²⁵ Asia Floor Wage 2022, available online: < <https://asia.floorwage.org/living-wage/calculating-a-living-wage/>>

²⁶ Asia Floor Wage, Calculating a Living Wage, available online: < <https://asia.floorwage.org/living-wage/calculating-a-living-wage/>>

project called Garment Worker Diaries (“**GWD**”). GWD has received funding from the Laudes Foundation, the Bill & Melinda Gates Foundation, and the Embassy of the Kingdom of the Netherlands in Dhaka.

27. GWD estimates a 2022 living wage to in the following ranges for various locations, based on the cost of food, other necessities, and one of two types of housing:

- a. In Dhaka: tk 17,870 to tk 22,394;
- b. In satellite areas outside Dhaka: tk 19,536 to tk 23,191;
- c. In Chittagong: tk 20,579 to tk 24,939.²⁷

28. GWD’s estimate is slightly lower than the other benchmarks due largely to a difference in methodology. GWD calculates their living wage benchmarks based on living cost of a decent life defrayed over 1.58, the average number of adult earners in a household in Bangladesh, to arrive at the living wage estimate. However, from the perspective of establishing a living wage, some advocates consider this benchmark to be too low as it would result in single income families earning less than a living wage, especially if the single earner in the family is a woman. The living wage estimate of Asia Floor Wage Alliance is therefore based on their estimate of cost of living for a decent life based on a single wage earner.

29. If the GWD cost of living estimates are adjusted to assume there is one income earner per family, the living wage estimates for 2022 are higher, as follows:

- a. In Dhaka: tk 28,235 to tk 34,258
- b. In satellite areas outside Dhaka: tk 30,867 to tk 36,642
- c. In Chittagong: tk 32,515 to tk 39,404.

30. The table below summarizes the living wage benchmarks discussed above:

²⁷ Garment Worker Diaries, “Living Wage, Living Planet”, July, 2022, at p. 9, available online: <<https://workerdiaries.org/wp-content/uploads/2022/08/Living-Wage-Living-Planet.pdf>>

| | Amount in Bangladeshi Taka (per month) | Approximate equivalent in Canadian dollars²⁸ |
|--|--|--|
| Centre for Policy Dialogue living wage benchmark | tk 29,206 (family of four living outside Dhaka and eating compromised diet) to 47,182 (family of four living in Dhaka eating regular diet) | \$388.59 to \$627.77 |
| Asia Floor Wage Alliance living wage benchmark | tk 53,104 | \$706.56 |
| Garment Worker Diaries living wage benchmark (assuming 1.58 earners per household) | tk 17,870 Tk 24,939 | \$240.19 to \$335.21 |
| Garment Worker Diaries living wage benchmark assuming a single income earner per household) | tk 28,235 to tk 39,404 | \$374.58 to \$522.75 |

Minimum wage in Bangladesh is not a living wage for workers

31. The Complainants submit that there is compelling evidence that the wages received by workers in Bangladeshi factories supplying Mark's are insufficient to pay their basic costs of living and fall far short of any reasonable estimate of a living wage.
32. It is widely accepted that the main reference point for wage levels in the Bangladesh ready-made garment industry is the government-established entry-level minimum wage. The national government of Bangladesh last reviewed and established minimum wages in 2018 (with a slight adjustment as of January 2019).

²⁸ Note that this is a direct currency conversion, rather than a conversion based on [purchasing power parity](#). If converted using purchasing power parity conversions, the rate in Canadian dollars would be significantly higher.

The prior minimum wage rates were set in 2013. The next revision of minimum wages is due in 2023.

33. Trade Unions in Bangladesh face significant obstacles in organizing workers in the ready-made garment industry. The 2022 Global Rights Index (9th Edition) of International Trade Union Confederation (ITUC) again lists Bangladesh as one of the top ten worst countries for working people.²⁹ In the rare cases where independent trade unions have been recognized by labour officials, these unions have insufficient bargaining power to negotiate collective agreements with wage schedules (beyond reference to the legal minimum wages). As a result, collective agreements that have been reached are not a useful source of information on wages paid in the RMG sector.
34. Minimum wage in Bangladesh is a grid rather than one base minimum wage that applies to all workers. Wages are set for seven categories or grades of work, covering all positions in garment factories. Different grades apply to different occupations or categories of work in a factory. For example, the lowest grade, Grade 7, applies to “helpers”. The minimum wage is the entry level wage which is paid once a worker begins work in that grade. The distribution of workers in each wage grade varies by factory, but generally the majority of workers in the ready-made garment industry are in grades 4-6, with a large group of entry level workers in grade 7.

²⁹ Global Rights Index, “Workers Rights in 2022”, available online: <
<https://www.globalrightsindex.org/en/2022>>

35. Current minimum wages in the Bangladesh RMG sector are as follows:

| Grade | Taka | in Cnd \$³⁰ | per day (6 days per week) | Per hour (at 10 hours day) |
|--------------|---------------|-------------------------------|--|---|
| 7 | 8,000 | 109 | 4.55 | 0.46 |
| 6 | 8,420 | 115 | 4.79 | 0.48 |
| 5 | 8,875 | 121 | 5.05 | 0.50 |
| 4 | 9,347 | 128 | 5.32 | 0.53 |
| 3 | 9,845 | 134 | 5.60 | 0.56 |
| 2 | 15,416 | 211 | 8.77 | 0.88 |
| 1 | 18,257 | 249 | 10.39 | 1.04 |

³⁰ Canadian dollar equivalent at \$1 Cnd = 3.229 taka (as of Nov 3, 2022).

