



Respecting **trade union rights** in global value chains

WBCSD webinar with
David Vermijs, Shift

19 March 2020

Content

Webinar logistics

Introduction

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Respecting trade union rights in global value chains

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Q&A

Save the dates



Webinar **logistics**

Recording & materials

The meeting is being recorded.

We will share recording, webinar slides and additional material with you via email.

Questions & Comments

During the presentation, please share your questions and comments via the **chat function**.

During the Q&A, you can also **unmute your microphone** to speak.

Respecting trade union rights in global value chains

David Vermijs, Senior Adviser, Shift



Respecting Trade Union Rights in Global Value Chains

Practical Approaches for Business

19 March 2020 –Webinar for WBCSD



RESPECTING TRADE UNION RIGHTS IN GLOBAL VALUE CHAINS

Practical Approaches
for Businesses

Why & How

Why this publication?

“When it comes to taking action, many companies still struggle to identify and implement meaningful action to address identified risks to trade union rights in global value chains.”

How was it developed?

- Collaboration between Shift and Mondiaal FNV
- Interviews with leaders from all relevant parties
- Cases and interesting examples

HOW TO USE THIS PUBLICATION

1

UNDERSTANDING

What are trade union rights and why are they important?

Learn more about trade union rights: what are they and why do they matter to business

2

ASSESSING

How to recognize risks to trade union rights?

Use the diagnostic tool to assess how your company may be connected to impacts on trade union rights

3

ADDRESSING

What actions can companies take?

Consider various approaches and become inspired by company examples to prevent and address impacts

Part 1

What are trade unions rights and why are they important?

PART 1

What are trade union rights
and why are they important?

1. **What are trade union rights?**
2. **What are international expectations?**
3. **How do impacts manifest on the ground?**
4. **Why should companies seek to respect them?**

What are Trade Union Rights?

* RBC = Responsible Business Conduct
* ICSR= International Corporate Social Responsibility

Legal basis

Freedom of Association and Protection of the Right to Organize (ILO Convention 87)

Right to Organize and Collective Bargaining (ILO Convention 98)

Key reference for

ILO Declaration on Fundamental Principles and Rights at Work

UN Guiding Principles on Business and Human Rights

OECD Guidelines for Multinational Enterprises

Importance for RBC/ICSR*

Fundamental rights

“Enabling right” that can lead to the fulfillment of other labor rights

For example:

- Adequate wages
- Reasonable working hours
- Workplace safety
- A work environment free from discrimination and harassment

“Business case”

- Legal compliance
- Business bottom line, i.e., business continuity, retention, and productivity
- Informing due diligence, i.e., pathway for engagement, visibility into workplace and supply chains
- Contributing to the SDGs, e.g., ACT
- *What else?*

Sources for information on Trade Union Rights

- Further information on the relation between UN Guiding Principles and Trade Union Rights:
 - https://www.ituc-csi.org/IMG/pdf/12-11-22_ituc-industrial-ccc-uni_paper_on_due_diligence_and_foa.pdf
- Trade Union Guide on The OECD Guidelines for Multinational Enterprises:
 - <http://www.tuaoecdmneguidelines.org/Docs/TradeUnionGuide.pdf>
- ILO Helpdesk for Business on International Labour Standards (with specific pages on “Freedom of association and the right to organize” and “Collective bargaining”):
 - www.ilo.org/business
- Catalogue of ILO resources on freedom of association and collective bargaining:
 - https://www.ilo.org/global/topics/freedom-of-association-and-the-right-to-collective-bargaining/WCMS_423680/lang-en/index.htm
- Business Guide: The labour Principles of the United Nations Global Compact:
 - https://www.ilo.org/empent/Publications/WCMS_101246/lang-en/index.htm

N.B.: These can also be found in the “Resources” in the back of the publication (p. 59)

Part 2

How to diagnose barriers to effective implementation of trade union rights?

PART 2

How can companies identify risks to trade union rights?