36. Even with the 2018 increase in minimum wage, the minimum wage falls far short of any living wage benchmark. The tables below compares minimum wages in Bangladesh to two of the living wage benchmarks discussed above:

| Legal Minimum Wages | | Asia Floor Wage | | Center for Policy Dialogue | | | |
|---------------------|--------|-----------------|------------------------------------|----------------------------|---------------------------------|---------------|------------------------------------|
| | | | | Dhaka | | Outside Dhaka | |
| Grade | Taka | Living Wage | min wage as percent of living wage | living wage | wages as percent of living wage | living wage | min wage as percent of living wage |
| 7 | 8,000 | 53,104 | 15% | 47,182 | 17% | 29,206 | 27% |
| 6 | 8,420 | 53,104 | 16% | 47,182 | 18% | 29,206 | 29% |
| 5 | 8,875 | 53,104 | 17% | 47,182 | 19% | 29,206 | 30% |
| 4 | 9,347 | 53,104 | 18% | 47,182 | 20% | 29,206 | 32% |
| 3 | 9,845 | 53,104 | 19% | 47,182 | 21% | 29,206 | 34% |
| 2 | 15,416 | 53,104 | 29% | 47,182 | 33% | 29,206 | 53% |
| 1 | 18,257 | 53,104 | 34% | 47,182 | 39% | 29,206 | 63% |

37. The legal minimum wage in Bangladesh is widely regarded as falling far below an acceptable living wage. For example, in its 2021 report “Wage theft and pandemic profits: the right to a living wage for garment workers” the Business & Human Rights Resource Centre writes:

Our research, comparing garment workers’ monthly minimum wages with living wage estimates, found the minimum wage in 12 major apparel exporting countries is, on average, over four times less than the wage workers need to live on. In Sri Lanka, the minimum wage of LKR 10,000 (US\$50) per month is a staggering seven times lower than the estimated living wage of LKR 75,601

(US\$384), while in Bangladesh it's one sixth of the living wage. **BHRRC has observed that brands frequently refer to local minimum wage laws in their responses to wage disputes in their supply chains, without addressing the inadequacy of local minimum wage setting mechanisms or of minimum wage enforcement [emphasis added].**³¹

38. The International Labour Organization reported in 2020 that “the only country in Asia and the Pacific whose minimum wage does not reach even the lowest international poverty line is Bangladesh” (though as demonstrated on the grid above, certain occupations in the garment sector receive higher rates of minimum wage).³² As outlined below, Canadian Tire’s Supplier Code only requires its suppliers to pay legal minimum wages. It is likely that many workers employed by Canadian Tire and Mark’s suppliers are paid the minimum wage. As outlined below, minimum falls far below a decent living wage, using any benchmark, in Bangladesh.

IV. MARK’S AND CANADIAN TIRE OPERATIONS IN BANGLADESH

39. In this complaint, the Complainants use the term “supplier” or “factory” to refer to a manufacturer and and/or factory that produces garments that are then sold by Canadian Tire and/or Mark’s in Canada.

40. The Complainants understand that Canadian Tire has extensive operations in Bangladesh, as it sources many of the garments it sells at Mark’s from suppliers and/or manufacturers there. The Complainants further understand that Canadian Tire maintains an offshore sourcing office in Bangladesh.

41. Canadian Tire does have a Supplier Code of Business Conduct dated July 4, 2012 (the “**Supplier Code**”), which applies to Canadian Tire suppliers and sub-suppliers. The Supplier Code is on behalf of Canadian Tire and its wholly-owned subsidiaries, including Mark’s. A copy of the Supplier Code is attached at **Tab B**. The Supplier Code states as follows with respect to Canadian Tire’s commitment to follow the ethical obligations in the Supplier Code:

³¹ Business & Human Rights Resource Centre, *Wage Theft and Pandemic Profits: the Right to a Living Wage for Garment Workers*, March, 2021, available online: https://media.business-humanrights.org/media/documents/Unpaid_wages_v9.pdf

³² International Labour Organization, *Global Wage Report, 2020-21: Wages and minimum wages in the time of COVID-19*, at p. 106, available online: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_762534.pdf

The Company will seek to identify and engage suppliers who conduct their business based on a set of ethical standards compatible with its own. The Company will favour suppliers who share its commitment to contribute to improving conditions in communities where they operate. **The Company will not knowingly do business with suppliers who do not meet the standards outlined in this Code** [*emphasis added*].³³

42. Among other things, the Supplier Code sets out expectations for suppliers in Section D, including wage expectations:

Wages and Benefits

Suppliers will, at a minimum, provide wages and benefits that comply with the laws of their country of operation.

Working Hours

Suppliers will not exceed prevailing local work hours except where workers are appropriately compensated for overtime. The Company will favour business partners who use less than sixty-hour work weeks and allow employees at least one day off in seven days, or equivalent leave privileges.³⁴

43. As indicated above, the Supplier Code only requires suppliers to pay legal minimum wages, regardless of the adequacy of the minimum wages, and it does not recognize the right to living wages in its supplier factories. Canadian Tire's standards are notably lower than other leading Canadian brands and retailers.

44. For example, Aritzia Inc.'s Supplier Code of Conduct includes the provision that "At a minimum, wages must always be enough to meet basic needs and to provide some discretionary income."³⁵

45. Similarly, Lululemon Athletica Inc.'s ("**Lululemon**") Vendor Code of Ethics also includes provisions recognizing the right to living wages:

The Vendor shall acknowledge that every worker has a right to compensation for a regular work week that is sufficient to meet the

³³ Canadian Tire, Limited, *Supplier Code of Business Conduct*, July 4, 2012, at p. 4 [**Supplier Code**].

³⁴ Supplier Code at p. 5.

³⁵ Aritzia Inc, *Supplier Code of Conduct*, available online: < <https://www.aritzia.com/en/aritzia/corporate-responsibility/supplier-code-of-conduct.html>>

worker's basic needs and provide some discretionary income [...] Where compensation does not meet the workers' basic needs and provide some discretionary income, each Vendor shall work with lululemon to take appropriate actions to progressively realize a level of compensation that does.³⁶

46. In this respect, Canadian Tire's Supplier Code is far less robust than comparable Canadian companies, providing a lower standard for suppliers.

Canadian Tire's lack of transparency around suppliers in Bangladesh

47. A second area in which Canadian Tire lags behind other Canadian brands who source garments from international suppliers is its lack of transparency around its sourcing practices. Canadian Tire and its subsidiaries do not publicly disclose any information related to suppliers in its global supply chain, or about how much workers are paid by those suppliers. However, many global and Canadian Brands publicly disclose the names and locations of factories they use in their supply chain. The most transparent corporations disclose additional information related to number of employees, employment status, union affiliation, and gender.

48. Some examples include:

- a. Loblaw Companies Limited ("**Loblaws**") posts a supplier factory list on its website, citing the name and location of the factory.³⁷
- b. Lululemon periodically publishes a supplier list, including the parent company of the supplier, facility name and location, number of workers, percentage of female workers, and product type produced.³⁸
- c. Hudson's Bay Company publishes its manufacturers list, including factory name and location.³⁹

³⁶ Lululemon, *Vendor Code of Ethics*, available online: <
<https://pnimages.lululemon.com/content/dam/lululemon/www-images/Sustainability/VendorCodeofEthicsv3.pdf>>

³⁷ Loblaw Companies Limited, *Loblaw apparel supply chain disclosure*, available online: <
<https://www.loblaw.ca/en/factory-list>>

³⁸ Lululemon Athletica Inc, *lululemon Supplier List Final April 2020*, available online: <
<https://pnimages.lululemon.com/content/dam/lululemon/www-images/Footer/Sustainability/lululemon-Supplier-List-Final-4-24-20.pdf>>

³⁹ Hudson Bay Company (HBC), *Manufacturers List*, available online: <
<https://www.hbc.com/sustainability/ethical-sourcing/manufacturers-list/>>

49. Through investigation, the Complainants have reason to believe that Canadian Tire utilizes suppliers in Bangladesh to manufacture garments sold by Mark's in Canada.
50. First, the Complainants have reviewed tags attached to clothing sold under Mark's brands. The tag "Made in Bangladesh" is frequently attached inside of garments sold under the brands owned by Mark's and/or Canadian Tire, such as Denver Hayes. Photos of such tags are attached at **Tab C**.
51. Second, the Complainants have sourced publicly-available data from a database called Panjiva Inc. ("**Panjiva**"). Panjiva is an intelligence platform based in New York City that provides data and information regarding global trade, including international commercial shipments.⁴⁰ Panjiva provides import and export details from commercial shipments worldwide, but particularly ocean-bound trade that passes through American ports. The Panjiva database sources information about global shipments based on the shipping bill of lading, which identifies the bill of lading number, shipment arrival date, shipment origin, place of receipt of shipment, name of vessel, shipper, container number, goods shipped, and party to be notified.
52. Using Panjiva, the Complainants identified over 1,000 shipments from approximately 30 suppliers that originated in Bangladesh, were associated with Mark's, and passed through US ports between January 1, 2019 to July 23, 2021.
53. For example, one page from Panjiva identifying a shipment of jackets from Patriot Eco Apparel Ltd, located in Gazipur, Bangladesh, shipped through the port of Tacoma, Washington, and identifying Mark's as the party to be notified is attached at **Tab D**.
54. The Complainants have compiled a list of suppliers in Bangladesh that they believe, based on information obtained through Panjiva, are associated with Mark's and/or Canadian Tire. A list of the suppliers identified by the Complainants is attached at **Tab E**.
55. Mark's commercial operations often rely on the use of financial intermediaries or consolidators which makes it difficult to identify the original supplier factory for many of the shipments. However, based on the above-noted information, the Complainants are confident that Mark's sources a significant amount of the garments for its owned brands from suppliers in Bangladesh. The Complainants

⁴⁰ More information is available on Panjiva Inc's website, < <https://panjiva.com/>>

are confident that they have identified the name and location some, but likely not all, suppliers used by Mark's in 2019 to 2022.

Wages paid by Mark's and Canadian Tire suppliers

56. The Complainants submit that there is compelling evidence that the wages received by workers in Bangladeshi factories supplying Mark's are insufficient to pay their basic costs of living and fall far short of any reasonable estimate of a living wage.

Garment Worker Diaries and average wages in the ready-made garment sector

57. Mark's itself does not disclose wage levels paid in its supplier factories. In order to gather evidence of wages paid to workers in factories that supply Mark's, the Complainants have worked with a data collection project called Garment Worker Diaries ("GWD"). As noted above, GWD is a joint project between Microfinance Opportunities and SANEM. GWD data has been used by a varied and diverse group of stakeholders, including corporations that use suppliers in Bangladesh, such as Primark and Mark's & Spencer. GWD is committed to producing reliable and valid data around the working conditions and wages of garment workers in Bangladesh.

58. GWD conducts interviews each week with a panel of about 1,300 workers in the ready-made garment industry. Since April 2020 these interviews have taken place over the phone—prior to that workers kept a record of their responses in a notebook which they shared with the survey takers. The interviews cover a core set of topics every week including work hours, wages, place of employment, loans, savings, transfers, and some expenditures. Workers participate in the process voluntarily, with informed consent. Through the weekly interview process, the GWD field team has been able to build a relationship of trust with the workers they interview. They can also validate the responses of workers against data the worker provided previously, to assure quality. The result is high quality data that covers a wide variety of topics making GWD uniquely situated to provide strong evidence of actual wages earned by garment workers in the ready-made garment industry in Bangladesh.

59. GWD reports that for the first quarter of 2022, the actual monthly income earned by garment workers in their sample ranged from tk 11,737 to tk 14,400, depending on gender and industrial area. This includes income for all hours of work, including overtime. GWD then adjusts the income in their sample to account for overtime hours worked, and what the worker would have earned for a standard workweek

of 48 hours (working 8 hours per day, 6 days per week). The rationale for adjusting income to a 48-hour work week is that a living wage should be a wage that is sufficient to support a worker’s basic needs **without** the worker needing to resort to overtime work.

60. GWD’s survey found the following monthly income for the first quarter of 2022:⁴¹

| Industrial area | Actual Monthly Income Earned (Q1 2022) | | Monthly Income from Standardized Workweek | |
|-----------------|--|--------|---|--------|
| | Women | Men | Women | Men |
| Chittagong | 11,737 | 13,547 | 10,157 | 11,168 |
| Dhaka | 10,920 | 12,039 | 8,840 | 9,691 |
| Satellite Areas | 12,673 | 14,400 | 9,568 | 10,680 |

61. To the extent that Mark’s suppliers in Bangladesh pay wages similar to wages paid industry-wide as shown through the GWD data, wages in Mark’s suppliers would be inadequate to allow workers to provide a minimum decent standard of living. As shown below, there is a significant gap between wages earned and *any* living wage benchmark for workers in Bangladesh.