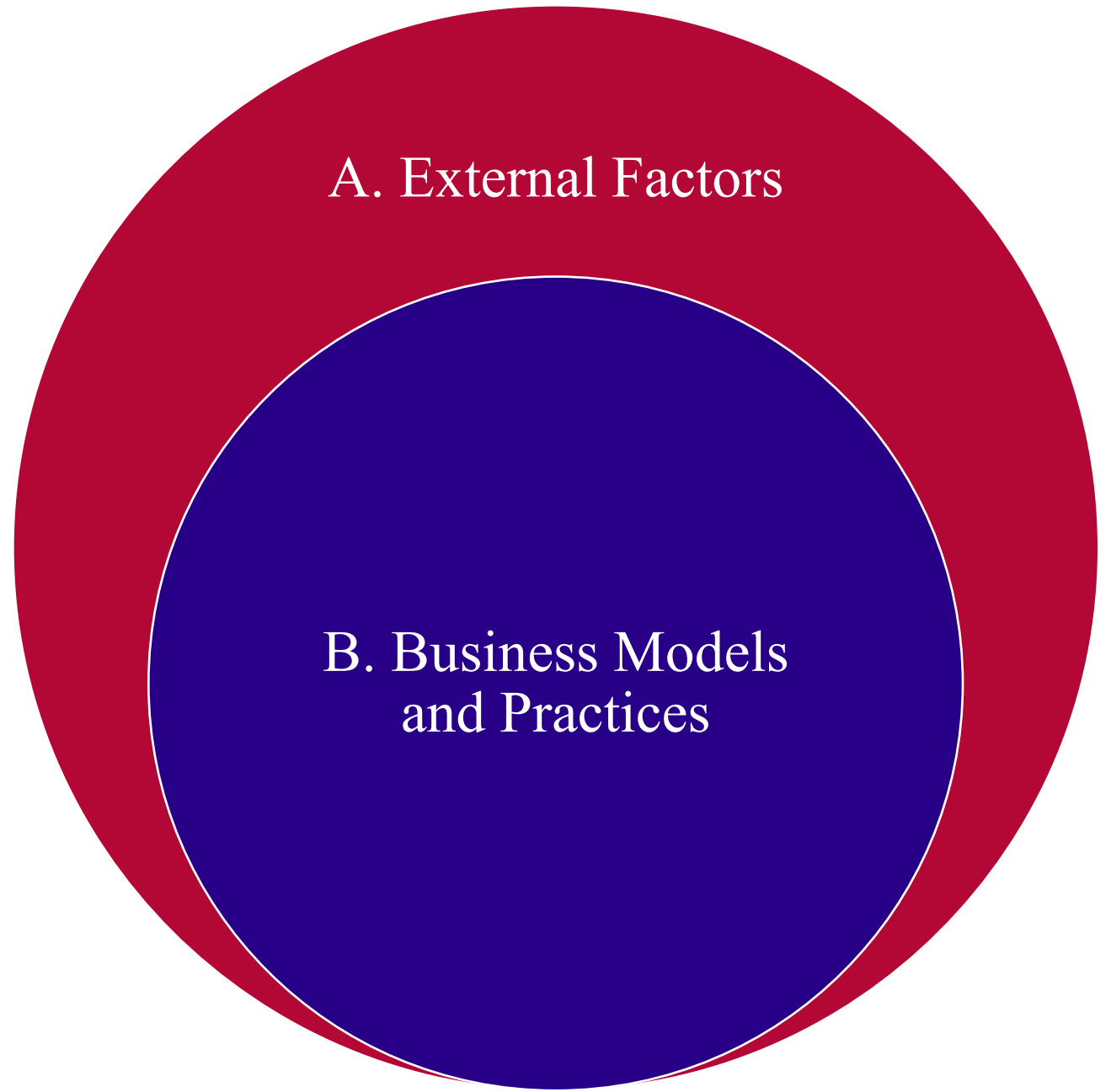
- **National laws or regulations**
- **Social norms and practices**
- **Local capacity**

A. External Factors

PART 2

How can companies identify risks to trade union rights?