GWD data of actual wages paid in factories supplying Mark’s

62. In order to test whether GWD’s general data on worker wages industry-wide is indicative of Mark’s suppliers, USW provided GWD with the list of supplier factories generated through the Panjiva data analysis and commissioned a custom data run. GWD cross-referenced supplier factories present in their database, for which they have worker wage data, with the list of Mark’s factories identified through Panjiva. GWD found five factories used by Mark’s for which GWD has worker wage data. GWD then completed a custom data run based worker responses for workers employed in these factories. To be clear: for 5 factories that the Complainants believe Mark’s uses to produce clothing, GWD has *actual data* showing how much some workers in those factories are paid.

⁴¹ Guy Stuart, Carol Karimi, and Giulia Di Lisio, Garment Worker Diaries, “Living Wage Living Planet: Part 2”, posted May 19, 2022, available online: < <https://workerdiaries.org/living-wage-living-planet-part-two/>>

| Mark's | | |
|---------------|-----------|---------------|
| | factories | Avg # workers |
| 2019 | 5 | 12 |
| 2020 | 4 | 11 |
| 2021 | 5 | 11 |
| 2022 | 5 | 10 |
| avg all years | 5 | 11 |

63. The Complainants will not identify the names of specific supplier factories for confidentiality reasons. GWD and the Complainants are committed to protecting the confidentiality of individual workers participating in the project to prevent potential reprisals from employers. The Complainants can specify that the factories used by Mark's for which GWD had worker data were all in the satellite areas outside Dhaka and in Chittagong.
64. From 2019 to 2022, individuals employed at Mark's supplier reported an average monthly income, adjusted to 48 hours per week, of tk 10,250 (roughly \$134 Canadian dollars) compared to tk 9,401 for the overall sample of GWD participants during the same periods. In other words, the data does not show a dramatic difference in the wages of workers at Mark's suppliers compared to the overall industry-wide sample.
65. GWD then applied to the living wage benchmark they developed for 2022 to workers' regularized standard income based on the region where the majority of workers are located (in the case of Mark's the benchmarks for satellite areas outside of Dhaka). Living wage benchmarks for years prior to 2022 were calculated by GWD by applying government reported annual inflation rates back to 2019.
66. The GWD data from workers employed at the identified Mark's supplier factories indicates that wages are insufficient to meet living wage benchmarks.
67. GWD's data shows that in all time periods 2019 to 2022 (to July) the median standardized monthly income for workers employed in Mark's supplier factories are **less than 50% of the GWD living wage benchmark using the higher estimate of living wages for the Dhaka satellite area**, and only reached 60% of the lower living wage benchmark for that region. In other words, the GWD data suggests that workers employed in Mark's supplier factories face a living wage gap of between 45% and 55%. The standardized wages earned by workers in Mark's

supplier factories are about 10% higher than wages earned industry-wide, but nevertheless the living wage gap is significant. Wages in Mark's supplier factories would have to at least double in order for workers to earn a living way by any benchmark.

68. The table below shows the gap between the median income reported by workers in factories that supply Mark's and the GWD higher living wage benchmark:

| Mark's – Gap between median income and GWD <i>higher</i> living wage estimate | | | |
|--|---------------|--------------------|----------------------|
| | Median income | Gap to living wage | Share of living wage |
| 2019 | 9,568 | 10,098 | 49% |
| 2020 | 10,300 | 10,440 | 50% |
| 2021 | 9,896 | 11,947 | 45% |
| 2022 | 10,528 | 12,663 | 45% |
| avg all years | 10,098 | 11,194 | 47% |

note - median income = standardized income (ie. income adjusted to reflect what workers earn in a standard work week of 6 days * 8 hours per day, with no overtime paid)

69. The table below shows the gap between the median income reported by workers in factories that supply Mark's and the GWD *lower* living wage benchmark:

| Mark's – Gap between median income and GWD <i>lower</i> living wage estimate | | | |
|---|---------------|--------------------|----------------------|
| | Median income | Gap to living wage | Share of living wage |
| 2019 | 9,568 | 6,999 | 58% |
| 2020 | 10,300 | 7,171 | 59% |
| 2021 | 9,896 | 8,505 | 54% |
| 2022 | 10,528 | 9,008 | 54% |
| avg all years | 10,098 | 7,838 | 56% |

70. As demonstrated above, the GWD living wage benchmarks provide the lowest estimates of wages required to support a decent life among the different benchmarks available (including the AFWA benchmark). If the GWD wage data for

Mark's suppliers is measured against other living wage benchmarks discussed earlier, including an adjusted GWD benchmark based on a single income earner, ***the living wage gap would be considerably larger***. It is important to note that worker advocates and trade union leaders in Bangladesh may regard the GWD living wage benchmarks as unreasonably low when compared, for example, to the AFWA benchmark.

71. Based on all the foregoing, the Complainants submit that there is clear, cogent, and persuasive evidence that at least a portion of employees working for suppliers for Mark's and Canadian Tire are paid significantly less than a living wage. As discussed in greater detail in the next section, this is a human rights abuse arising out of Mark's and/or Canadian Tire's operations that is well within CORE's mandate to investigate.

Canadian Tire's response to allegations of using factories paying poverty-level wages

72. A key finding from the SHF 2021 report *Not Even the Bare Minimum* is that garment workers employed in Bangladesh supplier factories supplying Canadian brands, including Mark's and Canadian Tire, are paid poverty level wages. Prior to posting the report on their website, the Business and Human Rights Resource Center contacted Canadian Tire to give the company an opportunity to respond to the report. Canadian Tire's response is attached at **Tab F**.
73. Canadian Tire's April 8, 2021 response to *Not Even the Bare Minimum* indicated that it had read the report, which means it is fully aware of the concerns regarding low wage levels paid by its supplier factories. In its response the Company indicates that it has staff that visit supplier factories in Bangladesh. What is also noteworthy is that although the company asserted that factory visits were made to confirm workers were being "treated fairly", the company provided no rebuttal on the question of whether wages are adequate to provide a decent standard of living.