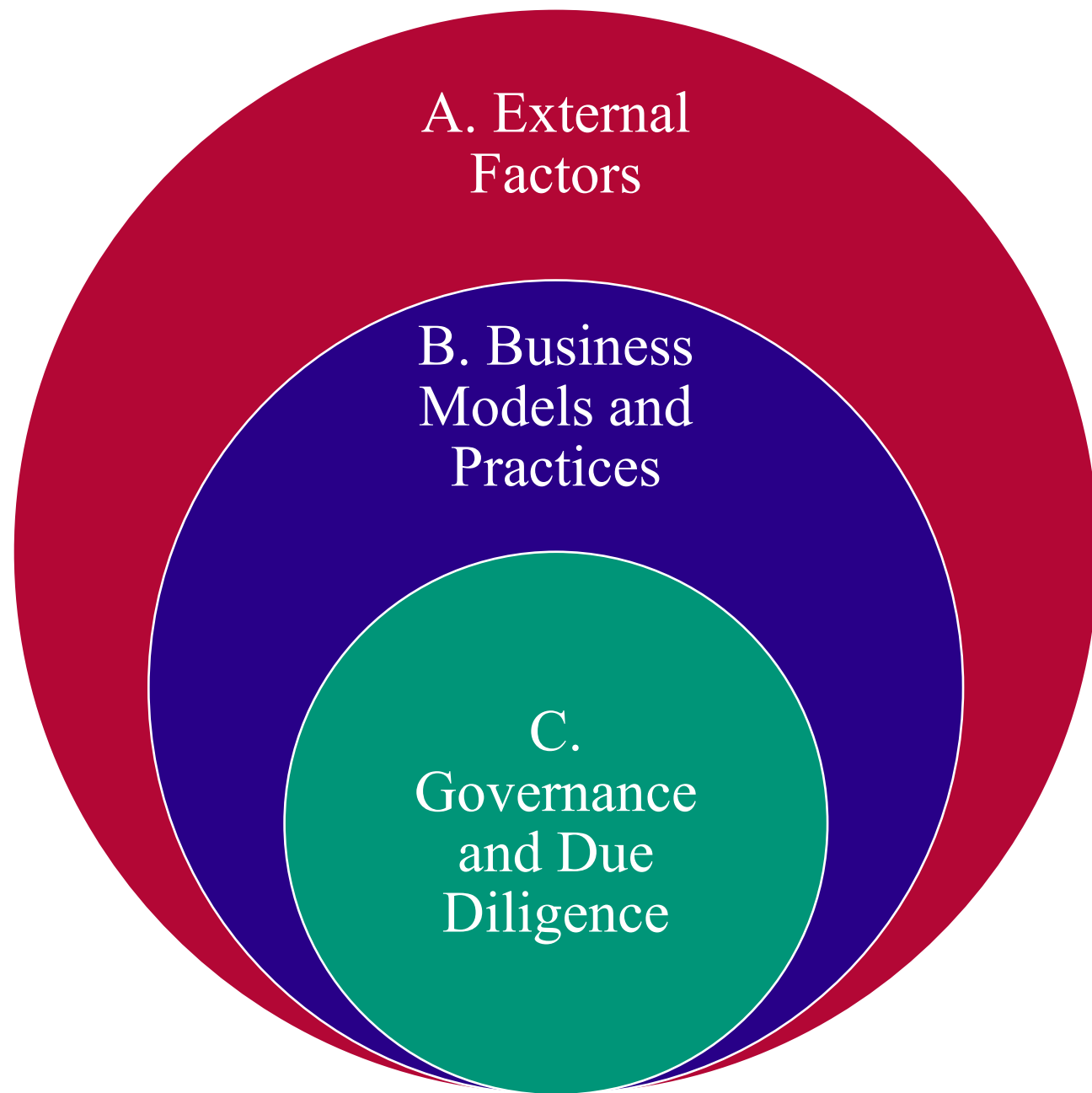
- Sourcing from high-risk markets
- Outsourcing and contract labor
- Purchasing practices



PART 2

How can companies identify risks to trade union rights?

- Corporate attitudes, assumptions and governance
- Weakness in due diligence processes
- Common pitfalls in due diligence



Diagnostic tool

- Series of questions to help identify areas for further inquiry and analysis
- Questions are framed as yes/no, but are mainly meant to signal what to look for/ where to conduct further analysis (i.e., no magic formula)
- Obviously, in each case there will likely be multiple factors at play



EXTERNAL FACTORS

Companies, their suppliers or other business partners may be operating in countries or regions where respect for trade union rights is not the norm, in law and/or in practice. By recognizing where and how this is the case, a company can put in place measures to address these challenges.



CONSIDER THE FOLLOWING DIAGNOSTIC QUESTIONS

A.1 Laws and Regulations

- ☐ Does the national law where the entity operates provide protections around freedom of association and collective bargaining?
- ☐ If so, are these laws aligned with ILO standards? (See Resources on how to help assess this)
- ☐ Does the law apply to all workers (i.e., it includes all worker groups including migrant or informal workers)?
- ☐ Are the laws effectively enforced?
- ☐ Does the company or its supply chain partners operate under special labor regimes where these laws may not apply (such as export processing zones)?
- ☐ Does the government allow unions to be independently formed?
- ☐ Does the government allow unions to associate freely and bargain collectively?



IF THERE IS A RISK, THESE APPROACHES AND EXAMPLES MAY HELP (SEE PART 3)

CONSIDER THE FOLLOWING DIAGNOSTIC QUESTIONS

A.2 Social Norms and Practices

- ☐ Is there active obstruction of trade union rights?
- ☐ Is union membership heavily fragmented?
- ☐ Is union membership seen as taking a political stance, which may provide barriers for membership or impede the union's effectiveness?
- ☐ Is freedom of speech under pressure, or speaking up generally discouraged?
- ☐ Are there generational differences in attitudes towards unions, and more generally towards speaking up and organizing as workers? If so, how does this affect trade union rights in practice?
- ☐ Are there certain demographics in the workforce (e.g., vulnerable workers, including women, migrants, minorities, informal laborers, or young people) who may be historically disempowered or marginalized, in ways that might affect their ability or inclination to speak up and organize with others?
- ☐ Has the sector in which the company or supplier operates seen significant changes in workforce demographics (e.g., a sector's majority workforce evolves from primarily male to female), and has the company reflected on what this change means for worker representation?

IF THERE IS A RISK, THESE APPROACHES AND EXAMPLES MAY HELP (SEE PART 3)

EXTERNAL FACTORS



A.3 Limited Local Capacity

- ☐ Are local unions present? If not, why not?
- ☐ Are local unions fully representing workers' interests and perspectives (as opposed to incorporating management or government interests)?
- ☐ Do they have sufficient resources and capacity to represent workers effectively?
- ☐ Are there other barriers to their effectiveness?
- ☐ Is local management willing and able to engage with the local unions and workers representatives?
- ☐ Are there other ways in which lack of local capacity can be a barrier to ensuring respect for trade union rights?

Example of the diagnostic tool

Sources for country specific information

- Information on the relevant trade union rights violations or issues in all relevant countries worldwide by ITUC:
 - <https://survey.ituc-csi.org/?lang=en>
- ILO NORMLEX: Information System on International Labour Standards (with country profiles): <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:1:>
- ILO country pages:
 - <https://www.ilo.org/global/regions/lang--en/index.htm>
- Business and Human Rights Resource Center region and country pages:
 - <https://www.business-humanrights.org/en/regions-countries>

N.B.: These can also be found in the “Resources” in the back of the publication (p. 59)

Part 3

How to inspire companies to take action to overcome the barriers?

PART 3

What actions can
companies take?

*“The intent in sharing these approaches is to **inspire companies with ideas for concrete action**, to move from recognizing risks to trade union rights to taking meaningful action to address those risks.*

*“These approaches are not intended to be used as a step-by-step roadmap, but rather as a **menu of potential options for action**, recognizing that different approaches may be relevant in different circumstances, depending on the risk factors that are present.”*

Practical Approaches for Business

1. Identify higher risk contexts

- As part of the company's human rights due diligence, identify operating and sourcing contexts throughout the company's value chain that might pose heightened risks to trade union rights.

2. Name trade union rights as a salient issue

- This can be an important first step to signal the importance of the issue, opening up opportunities for dialogue internally and externally

3. Make sure any audits are effective

- Use social compliance audits more strategically to identify red flags around trade union rights.

4. Strengthen and leverage certification schemes

- Ensure that they credibly and effectively include attention to trade union rights.

5. Strengthen capacity of local actors

- This can help ensure, at the supplier level, that both management and workers have the understanding and capabilities to engage with each other meaningfully.

6. Analyze the company's use of contract and temporary labor

- Ensure that labor practices are not contributing to impacts on trade union rights.