V. THE FAILURE TO PAY A LIVING WAGE IS A HUMAN RIGHTS ABUSE

The CORE Mandate

74. The CORE mandate is established by the [Order in Council⁴² 2019-1323](#) (the "OIC"). The OIC is the document that created CORE and it is that document from

⁴² An Order in Council is a legal document made by the Governor General on the recommendation of the Prime Minister or responsible Minister, and take legal effect when signed by the Governor General. For more information see: < <https://www.canada.ca/en/privy-council/services/orders-in-council.html>>

which CORE takes its jurisdiction and powers. CORE cannot act outside of its mandate.

75. CORE's mandate is articulated in the OIC as follows:

Mandate

4 The mandate of the Ombudsperson is to

(a) promote the implementation of the UN Guiding Principles and the OECD Guidelines;

(b) advise Canadian companies on their practices and policies with regard to responsible business conduct;

(c) review a complaint that is submitted by or on behalf of an individual, organization or community concerning an alleged human rights abuse where the abuse allegedly occurred after the day on which the first Ombudsperson is appointed or, if it allegedly occurred before that day, is ongoing at the time of the complaint;

(d) review, on the Ombudsperson's own initiative, an alleged human rights abuse where the abuse allegedly occurred after the day on which the first Ombudsperson is appointed or, if it allegedly occurred before that day, is ongoing at the time of the review;

(e) offer informal mediation services; and

(f) provide advice to the Minister on any matter relating to their mandate, including issues related to the responsible business conduct of Canadian companies operating abroad.

5 In discharging the mandate, the Ombudsperson is to be guided by the UN Guiding Principles and the OECD Guidelines.

6 In discharging the mandate, the Ombudsperson is not to create new standards concerning responsible business conduct.⁴³

76. Notably, section 5 of the OIC refers to the UN Guiding Principles and the OECD Guidelines, defined in the OIC as follows:

⁴³ [Order in Council⁴³ 2019-1323](#) at ss. 4-5 [OIC].

OECD Guidelines means the Organisation for Economic Co-operation and Development's Guidelines for Multinational Enterprises. (Principes directeurs de l'OCDE)

UN Guiding Principles means the United Nations Guiding Principles on Business and Human Rights. (Principes directeurs des Nations Unies)

77. Human rights abuse is defined in the OIC as follows:

human rights abuse means an adverse impact on an internationally recognized human right — including any of the human rights that are referred to in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights — arising from a Canadian company's operations abroad. (atteinte aux droits de la personne)

78. In total, the OIC refers to five international instruments governing international human rights. For the purpose of this complaint, the Complainants rely on the following four international human rights instruments:

- a. [Universal Declaration of Human Rights](#) (the “**UDHR**”);
- b. [The International Covenant on Economic, Social and Cultural Rights](#) (the “**ICESC**”);
- c. [The UN Human Rights Guiding Principles on Business and Human Rights](#) (the “**UN Guiding Principles**”); and
- d. [The OECD Guidelines for Multinational Enterprises](#) (the “**OECD Guidelines**”).

79. As discussed in greater detail below, each of these international human rights instruments protects the right to a living wage. The Complainants submit that a Canadian company's failure to ensure workers in their supply chain are paid a living wage is a human rights abuse as defined by the OIC, and it is within the CORE's mandate to review such conduct.

The Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social and Cultural Rights (ICESC)

80. The UDHR and ICESCR are both incorporated directly into the definition of “human rights abuse” in the OIG. Any human right identified under the UDHR or ICESCR is within CORE’s mandate to review as a human rights abuse.

81. The UDHR was proclaimed by the United Nations General Assembly in Paris on December 10, 1948. It was the first covenant to set out fundamental, international, human rights. The ICESCR was adopted by the United Nations General Assembly on December 16, 1966.

82. Together, the UDHR, the ICESCR, and the International Covenant on Civil and Political Rights are commonly referred to as the “International Bill of Rights”.⁴⁴

83. With respect to economic rights, the UDHR provides:

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. **Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.**
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

⁴⁴ United Nations Human Rights Office of the High Commissioner, *International Bill of Human Rights: A Brief History and the two International Conventions*, available online: <https://www.ohchr.org/en/what-are-human-rights/international-bill-human-rights>

Article 25

1. **Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control** [*emphasis added*].

84. Similarly, the ICESCR provides as follows with respect to rights at work:
Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) **Remuneration which provides all workers, as a minimum, with:**

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays [*emphasis added*].

85. The ICESCR further defines an adequate standard of living in Article 11 as follows:

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

86. As seen above, both the UDHR and the ICESCR identify fair wages as a human right for workers, and define a fair wage as one which allows them to provide a decent living for the worker and the worker's family, which is adequate in terms of providing for their well-being. The UDHR specifies that an adequate standard of living includes being able to afford food, clothing, housing, medical care, and other social supports. The ICESCR specifies that an adequate standard of living includes adequate food, clothing, housing, and to the continuous improvement of living conditions.

87. Based on the UDHR and ICESCR requirements, a Canadian company's failure to ensure garment workers within its supply chain earn a living wage is well within the mandate of the CORE to investigate as a human rights abuse.

The UN Guiding Principles

88. The UN Guiding Principles were developed by the Special Representative of the Secretary-General to the UN on the issue of transnational corporations and business enterprises and human rights. The UN Human Rights Council endorsed the UN Guiding Principles in a resolution dated June 16, 2011.⁴⁵

89. CORE's mandate expressly requires it to "promote the implementation of the UN Guiding Principles and the OECD Guidelines", and provides, "in discharging its mandate, the Ombudsperson is to be guided by the UN Guiding Principles and the OECD Guidelines".⁴⁶ While the UN Guiding Principles and OECD Guidelines are not included in the definition of "human rights abuse", they are nevertheless crucial to understanding CORE's mandate, and their provisions should inform how CORE conducts a review and determines its final recommendations.

⁴⁵ United Nations Human Rights Office of the High Commissioner, "Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect, and Remedy" Framework", (United Nations: New York and Geneva, 2011), at p. iv (the "**UN Guiding Principles**").

⁴⁶ OIC at s. 4.

90. The UN Guiding Principles apply to “all States and to all business enterprises, both transnational and others, regardless of their size, location, ownership, and structure”.⁴⁷ The UN Guiding Principles Part II is entitled “the Corporate Responsibility to Respect Human Rights”, and it provides principles for transnational corporations and other business entities in protecting and respecting human rights in the countries in which they engage in business activities.

91. As a starting point, section 11 of Part II provides:

11. Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.⁴⁸

92. The commentary on section 11 clarifies that this obligation exists “over and above compliance with national laws and regulations protecting human rights.”⁴⁹

93. Section 12 of Part II provides more information regarding the human rights that business enterprises should respect:

12. The responsibility of business enterprises to respect human rights refers to internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work.⁵⁰

94. As detailed above in section 12, the UN Guiding Principles define the term “human rights” as encompassing the definition from the International Bill of Rights and the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work. As stated above, the International Bill of Rights is itself comprised of three documents, taken together: the UDHR, the ICESCR, and the International Covenant on Civil and Political Rights.⁵¹ As explained in greater detail above, the UDHR and the ICESCR enshrine the concept of a fair wage as a human right. By

⁴⁷ UN Guiding Principles at p. 1.

⁴⁸ UN Guiding Principles at p. 13.

⁴⁹ UN Guiding Principles at p. 13.

⁵⁰ UN Guiding Principles at p. 13.

⁵¹ See the UN website for a history and description of the International Bill of Rights, available online: <https://www.ohchr.org/en/what-are-human-rights/international-bill-human-rights>

extension, when the UN Guiding Principles refers to “human rights”, such a definition includes a fair wage for workers.

95. The UN Guiding Principles make it clear that a transnational enterprise’s responsibility to prevent human rights abuses applies not only to workers that it employs directly, but also to workers through the entire supply chain. Under the UN Guiding Principles, corporations have a responsibility to ensure human rights abuses are not linked to their business enterprise through their business relationships. Contracting out manufacturing work and turning a blind eye to human rights abuses in the supply chain does not absolve a business enterprise of its human rights responsibilities. For example, section 13 of the UN Guiding Principles reads:

13. The responsibility to respect human rights requires that business enterprises:

(a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;

(b) Seek to prevent or mitigate adverse human rights impacts **that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.**

Commentary

Business enterprises may be involved with adverse human rights impacts either through their own activities or as a result of their business relationships with other parties. Guiding Principle 19 elaborates further on the implications for how business enterprises should address these situations. **For the purpose of these Guiding Principles a business enterprise’s “activities” are understood to include both actions and omissions;** and its **“business relationships” are understood to include relationships with business partners, entities in its value chain, and any other non-State or State entity directly linked to its business operations, products or services** [*emphasis added*].

96. Where corporations are aware of poverty-level wages being paid to workers at the factories they use, or ought to be aware of same, but fail to remedy this issue in their supply chain, such corporations are complicit in the human rights abuse.

Under the UN Guiding Principles section 13(b), even if the corporation is only linked to the human rights abuse through their business relationship (i.e. relationship with the factory), and even if they have not contributed to those impacts (i.e. even if they do not directly set the wages), they are obligated nevertheless to seek to prevent or mitigate the adverse human rights impact. In the case of garment manufacturing, corporations that pay the lowest possible price to a factory to manufacture clothing ought to know that the price they pay cannot possibly support a living wage for the employees manufacturing the corporation's products.

97. The United Nations Global Compact describes the obligations in the UN Guiding Principles as follows:

As part of the corporate responsibility to protect and respect human rights outlined in the UN Guiding Principles on Business and Human Rights (UNGPs), working poverty caused by low wages in the workplace and supply chains should be reflected in the human rights due diligence approaches businesses conduct.⁵²

98. Pursuant to the UN Guiding Principles, corporations have a *positive obligation* to conduct due diligence to ensure there are no human rights abuses occurring in their supply chain. A corporation must be proactive in building supply chain relationships with manufacturers that respect human rights, including paying fair wages to employees.

The OECD Guidelines

99. The OECD Guidelines are recommendations from governments to multinational enterprises operating in “adhering countries” – that is to say, countries who agree to the guidelines. On December 14, 1960, Canada signed the convention founding the OECD, and pledging its full dedication to achieve the OECD's fundamental goals.⁵³

100. As stated above, the OECD Guidelines, like the UN Guiding Principles, are embedded in CORE's mandate.⁵⁴

⁵² United Nations Global Compact, “Ensuring a Living Wage is an Essential Aspect of Decent Work”, available online: <https://www.unglobalcompact.org/what-is-gc/our-work/livingwages>

⁵³ OECD Website, “Canada and the OECD”, available online: <https://www.oecd.org/canada/canada-and-oecd.htm>

⁵⁴ OIC at s. 4.

101. The OECD Guidelines provide as follows with respect to the obligation of multinational enterprises to respect human rights:

States have the duty to protect human rights. Enterprises should, within the framework of internationally recognised human rights, the international human rights obligations of the countries in which they operate as well as relevant domestic laws and regulations:

1. Respect human rights, which means they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.

2. Within the context of their own activities, avoid causing or contributing to adverse human rights impacts and address such impacts when they occur.

3. Seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts.

4. Have a policy commitment to respect human rights.

5. Carry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts.

6. Provide for or co-operate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have caused or contributed to these impacts.

102. Again, the OECD Guidelines, like the UN Guiding Principles, define human rights with reference to the International Bill of Rights, meaning that the definition of human rights from the UDHR and ICESCR are incorporated into the Guidelines.⁵⁵

103. Further, the OECD Guidelines make it clear that multinational enterprises must respect human rights regardless of the laws of the country in which they are operating. Even if a transnational enterprise is operating in technical compliance with domestic laws (for example, by ensuring factories in its supply chain pay

⁵⁵ OECD Guidelines at p. 32, para 39.

workers a minimum wage), that does not absolve it of its responsibility to prevent human rights abuses in its supply chain:

37. The chapeau and the first paragraph recognise that States have the duty to protect human rights, and that enterprises, regardless of their size, sector, operational context, ownership and structure, should respect human rights wherever they operate. **Respect for human rights is the global standard of expected conduct for enterprises independently of States' abilities and/or willingness to fulfil their human rights obligations, and does not diminish those obligations.**

38. **A State's failure either to enforce relevant domestic laws, or to implement international human rights obligations or the fact that it may act contrary to such laws or international obligations does not diminish the expectation that enterprises respect human rights.** In countries where domestic laws and regulations conflict with internationally recognised human rights, enterprises should seek ways to honour them to the fullest extent which does not place them in violation of domestic law, consistent with paragraph 2 of the Chapter on Concepts and Principles [*emphasis added*].