7. Conduct a joint risk assessment

- Assess gaps and opportunities in complex or high-risk markets with trade union counterparts and/or industry peers.

8. Formalize escalation pathways

- Create channels for appropriate global engagement on local issues.

9. Solve a specific problem together

- In moments of crisis, work with trade union counterparts, and use the opportunity to transform relationships.

10. Collaborate as a sector to raise standards

- Collaborate across an industry to address systemic challenges.

11. Influence the regulatory landscape

- If local laws and regulations create challenges for respecting trade union rights in practice, seek to influence the regulatory landscape around trade union rights.

I. H&M's Workplace Dialogue Program

Country	Global
Sector	Apparel
Partners	Global TU confed., headquarters union counterparts, local TU and development agencies
Leverage	Broader business relationship, bilateral, multi-stakeholder

II. Camposol's social dialogue program

Country	Peru
Sector	Agriculture
Partners	Local TUs, Mondiaal FNV
Leverage	Broader Business Rel., Bilateral, MS

III. Pepsico working with IUF on corrective action

Country	Pakistan
Sector	Food & Beverage
Partners	IUF Global TU
Leverage	Bilateral

VIII. Collaborative Peer Efforts To Engage Government

Country	Cambodia, Mexico
Sector	Apparel
Partners	Industry associations and MS Initiatives
Leverage	Bilateral, multi-stakeholder

VII. Program For The Endorsement Of Forest Certification (PEFC)

Country	Global
Sector	Forestry
Partners	Business, NGOs, trade unions
Leverage	Multi-stakeholder

VI. ACT (Action, Transformation, Collaboration)

Countries	Bangladesh, Cambodia, Myanmar, Turkey, Vietnam
Sector	Apparel
Partners	Global union IndustriALL
Leverage	MS, Broader Business Relationship

V. Freedom of Association protocol

Country	Indonesia
Sector	Apparel & Footwear
Partners	Brands, local trade unions, local manufacturers
Leverage	MS, Broader Business Relationship

IV. Impactt's Up! Program

Country	Bangladesh
Sector	Apparel
Partners	NGO, local trade union
Leverage	MS (no direct company inv.)



I. H&M's Workplace Dialogue Program

- Identified trade union rights as one of its salient human rights issues (related to low-cost labor countries)
- Partnering at international and national levels with trade unions and other employers to raise awareness and building capacity at the local level
- As part of Global Framework Agreement with IndustriAll and IF Metall (Sweden), set up National Monitoring Committees (NMCs) for monitoring, guidance and advice, and facilitating dispute resolution
 - NMCs exist in Bangladesh, Cambodia, India, Indonesia, Myanmar, and Turkey; Pakistan in 2020
- Workplace Dialogue Program supports resolution of disputes at factory level with NMCs as fall back
- Program also supports election of worker representative committees to support social dialogue

II. Camposol's Social Dialogue Program

- Based in Peru, Camposol is a large exotic fruit supplier for many EU and US retailers
- History of labor conflict with workers and unions, distrust, high number of complaints before labor courts
 - Cost to the company: recruitment and transportation cost, productivity loss, expensive litigation
- Worked with Mondiaal FNV, local unions and Dutch employers organization (DECP) to, “develop mutually beneficial capabilities ... and sustainable management agreements between the parties.”
 - Capacity building, communication and negotiation, trust building, improving transparency
- Results: fewer conflicts and stoppages, fewer complaints, lower costs and legal fees, higher retention
 - Video about this case: <https://www.youtube.com/watch?v=Ux71R-ZqUs>

III. PepsiCo working with IUF on corrective action

- In 2016, IUF alleged distribution of permanent employees and contract workers in PepsiCo's Lahore, Pakistan, snacks plant was not compliant with local standards.
- After an investigation, PepsiCo met with the affected parties and implemented corrective action plans to address the root causes of the issue; 460 contract workers were hired into permanent positions.
- Open engagement between PepsiCo and IUF, including joint visits engaging the local parties.
- Working together to resolve this particular situation created the space for a new form of constructive dialogue between the two organizations.