104. For example, though Bangladesh may set a minimum wage that is followed by the factories used by Canadian garment manufacturers, that does not absolve these corporations from the obligation to ensure workers in those factories are receiving a fair wage. A fair wage or a living wage is much higher than the minimum wage set by law in Bangladesh.

The International Labour Organization

105. Finally, the International Labour Organization (“ILO”) is a tripartite UN agency, bringing together governments, employers, and workers from its 187 member states. The ILO’s mandate is to set labour standards, develop policies, and devise programs to promote decent work for all.⁵⁶ Bangladesh has been member of the ILO since 1972, and Canada has been a member since 1919.⁵⁷

⁵⁶ See ILO website, “About the ILO”, available online: <https://www.ilo.org/global/about-the-ilo/lang-en/index.htm>

⁵⁷ ILO website, “Country profile”, available online: [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11003:0:NO:::~#B](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11003:0:NO:::#B)

106. The ILO has recognized the importance of a decent wage in the lives of workers.

107. In June, 2019, the General Conference of the ILO adopted the ILO Centenary Declaration for the Future of Work. The Centenary Declaration provides in part as follows:

B. Strengthening the institutions of work to ensure adequate protection of all workers, and reaffirming the continued relevance of the employment relationship as a means of providing certainty and legal protection to workers, while recognizing the extent of informality and the need to ensure effective action to achieve transition to formality. All workers should enjoy adequate protection in accordance with the Decent Work Agenda, taking into account:

(i) respect for their fundamental rights;

(ii) **an adequate minimum wage, statutory or negotiated**;

(iii) maximum limits on working time; and

(iv) safety and health at work.

108. The ILO's Declaration on Fundamental Principles and Rights at Work, initially adopted in 1998 and amended in 2022, affirms the obligations and commitments inherent in the membership of the ILO. The Declaration on Fundamental Principles and Rights at Work sets a standard for international labour law, and recognizes the importance of collective bargaining and other labour rights to support workers to claim their share of the wealth they help to generate:

[...]

Whereas, in seeking to maintain the link between social progress and economic growth, **the guarantee of fundamental principles and rights at work** is of particular significance in that it enables the persons concerned to claim freely and on the basis of equality of opportunity their fair share of the wealth which they have helped to generate, and to achieve fully their human potential;

[...]

The International Labour Conference,

[...]

2. Declares that all Members, even if they have not ratified the Conventions in question, have an obligation, arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour;
- (d) the elimination of discrimination in respect of employment and occupation; and
- (e) a safe and healthy working environment.⁵⁸

109. The ILO recognizes how labour rights, including the right of freedom of association and collective bargaining, intersect with the distribution of wealth to workers. The ILO's declaration is a crucial component of any analysis into international human rights obligations relating to workers' rights, and provides important context on the interrelated labour rights that support the right to a living wage.

110. Finally, in October of 2022, the ILO released a brief entitled "Setting adequate wages: the question of living wages".⁵⁹ In it, the ILO recognized the importance of a living wage for workers, stating:

The setting of adequate wages is an essential mechanism to enable decent living standards and incomes for women and men workers

⁵⁸ International Labour Organization, *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up*, 2022 (first published in 1998), available online: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/normativeinstrument/wcms_716594.pdf

⁵⁹ International Labour Organization, *Setting adequate wages: The question of living wages*, October, 2022, available online: https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/briefingnote/wcms_857876.pdf [ILO Living Wage Brief].

and their families, while at the same time ensuring the sustainability of enterprises which create the jobs for these workers.⁶⁰

Summary: Corporate Responsibility to Pay a Fair Wage

111. In summary, the international human rights instruments enshrined in CORE's mandate provide for the following principles:
- a. When Canadian companies fail to ensure that workers in their international supply chain are making a living wage, they are committing, or are at least complicit in, a human rights violation (UDHR, ICESCR).
 - b. Canadian companies have a positive obligation to ensure that workers throughout their supply chain are paid a living wage, whether or not the Canadian company is directly paying those workers or setting wages in their supply chain (UN Guiding Principles).
 - c. Canadian companies have an obligation to conduct due diligence for human rights abuses throughout their supply chain, including in companies that they subcontract work to, such as factories (UN Guiding Principles).
 - d. Canadian companies have an obligation to uphold human rights for workers in their supply chain, even where the state government where those workers operate does not fulfil its human rights obligations (OECD Guidelines). Thus, it is not sufficient that factories are paying workers the minimum wage established by the government in Bangladesh – they must pay a *living wage* in order to comply with their international human rights obligations.

VI. ADMISSIBILITY CRITERIA ARE MET

112. The CORE admissibility criteria have been met with respect to this complaint. The CORE admissibility criteria are as follows:

5.7 A complaint will be considered admissible when the Ombud is satisfied there is sufficient information regarding the following admissibility criteria:

5.7.1 What is complained about is allegedly an abuse of an internationally recognized human right;

⁶⁰ ILO Living Wage Brief at p. 1.

5.7.2 The alleged human rights abuse arises from the operations abroad of a Canadian company in the garment, mining, or oil and gas sectors; and,

5.7.3 What is complained about allegedly took place after May 1, 2019 or if it allegedly occurred before May 1, 2019, it is continuing at the time of the complaint.⁶¹

113. As discussed above, Canadian Tire and/or Mark's failure to pay a living wage is an abuse of an internationally-recognized human right, as enshrined in several international human rights instruments. The first admissibility criteria is therefore met.
114. Second, Canadian Tire and Mark's are Canadian companies. As discussed above, Canadian Tire was first created by letters patent in 1927, and is now governed by the Ontario *Business Corporations Act*. It is a public company trading on the TSX. Mark's is a wholly-owned subsidiary of Canadian Tire, and therefore is also a Canadian company.
115. The Complainants submit that the human rights abuse arises out of the operations of Mark's and/or Canadian Tire, as is required by the second admissibility criteria. As noted above, The OECD Guidelines and UN Guiding Principles are both incorporated into the CORE's mandate, and both documents recognize a *positive obligation* on international enterprises to ensure there are no human rights violations in their supply chains, whether they directly caused those violations or not. By this definition, any failure of a Mark's supplier to pay a living wage is, by extension, a human rights abuse *arising out of Mark's operations*.
116. Further, researchers have reported that corporations using the ready-made garment industry in Bangladesh have the power to set prices with suppliers, and prices have trended downward since 2016.⁶² This downturn in prices squeezes suppliers to cut costs, and this in turn has resulted in lower wages for workers, especially for women. Mark Anner, a professor at the Pennsylvania State University who has conducted extensive research into the ready-made garment

⁶¹ The [Operating Procedures](#) for the Human Rights Responsibility Mechanism of the Canadian Ombudsperson for Responsible Enterprise, at s. 5.7.