IV. Impactt's Up Program!

- In Bangladesh's apparel sector, one of the key barriers for respecting freedom of association is a lack of local capacity among workers at the factory level.
- Training a new generation of leaders in the workforce, equipping them with the individual and collective skills and tools to mitigate workplace risks and strengthen worker rights, with a focus on women empowerment.
 - Essential life skills training for all workers, while identifying leaders who receive advanced training
 - Training in community centers rather than in factory settings
- Led to improved working conditions, higher participation in workplace dialogue structures, and increased uptake of complaints.
- Key takeaways: innovative training design, tailored content, community-based, partnership design.

V. Freedom of Association protocol

- Multi-party agreement between Indonesian trade unions, international sport brands (Adidas, Nike, Puma, New Balance, ASICS, Pentland, and others), and Indonesian footwear manufacturers.
- Context: lack of clear guidance from Indonesian government and highly fragmented union landscape
- Protocol has enabled employers and unions to reach a common understanding over the implementation of representational rights under Indonesian law, aligned with international standards.
- Protocol is actively used as a tool in the collective bargaining process and formalized at the factory level through various collective bargaining agreements, which are enforceable by national law.
- While scope is limited to FoA, evidence of potentially greater impact on workers' rights (e.g., wages)

VI. ACT (Action, Transformation, Collaboration)

- Launched in 2015, the ACT Initiative is an agreement between international brands, retailers and trade unions to, “transform the garment and textile industry, and achieve living wages for workers through industry-wide collective bargaining linked to purchasing practices.”
- Aimed at the successful negotiation of apparel workers’ wages across a specific country, so that wage-setting is nationally appropriate, informed by worker voices, and consistent across factories.
- ACT initiative is supporting capacity- and relationship-building among member brands’ supplier factories, IndustriALL’s affiliated unions, and governments in target countries, including on FoA and CB.
- ACT member brands have also adopted Global Purchasing Practices Commitments.
- Current focus countries include Bangladesh, Cambodia, Myanmar, Turkey, and Vietnam; engagement with government on labor laws, in particular national minimum wage-fixing enforcement mechanisms.

VII. Program For The Endorsement Of Forest Certification (PEFC)

- Certification is a much used mechanism for companies to implement commitments to human rights in supply chains, including trade union rights; often criticized for being less effective on labor rights; one critique centers on governance: few include representation from trade unions.
- PEFC (world's largest forest certification system) seen as exception; references ILO core standards.
- Board of Directors of PEFC includes a reserved spot for a representative of a global trade union federation (currently held by Building and Wood Workers International, BWI).
- Played a key role in strengthening the practical implementation of labor-related standards:
 - At a country level, multi-stakeholder dialogue and engagement by local trade union representatives
 - PEFC's formal complaints process provides leverage opportunity for direct and early resolution of complaints

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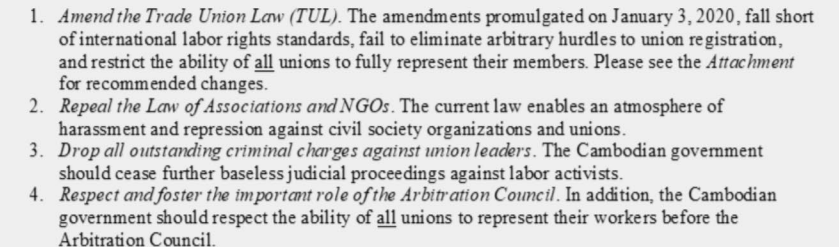
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14 clothing brands express support for reform of Mexico's labour justice system



Conclusion

- Respect for trade union rights remains one of the most challenging issues for companies to address effectively in practice
- Important first step for businesses is to diagnose the particular barriers, both internal and external, that are creating risks to trade union rights
- Use menu of approaches highlighted by cases examples to move from analysis to meaningful action
- Building effective union relationships can be a useful mechanism for identifying and mitigating risks, including, and in particular, in times of crisis

www.shiftproject.org/tradeunions

Thank You



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Save **the dates**



Date tbc: Webinar

COVID-19: Adopting a
responsible business response



23 April: LD meeting webinar

Session on human rights in
agribusiness value chains



May: Online workshop series

Online workshop series: Business
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WBCSD's Business and Human Rights Gateway: Connecting companies with the dynamic human rights landscape

WBCSD and Human Rights



WBCSD's human rights project

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Calling for business
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Putting People First

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