⁶² Mark Anner, "Squeezing workers' rights in global supply chains: purchasing practices in the Bangladesh garment export sector in comparative perspective", *Review of International Political Economy*, June 27, 2019, doi: doi.org/10.1080/09692290.2019.1625426, at p. 14.

industry in Bangladesh, has written as follows with respect to the impact of purchasers, such as Mark's, in negotiating low prices with suppliers in Bangladesh:

The impact of the price and sourcing squeeze are far more deleterious for workers. This is because, just as there is a power imbalance between lead firms and suppliers, so too is there a power imbalance between suppliers and their workers, most of whom are poor, young women from the countryside. As Raworth and Kidder (2009, p. 165) observe, **'suppliers transfer the pressure onto workers, who bear it in the form of precarious employment; workforces that are composed primarily of women and migrant workers endure insecure contracts, low wages, excessive hours and few benefits'**.

To explore wage and hours of work, during the year we were conducting the supplier survey in Bangladesh we also conducted structured interviews with garment workers in the Dhaka region. What the survey findings indicate is that, for an average monthly wage, female workers earned USD 77.34 and male workers earned USD 92.94. For average monthly wages with overtime pay and bonuses, female workers reported earning USD 99.17 and male workers reported earning USD 120.29. This amounts to an hourly take-home wage of USD 0.37 for women and USD 0.44 for men (see Table 2). Some 12.2% of men and 4.3% of women indicated that their wages always covered their living expenses. **What these data suggest is that the price squeeze has contributed to sub-poverty wages and that women workers face additional discrimination based on their gender.** This provides support for the arguments of gender-based wage discrimination in GSCs (Barrientos, Dolan, & Tallotire, 2003).⁶³

117. The research establishes that companies like Mark's who use suppliers in Bangladesh have the power to set prices, which in turn have a direct impact on the wages and working conditions paid in the factory. The Complainants submit that Mark's has the power to determine which suppliers it will contract with to manufacture its garments, and to negotiate prices with each supplier. In this way too, the poverty-level wages paid by supplier factories used by Mark's is a human rights abuse that arises out of Mark's' operations.

⁶³ Anner, supra, at p. 18

118. Finally, as described in this complaint, the Complainants' research demonstrates that Mark's and/or Canadian Tire have been using factories that pay workers less than a living wage since at least 2019, and continuing to present.

119. For all the reasons herein, the Complainants submit that the CORE's admissibility criteria have been met, and requests the CORE admit this complaint.

VII. CONCLUSION AND RELIEF REQUESTED

120. Based on the information provided in this complaint, the Complainants request that CORE investigate Mark's and Canadian Tire to determine the extent of their human rights abuses in the Bangladesh ready-made garment industry, specifically, their failure to ensure workers in their supply chain are paid a living wage.

121. It is likely that the vast majority of garment workers employed in Mark's supplier factories are earning wages that fall far short of living wages, in violation of their human rights. It may be that some workers in some supplier factories receive wages that come near to or exceed living wage benchmarks. Nevertheless, there is evidence that there are workers employed in Mark's supplier factories that are not paid living wages. That is a shameful violation of human rights, irrespective of the overall number of workers who are in that situation, be it dozens or thousands. At issue is: how pervasive is the rights violation, and what must be done to remedy it.

122. The Complainants ask that CORE issue a final report that makes the following recommendations:

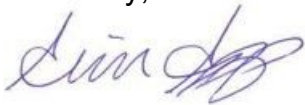
- a. That Mark's and/or Canadian Tire publicly commit to ensuring a living wage is paid to all workers in its global garment supply chain.
- b. That Mark's and/or Canadian Tire change their policies, including but not limited to any purchasing and/or pricing policies, to provide that workers in their supplier factories will be paid at least a living wage, and negotiate mechanisms with independent Bangladeshi trade union federations to ensure living wages continue to be paid in supplier factories;
- c. That Mark's and/or Canadian Tire publicly disclose information related to their garment supply chain, according to the requirements of The Apparel and Footwear Supply Chain Transparency Pledge developed by a coalition

international human rights advocacy organizations.⁶⁴ A company meeting the standards of the Pledge will publish on its website on a regular basis: the full name of all supplier factories, the site address, the parent company of the factory, the type of products made, and the number of workers at each site.

- d. That Mark's and/or Canadian Tire negotiate with independent Bangladeshi trade union federations representing workers in the garment sector and in the factories supplying Mark's and Canadian Tire to provide financial compensation to workers who were paid less than a living wage in manufacturing its garments;
 - e. That Mark's and/or Canadian Tire issue a formal apology to workers in the factories they use to manufacture garments for their role in those workers being paid less than a living wage;
 - f. That the CORE monitor Mark's and/or Canadian Tire's progress in pursuing any recommendations at regular intervals for a period of not less than 5 years, and issue follow-up reports at least every 6 months publicly reporting the status of Mark's and/or Canadian Tire's progress on each recommendation; and
 - g. Any such further or other recommendations that the Complainants may request or the CORE may deem appropriate and/or just.
123. The Complainants look forward to hearing from the CORE about the next steps in processing this complaint. Please do not hesitate to contact Erin Epp, counsel to USW, to discuss this complaint further:

- a. Email: eepp@usw.ca
- b. Phone: 416-544-5986

Sincerely,



Erin Epp

On behalf of United Steelworkers and Canadian Labour Congress

⁶⁴ <https://transparencypledge.org/>